**POLICY AND RESOURCES COMMITTEE - 12 SEPTEMBER 2016**

**PART I - NOT DELEGATED**

**6. DESIGNATION OF HOUSING PROVIDERS TO ISSUE COMMUNITY PROTECTION NOTICES**

(CED)

1. **Summary**

1.1 To seek Council approval to

* designate Thrive Homes and Watford Community Housing Trust as Housing Providers able to issue Community Protection Notices under the Anti-Social Behaviour (Authorised Persons) Order 2015.
* authorise the Chief Executive to designate additional housing providers so long as the Solicitor to the Council is satisfied that their staff have been suitably trained.

2. **Details**

2.1 Under Section 53(1) (c) of the Anti-social Behaviour Crime and Policing Act 2014 (“the Act”) a community protection notice (CPN) or a fixed penalty notice (FPN) for failing to comply with a CPN may be issued by the relevant local authority or a person designated by the local authority who is described in an order made by the Secretary of State. The Council is already issuing CPNs and relevant officers have been designated within the Council to do this.

2.2 On 17 March 2015 the Anti-social Behaviour (Authorised Persons) Order 2015 was made by the Secretary of State allowing a local authority to authorise housing providers within the meaning of section 20 of the Act to be designated by the local authority to issue CPNs or an FPN for failure to comply with a CPN. During the debate on the Act the Government made it clear that local authorities would need to use a memorandum of understanding to agree boundaries on the use of powers if they designate them to bodies such as housing providers. Local guidelines on matters such as the enforcement of CPNs and the recording of data about their use would also be required.

2.3 Officers have been in dialogue with Thrive Homes and Watford Community Housing Trust as the two largest housing providers in the District with a view to designate them to issue CPNs and FPNs. A memorandum of understanding (MoU) has been drafted and circulated for comment. The MoU, if signed, would not have binding legal effect and is not intended to and does not create any legal relationship between the parties.

2.4 A CPN is designed to stop a person aged 16 or over, a business, or an organisation committing anti-social behaviour which spoils the community’s quality of life. An authorised person may issue a CPN if satisfied on reasonable grounds that the conduct of the individual or body is having a detrimental effect on the quality of life of those in the locality and is of a persistent or continuing nature and the conduct is unreasonable. The CPN can potentially be used in a wide range of circumstances.

2.5 The CPN can only be issued if the individual or body has been given a written warning to cease the conduct and provided with enough time to deal with the matter. A person issuing a CPN must inform anybody or individual the person thinks is appropriate before doing so. When issuing a CPN, the authorised person needs to ensure that any requirements within the CPN are reasonably required to prevent the detrimental effect from continuing or recurring or reduce that detrimental effect or to reduce the risk of its continuance or recurrence. The requirements could be to stop doing certain things, to do specified things, or to take reasonable steps to achieve specified results.

2.6 A person may appeal to a magistrates' court against a CPN within 21 days of being issued with the notice. Any requirement imposed by the notice to stop doing specified things remains in effect while an appeal against a CPN is in progress (unless the court orders otherwise) but any other requirement imposed by the notice has no effect. A breach of a CPN is a criminal offence.

2.7 As an alternative to prosecution, an individual or body can be offered the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority. The amount of the Fixed Penalty Notice cannot exceed £100. Our FPN is set at £100 reduced to £75 for early payment. The payment has to be made to the Council.

2.8 A person found guilty of failing to comply with a CPN without reasonable excuse is liable to a fine of up to £2,500 (£20,000 in the case of a body). If someone is convicted of such an offence then the court “may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done”. This could include requiring the defendant to carry out specified work or to allow specified work to be carried out by or on behalf of the local authority. If the local authority carries out such work (or authorise another to do so) then the costs can be reclaimed from the defendant. The remedial action can also be imposed without the need to prosecute. A warrant can also be issued by the court authorising any constable or designated person to enter premises to seize items used in the commission of a breach of a CPN

2.9 The value of designating a housing provider to issue CPNs is that it can increase the range of tools available to manage their tenants and leaseholders as well as those affecting their tenants and leaseholders. The ability to require people to take positive steps can provide an opportunity to require tenants for example to take part in drug or alcohol therapy, or parenting classes, that may support them in sustaining their tenancy. A failure to comply with a CPN is not grounds in itself for eviction, but is evidence of a housing provider seeking to address underlying needs of tenants and could be considered by a court when seeking an eviction.

2.10 The memorandum of understanding with designated housing providers will require the following:

a) the title and roles of designated officers within each housing provider;

b) the requirement for designated officers to undergo training approved by Three Rivers District Council and for this to be kept up to date;

c) for housing providers to engage with the Community Safety Partnership before issuing a CPN and to share such information on the ASB database;

d) for housing provider designated officers to attend any hearing in connection with an appeal against a CPN issued, at the cost of the housing provider;

e) that the housing provider indemnify Three Rivers District Council for any costs associated with remedial works carried out in connection with a CPN issued by the housing provider;

f) for any FPN to clearly state that payment should be made to Three Rivers District Council and the options for payment;

g) that a protocol will be issued to housing providers detailing the procedure for the issue of FPNs and how this data will be shared with the Council;

h) that any prosecution of a breach of a CPN will be notified to the Council in advance , be conducted in the name of the Council , that the housing provider meets the cost of any such prosecution and uses solicitors approved by Three Rivers District Council.

