

Report to the Director of Environment & Housing

Date: 17th October 2014

Subject: Amendments to the Director of Environment & Housing sub-delegation scheme to enforce Community Protection Notices and related Fixed Penalty Notices

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This report sets out proposed amendments to the sub-delegation scheme for the Director of Environment & Housing regarding the introduction of a new legislation that enables the service of Community Protection Notices and related Fixed Penalty Notices
2. All sub-delegations made by the Director of Environment & Housing within the scheme are sub-delegated to officers of suitable experience, competency and seniority.

Recommendations

The Director of Environment & Housing is asked to approve the amendments to the sub-delegation scheme as set out in this report.

1 Purpose of this report

- 1.1 The change Environmental Action Services are seeking, is to authorise enforcement officers identified in the sub delegation scheme to be able to issue Community Protection Notices and related FPN's under the Anti-Social Behaviour Crime and Policing Act 2014. Initially the main use of the legislation will be to enforce clearance of waste on land – mainly in gardens, and from the street where residents or businesses have caused or contributed to the litter.
- 1.2 However, the revised delegation needs to cover the whole Act as we do plan to use further powers in future specifically with regard to Public Space Protection Orders which will replace Dog Control Orders.

2 Background information

- 2.1 The Constitution of Leeds City Council sets out the Officer Delegation Scheme in respect of council functions and executive functions. The Officer Delegation Scheme includes the power for officers to delegate further any function which has been delegated to them under the scheme, to another officer or officers of suitable experience, competency and seniority.
- 2.2 Each Director and Chief Officer listed in Article 12 of the Constitution must prepare a sub-delegation scheme which sets out which officers will be given authority to make decisions under the Director or Chief Officer's delegated powers and subject to which terms and conditions. Sub-delegation schemes must be lodged with the Head of Governance Services.
- 2.3 Whilst Directors and Chief Officers may authorise other officers to take delegated decisions, the decision is still the personal responsibility of the Director or Chief Officer.
- 2.4 With effect from 27th May 2010 the making or amendment of a sub-delegation scheme is a Significant Operational Decision and must therefore be recorded on a Delegated Decision Notification, and will be published on the Council's website.

3 Main issues

- 3.1 A range of activities are undertaken by the Council in order to maintain the cleanliness of local environments and the street scene in particular. An important aspect of this is the enforcement of certain pieces of environmental legislation including FPN's to act as a deterrent to would be offenders.
- 3.2 A community protection notice is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible. The notice will direct the individual, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again.

- 3.3 This notice is intended to replace current measures such as litter clearing notices, defacement removal notices and street litter control notices. It is not meant to replace the statutory nuisance regime – and where the behaviour is such as to amount to a statutory nuisance under section 79 of the Environmental Protection Act 1990 (EPA), it should be dealt with as such. The statutory nuisance regime is long established and covers a number of different issues including noise, artificial light, insects and smoke.
- 3.4 Breach of any requirement in the notice, without reasonable excuse, would be a criminal offence, subject to a fixed penalty notice or prosecution. On summary conviction an individual would be liable to a fine not exceeding level 4 on the standard scale (currently set at £2,500). An organisation is liable to a fine of up to £20,000. On conviction, the magistrates' court would also have the power to order forfeiture and destruction of any item used in the commission of the offence. An alternative to prosecution would be for the local authority to make good any damage itself, and recover the costs of doing so from the person concerned.

Corporate Considerations

3.5 Consultation and Engagement

- 3.5.1 The decision to amend the sub-delegation scheme did not require public consultation or engagement. However the revised scheme will be published on the Council's intranet.

3.6 Equality and Diversity / Cohesion and Integration

- 3.6.1 There are no implications for equality and diversity or cohesion and integration arising from the amendments recommended in this report.

3.7 Council policies and City Priorities

- 3.7.1 Principle 2 of the Code of Corporate Governance (Part 5 (k) of the Constitution) states that the Council will have clear responsibilities and arrangements for accountability. In order to achieve this, the Council needs up to date and accurate schemes of delegated executive and council responsibilities to Directors and other appropriate officers.
- 3.7.2 Therefore, updating the attached sub-delegation scheme will contribute towards this principle.

3.8 Resources and value for money

- 3.8.1 There are no resource or value for money implications arising from this report. The capacity required to issue and process these FPN's can be found within existing resources. Issuing FPN's for these offences may generate extra income for the Council although this will be limited relative to other FPN type's.

3.9 Legal Implications, Access to Information and Call In

- 3.9.1 In accordance with Part 3 of the Council's Constitution each Director and Chief Officer named in Article 12 has the authority to sub-delegate any of their functions to officers of suitable experience and seniority. However the officer to whom the delegation has been made in the Constitution remains responsible for any decision taken pursuant to such arrangements.
- 3.9.2 The approval of this sub-delegation scheme will ensure that it is documented and made available for public inspection during normal office hours and that the public has the right to copy or to be provided with a copy of any part of that record.
- 3.9.3 The decision to approve amendments to this sub-delegation scheme is not eligible for Call-In as it is not a Key or Major decision.

3.10 Risk Management

- 3.10.1 Ensuring that the Director of Environment & Housings scheme is kept up to date reduces the risk of decisions being taken without the correct authority.

4 Recommendations

- 4.1 The Director of Environment and Housing is asked to approve the amendments to the sub-delegation scheme set out in Appendix 1 to this report. These are highlighted and can be found in section 2h(iii) on page 30 and Schedule 14 on page 52.

5 Background documents

- 5.1 None