

Delegation of authority under the ASB, Crime & Policing Act 2014 to Registered Social Landlords
Councillor Irene Walsh, Cabinet Member for Communities and Environment Capital
April 2016
Deadline date: TBC

Cabinet portfolio holder:	Cllr Irene Walsh, Cabinet Member for Communities and Environment Capital
Responsible Director:	Wendi Ogle Welbourn, Corporate Director People and Communities
Is this a Key Decision?	YES If yes has it been included on the Forward Plan : Yes Unique Key decision Reference from Forward Plan : KEY/25DEC15/02
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	NO

R E C O M M E N D A T I O N S

The Cabinet Member is recommended to:

1. To authorise Peterborough City Council to designate authority to Registered Social Landlords to issue Community Protection Notices and Fixed Penalty Notices by virtue of the Anti-Social Behaviour (Authorised Persons) Order 2015.

1. SUMMARY OF MAIN ISSUES

- 1.1 This report seeks the Cabinet Member for Communities and Environmental Capital to authorise Peterborough City Council to designate authority to Registered Social Landlords to issue CPN's and Fixed Penalty Notices under Part 4 Section 43 and Section 52 of the Anti-social Behaviour, Crime and Policing Act 2014 in accordance with designation procedure rules and a Service Level Agreement.

2. PURPOSE OF THIS REPORT

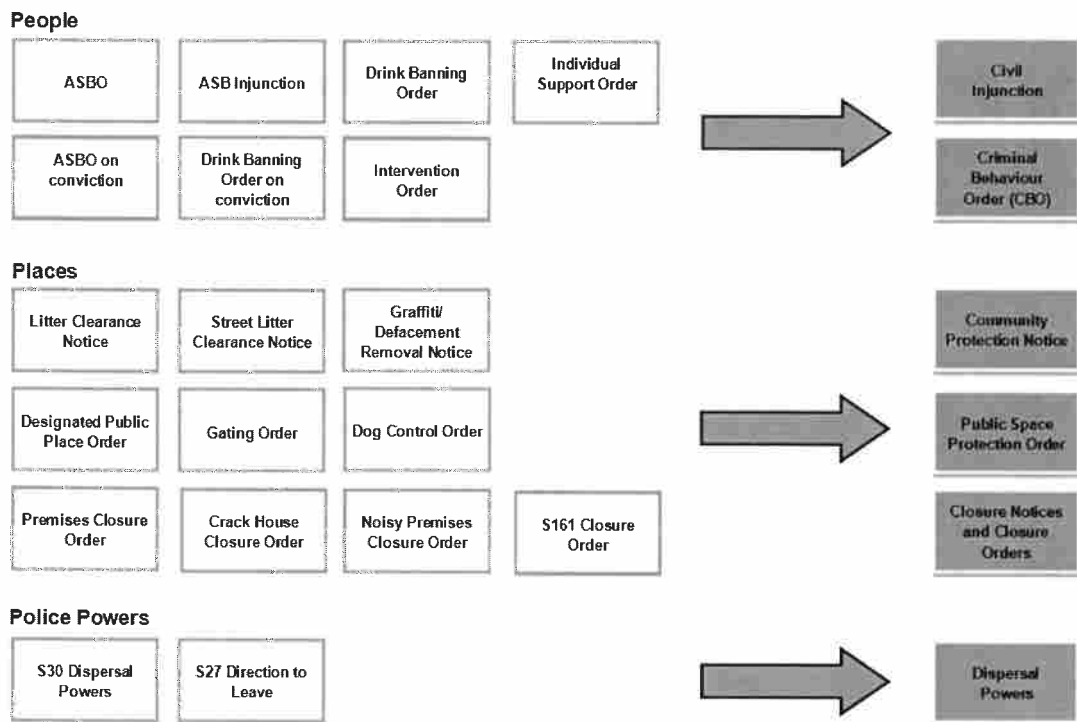
- 2.1 This report is for the Cabinet Member for Communities and Environment Capital to consider exercising delegated authority under paragraph 3.4.3. of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (e).