3. **Options/Reasons for Recommendation**

3.1 To enable key housing providers to issue Community Protection Notices (CPNs) and Fixed Penalty Notices for the breach of CPNs.

4. **Policy/Budget Reference and Implications**

[Link to current policies](http://intranet.threerivers.gov.uk/Default.aspx/Web/PoliciesAndProceduresCategoryListingPage)

4.1 The recommendations in this report are within the Council’s agreed policy and budgets. The relevant policy is entitled The Community Strategy 2012-18.

4.2 The recommendations in this report relate to the achievement of the following performance indicators:

CP14 – No. of ASB Incidents (reported to the Police)

CP45 – customer satisfaction with the ASB service.

CP07 – perception to the extent to which public services are working to make the area safer.

4.3 The impact of the recommendations on this/these performance indicator(s) is:

CP14 – to reduce the number of ASB incidents reported

CP45 – to increase customer satisfaction with the ASB service

CP07 – to increase the extent to which public services are working to make the area safer.

5. **Financial, Staffing, Environmental, Customer Services Centre, and Communications & Website Implications**

5.1 None specific.

6. **Legal Implications**

6.1 If the recommendations are approved by Council then a Memorandum of Understanding will be signed with each relevant housing provider, once the Solicitor to the Council is satisfied that appropriate training has been undertaken by the proposed designated officers in each housing provider.

7. **Equal Opportunities Implications**

7.1 **Relevance Test**

|  |  |
| --- | --- |
| Has a relevance test been completed for Equality Impact? | Yes |
| Did the relevance test conclude a full impact assessment was required? | No |

7.2 **Impact Assessment**

What actions were identified to address any detrimental impact or unmet need?

No detrimental impact has been identified. The appropriate use of CPNs can target additional support to hard to reach groups, including those with mental health difficulties or learning disabilities.

8. **Community Safety Implications**

8.1 The designation of key housing providers will increase the range of tools available to them to manage anti-social behaviour. This should strengthen the work of the Community Safety Partnership.

9. **Public Health implications**

9.1 The use of positive requirements with CPNs can address the underlying health inequalities that can lead to anti-social behaviour such as drug and alcohol misuse, mental health needs, learning disabilities, parenting skills etc. The designation of key housing providers provides them with tools that can address the sustainability of tenancies by vulnerable tenants.

10. **Risk Management and Health & Safety Implications**

10.1 The Council has agreed its risk management strategy which can be found on the website at http://www.threerivers.gov.uk. In addition, the risks of the proposals in the report have also been assessed against the Council’s duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

10.2 The subject of this report is covered by the Community Partnerships service plan***.*** Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan***.***

10.3 There are no risks to the Council in agreeing the recommendations***.***

10.4 The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

|  |  |  |  |
| --- | --- | --- | --- |
| Description of Risk | | Impact | Likelihood |
| 1 | Failure to achieve Community Safety Targets | III | E |

10.5 The risk above is already included in service plans:

|  |  |  |
| --- | --- | --- |
| Description of Risk | | Service Plan |
| 1 | Failure to achieve Community Safety Targets | Community Partnerships |

10.6 The above risk is plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Likelihood** | A |  |  |  |  |  | Impact | Likelihood |
| B |  |  |  |  |  | V = Catastrophic | A = >98% |
| C |  |  |  |  |  | IV = Critical | B = 75% - 97% |
| D |  |  |  |  |  | III = Significant | C = 50% - 74% |
| E |  |  | 1 |  |  | II = Marginal | D = 25% - 49% |
| F |  |  |  |  |  | I = Negligible | E = 3% - 24% |
|  | I | II | III | IV | V |  | F = <2% |
| **Impact** | | | | | |  |  |

10.7 In the officers’ opinion the risk above, were it to come about, the following would seriously prejudice the achievement of the Strategic Plan and is therefore a strategic risk. Progress against the treatment plans for strategic risks is reported to the Policy and Resources Committee quarterly. The effectiveness of all treatment plans are reviewed by the Audit Committee annually.

|  |  |  |
| --- | --- | --- |
| Description of Risk | | Service Plan |
| 1 | Failure to achieve Community Safety targets | Community Partnerships |

11. **Recommendations to Council**

11.1 To designate both Thrive Homes and Watford Community Housing Trust to issue Community Protection Notices (CPNs) and Fixed Penalty Notices (FPNs) for the breach of CPNs subject to the Solicitor for the Council being satisfied that their proposed designated officers have been appropriately trained.

11.2 To authorise the Chief Executive to designate any other appropriate Housing Provider to issue CPNs and FPNs subject to the Solicitor for the Council being satisfied that their proposed designated officers have been appropriately trained.

11.3 That the Head of Community Partnerships be delegated to issue and sign a Memorandum of Understanding with each designated Housing Provider, and appropriate protocols for the issue of CPNs and FPNs.

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