

Agenda item:

Title of meeting: Cabinet Member for Environment & Community Safety
Decision Meeting

Date of meeting: 14th November 2014

Subject: Delegated Authority - Anti-social Behaviour, Crime & Policing
Act 2014

Report by: Head of Health, Safety & Licensing

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

To agree delegation of powers for the Community Protection Notice (CPN) and Public Spaces Protection Order (PSPO). This will enable authorised officers to issue notices and Fixed Penalty Notices (FPNs) on behalf of the local authority.

The report also confirms the single point of contact for the Community Trigger for Portsmouth City Council as the ASB Unit Manager, Health, Safety and Licensing (HSL).

2. Recommendations

That the Cabinet Member for Environment and Community Safety:

1. Confirm the lead delegated officer for the powers bestowed upon it under the Anti-social Behaviour, Crime and Policing Act 2014 to be the City Solicitor.
2. Authorise the City Solicitor to delegate authority and for the purposes of this Act to the Head of Health, Safety and Licensing and the ASB Unit Manager to enable them to act on behalf of the City Solicitor.
3. Authorise the community wardens, environment enforcement officers (litter, fly tips etc.) and environment health officers (noise) be authorised to issue CPNs and FPNs on behalf of the local authority,
4. Authorise other local authority officers and approved partners working on behalf of the local authority upon completion of appropriate training.

3. Background

The Anti-Social Behaviour Crime and Policing Act 2014 introduced new powers and duties on Local Authorities and partners. A number of these new powers were enacted on the 20th October 2014. This includes Community Protection Notices (CPNs), Public Spaces Protection Order (PSPOs) and the Community Trigger. The introduction of the Civil Injunction has been delayed until the new year (date to be confirmed). This has led to the Anti-Social Behaviour Order (ASBO) still being available until it is replaced by the Civil Injunction.

2.1 Community Protection Notices (CPNs)

This is a new power that is likely to have the greatest impact for local authority front line staff for preventing and tackling anti-social behaviour. Council officers, police officers, Police Community Support Officers (PCSO) and social landlords (if designated by the council) will be able to issue CPNs.

This power can tackle a wide range of behaviours and providing the following conditions apply:

- considered to have a detrimental effect on the quality of life of those in the locality,
- be of a persistent and continuing nature and
- be unreasonable.

This could include noise nuisance and littering, but should not replace current statutory legislation. The CPN will inform an individual of the anti-social behaviour they must cease or rectify to stop 'unreasonable' behaviour affecting the community's quality of life.

Breach of a CPN is a criminal offence and could result in a fixed penalty notice for up to £100 or a fine of up to £2,500 (£20,000 if a business).

It is recommended that Community Wardens and Environmental Public Protection Officers be authorised to issue these notices, including fixed penalty notices for use when a breach occurs. Authorisation of staff within the Public Protection Team (specifically related to noise nuisance) is also recommended.

2.2 Community Trigger

The purpose of the Community Trigger is to give victims and communities the right to request anti-social behaviour review of their complaints and bring agencies together to take a joined up, problem-solving approach to their case.

The local authority, police, clinical commissioning groups and registered social landlords (if co-opted onto this group) have responsibility for deciding the threshold of the community trigger and process for managing requests and publishing publicly annual figures.

Portsmouth City Council has contributed to and adopted a Hampshire agreed procedure for managing Community Triggers. The ASB Unit Manager is the agreed single point of contact (SPOC) for Portsmouth City Council and will liaise with partners to respond to those that meet the threshold.

2.3 Public Spaces Protection Order (PSPO)

The local authority will be responsible for issuing a PSPO after consultation with the police, Police and Crime Commissioner and other relevant bodies. The PSPO is designed to stop individuals or groups committing anti-social behaviour in a public space. It gives the local authority a flexible power to tackle a range of anti-social behaviour in public places. It will ultimately replace the current Designated Public Places Order (DPPO) and Dog Control Order (DCO) powers. The PSPO can be put in place up to a maximum of 3 years and it is expected that the local authorities with current DPPOs and DCOs in place would be able to continue with those for a further 3 years before they would need to consider replacing them with PSPOs. Portsmouth currently has a city wide DPPO which can in effect remain in place until 19th October 2017. There is a targeted city wide dog control order which applies to around 200 parks and open spaces in the city.

A further report will be brought by October 2017 detailing the proposals for taking this element of the legislation forward in the most effective way.

Breach is a criminal offence and enforcement officers can issue a fixed penalty notice of up to £100 or a maximum £1,000 fine on prosecution.

It is recommended that Community Wardens and Environmental Public Protection Officers are authorised to issue fixed penalty notices when a breach occurs.

2.4 Civil Injunction

There is a delay to the commencement of Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014, the Civil Injunction

This will allow unavoidable and necessary changes to be made to the civil legal aid system to ensure that applications for advocacy assistance can be assessed for those involved in civil injunction hearings. This will require amendments to the Legal Aid, Sentencing and Punishment of Offenders Act 2012(LASPO), which should be completed by the end of January 2015 at the latest. Only then will the civil injunction element of the Act be enabled.

Until the LASPO provisions are in force and the Part 1 Civil Injunction is commenced, the ASBO on application will remain in place and social landlords should continue to use anti-social behaviour housing injunctions (ASBIs).

The delay enables Portsmouth City Council and Hampshire Constabulary to pursue ASBOs where appropriate. There are currently 5 applications on going and other cases are being considered.

4. Reasons for recommendations

Portsmouth City Council already has officers trained and authorised to issue Fixed Penalty Notices under the existing Environmental Protection Act. Therefore these officers would be best placed to act initially on behalf of the local authority. They currently include the Environmental Enforcement Officers and Community Wardens.

There are other officers within Portsmouth City Council that will consider if these new powers can enhance their teams response to anti-social behaviour e.g. the Environmental Heath and Housing Standards team. Portsmouth City Council's Housing Service is looking to use these powers and will confirm relevant officers following an internal review.

Hampshire Constabulary is also able to authorise officers to use these powers but is currently undecided if Community Protection Notice or Public Spaces Protection Order will be added to their enforcement powers.

5. Equality impact assessment (EIA)

Delegating authorisation should not negatively impact on any groups for the purposes of the EIA. It is likely to have a positive difference for those who may be suffering anti-social behaviour and this often includes vulnerable groups.

6. Head of legal, licensing & registrars' comments

The Act (Anti-Social Behaviour Crime and Policing Act 2014) provides specifically the appropriate delegations to Local Authorities to provide officers of the Authority with the necessary powers to implement the Act. Sec 112 of the Local Government Act 1972 allows the decision of the executive to be delegated provided they are consistent with the constitution. The recommendations of the report if adopted would be decisions consistent with the constitution and scheme of delegation as are currently in place.

7. Head of finance's comments

- 7.1 There are no financial consequences as a result of this delegated authority decision.

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Signed by Head of Health, Safety and Licensing

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Anti-Social Behaviour, Crime and Policing Act 2014	http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted/data.htm
Home Office ASB, Crime Bill link to various documents and guidance.	https://www.gov.uk/government/collections/anti-social-behaviour-crime-and-police-bill

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by Cabinet Member for Environment and Community Safety on 14th November 2014

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 Signed by Cabinet Member for Environment and Community Safety