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4. DETAILS OF DECISION REQUIRED

- 4.1 In February 2011 the Home Office produced a consultation document called 'More Effective Responses to Anti Social Behaviour' that proposed a transformation in the way anti-social behaviour is dealt with. This then resulted in the Anti-social Behaviour, Crime and Policing Act 2014. Effective from 20th October 2014, the Act replaced 19 tools and powers used under previous legislation with 6 new tools and powers, as illustrated in Diagram 1. The main aims of the new Act are to put victims at the heart of the response to anti-social behaviour and give professionals the flexibility they need to deal with any given situation.



- 4.2 **The Community Protection Notice (CPN)** is a new power which replaces previous environmental ASB legislation such as litter clearance and defacement removal notices, however its use has been broadened to now address any anti-social behaviour which is having a detrimental impact on the quality of life of a community. Examples could be noise which does not meet the test of statutory nuisance, rubbish, graffiti, irresponsible dog ownership, etc. The notices can be issued to a person aged 16 or over, a business or an organisation committing ASB which spoils the community's quality of life.

- 4.2.1 This power can be used by Police Officers and PCSOs, Local Authorities and Registered Social Landlords (RSLs) (if designated by the relevant local authority).
- 4.2.2 Prior to the issue of a CPN, the offender must be issued with a written notice informing them of the nuisance and that they must take reasonable steps to make the behaviour stop. If the behaviour does not cease within a reasonable amount of time, the authorised officer can then issue the notice. The timescales and reasonable steps will vary from case to case and will be assessed by the lead officer or multi-agency ASB problem solving group.
- 4.2.3 Breach is a criminal offence which can be discharged with a fixed penalty notice (FPN) of up to £100 if appropriate. Individuals can be fined up to level 4 and businesses up to £20,000. Alternatively, the Local Authority can carry out remedial work or apply to the courts for a remedial order to stop the behaviour from reoccurring. As such, all payments of any Fixed Penalty Notices issued in respect of breaches to CPNs are received by the council (including those issued by the Police and RSLs).
- 4.2.4 It was agreed by the SPP Board in September 2014 that CPNs issued to persons under 18 years of age are done so following consultation with the Youth Offending Service. It was also agreed that persons under 18 are offered alternative methods to rectify breaches, such as restorative justice, rather than be issued with a Fixed Penalty Notice. Failure to pay an FPN is a criminal offence and it was considered potentially disproportionate to criminalise a young person for what is potentially low level anti-social behaviour.
- 4.3 **Designating authority to Registered Social Landlords (RSLs)** - In England and Wales social landlords manage over four million dwellings and deal with hundreds of thousands of cases of ASB each year. Therefore the new Act creates a formal role for social landlords and allows Local Authorities to designate authority to them to issue CPNs.
- 4.3.1 A Home Office Impact Assessment of Community Protection Notices sets out how the introduction of the CPN will provide additional benefits for registered providers of social housing and the police as 'having one, simpler power would be easier for these organisations to use, than the range of existing powers. Specifically, giving the police and landlords the ability to deal with noise through these notices would be beneficial as 42.1% of English and 60% of Welsh local authority areas don't have an out of hours noise service whereas a third of the reports of anti-social behaviour made to social landlords were about noise. So, under the notice, the police and landlords would be able to deal better with persistent and complex cases, allowing them to use their staff time more effectively'.
- 4.3.2 There isn't a consolidated record of Local Authorities that have already designated authority to RSLs, however it is known that RSLs in the Manchester area are now issuing CPNs. Locally, none of the Local Authorities within Cambridgeshire have designated RSLs to issue CPNs, so Peterborough City Council could potentially be the first in the County.
- 4.3.3 Cross Keys Homes (CKH) has registered an interest in receiving designation from Peterborough City Council to issue Community Protection Notices and Fixed Penalty Notices. With over 10,000 properties within Peterborough it is the city's main provider of social housing which dealt with 660 cases of anti-social behaviour in 2014/15 involving CKH tenants.
- 4.3.4 If designated, the most benefit to CKH using CPNs would be with regards to tackling noise nuisance, as 40% of its ASB cases are predominantly noise related. There is also the potential for CKH's neighbourhood management team to use this piece of legislation to tackle issues around accumulations of rubbish in a more expedient manner.
- 4.3.5 The legislation states that the local authority is responsible for any remedial action required as a result of a breach of a CPN. However that is not to say that a RSL couldn't carry out

any remedial work e.g. clearance of their tenant's waste from their property. However this could be considered as a potential risk to PCC if designating authority to RSLs to issue CPNs. Therefore this would be mitigated through a service level agreement/memorandum of understanding. It is also recommended that the Local Authority and Police are consulted by the RSL prior to the issue of a Community Protection Notice. This is so that duplication can be avoided, breaches can be monitored and remedial actions/prosecution costs can be considered and budgeted from the outset.

- 4.3.6 ***It is recommended that Peterborough City Council designates authority to issue Community Protection Notices and Fixed Penalty Notices to Registered Social Landlords.***

5. CONSULTATION

- 5.1 Consultation was carried out by the ASB Co-ordinator and RSLs with housing stock within Peterborough via the Registered Social Landlord Forum. Of the six landlords, one housing provider has given an expression of interest to receive designated authority to issue CPN's and Fixed Penalty Notices under Sections 43 and 52 of the Anti-Social Behaviour, Crime & Policing Act 2014.

6. ANTICIPATED OUTCOMES

- 6.1 Registered Social Landlords will be able to respond more swiftly to anti-social behaviour by means of using Community Protection Warnings and Notices.
- 6.2 Registered Social Landlords will be able to encourage tenancy sustainability. Community Protection Warnings and Notices will be issued to address the problem behaviours without having to seek possession of the property (as appropriate) or use other legislation such as Injunctions which can be lengthy and costly processes.
- 6.3 Registered Social Landlords will be able to use Community Protection Warnings and Notices to address their tenants' anti-social behaviour in the early stages, providing quicker respite to victims and reducing the burden on other agencies such as the Police and the Local Authority.

7. REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION

- 7.1 Designating authority to RSLs is in line with Home Office guidance to enable more partner agencies to tackle ASB in a more expedient manner.
- 7.2 Directly contributes to the delivery of the Safer Peterborough Partnership objectives in tackling anti-social behaviour and improving the quality of life for communities.
- 7.3 Use of the legislation by RSLs will enable the anti-social behaviour of their tenants to be tackled quickly, giving faster respite to communities as well as having the potential to reduce requests for service to tackle ASB to the Police and Local Authority.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The alternative option is to do nothing and retain the status quo. However with social housing equating to almost 50% of the city's rental sector, this would limit RSLs in their ability to tackle housing-related low-level and persistent anti-social behaviour in its early stages and in a more expedient and cost effective manner. With ongoing pressures to Local Authority and Policing resources, the more agencies that have the ability to use a wider range of ASB tools and powers would be advantageous and would potentially reduce the pressures on statutory agencies when it comes to dealing with housing-related anti-social behaviour.

9. IMPLICATIONS

- 9.1 There will be financial implications if RSLs are designated to issue CPNS. All fines for breaches of CPNs are received by the Local Authority. Any court costs from subsequent breaches and remedial orders will need to be negotiated with the relevant Registered Social Landlord as part of the Service Level Agreement process.
- 9.2 The Anti-Social Behaviour (Authorised Persons) Order 2015 makes provision for a local Authority to authorise a housing provider defined by section 20 of the Anti-Social Behaviour, Crime and Policing Act 2014 to issue Community Protection Notices under section 43 and Fixed Penalty Notices under section 52)

10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

- 10.1 None.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Statutory Guidance issued by the Home Office on the Anti-social Behaviour, Crime & Policing Act

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332839/StatutoryGuidanceFrontline.pdf

Home Office ASB, Crime & Policing Bill: Community Protection Notice, Community Protection Orders and the Community Trigger Impact Assessment

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/197808/Environmental_Powers_and_Trigger.pdf