

Report to the Director of Environment & Neighbourhoods

Date: 5th November 2014

Subject: Amendments to the Director of Environment & Neighbourhoods sub-delegation scheme

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<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 & Neighbourhoods.
2. All sub-delegations made by the Director of Environment & Neighbourhoods within the scheme are sub-delegated to officers of suitable experience, competency and seniority.

Recommendations

The Director of Environment & Neighbourhoods is asked to approve the amendments to the sub-delegation scheme as set out in the attached report (Appendix 1).

1 Purpose of this report

- 1.1 This report sets out the proposed amendments to the sub-delegation scheme for the Director of Environment & Neighbourhoods. The change is required to include the powers made available under the Anti-Social Behaviour, Crime & Policing Act 2014 (ASBCPA 2014). The anti social behaviour provisions contained in the Act replace the existing orders and powers with a limited number of more generalised measures, which include Injunctions, Community Protection Notices, Closure Notices & Closure Orders & Public Space Protection Orders. Further this report sets out to sub-delegate powers made available under the Environmental Protection Act 1990 to all ASB officers to reflect competencies and experience gained by officers.
- 1.2 It is proposed that LASBT Team Leaders, LASBT Team Supervisors, ASB Supervisors (EHO) and ASB Case Officers are given authority to issue Community Protection Notice and enforce Community Protection Notices.
- 1.3 It is proposed that LASBT Team Leaders, LASBT Team Supervisors, ASB Supervisors (EHO) and ASB Case Officers are given authority to issue Fixed Penalty Notices for breach of Community Protection Notice, as per section 48 ASBCPA 2014. The FPN is issued where a breach of CPN has been witnessed and can prevent the need for prosecution.
- 1.4 It is proposed that the Chief Officer Community Safety & Head of Anti-Social Behaviour are given authority to authorise Closure Notices & applications for Closure Orders.
- 1.5 It is proposed that the Chief Officer Community Safety, Head of Anti-Social Behaviour & Head of Community Safety Partnerships & Localities are given authority to authorise Public Space Protection Orders.
- 1.6 It is proposed that LASBT Team Leaders & LASBT Team Supervisors are given authority to sign and authorise abatement notices to prevent statutory nuisance from occurring or recurring.
- 1.7 It is proposed that ASB Case Officers, Team Supervisors & Team Leaders are given authority to apply for warrants in order to inspect premises or seize equipment to prevent or stop statutory nuisance.
- 1.8 The report provides an overview to the changes and identified needs within the Leeds Anti-Social Behaviour Team. All sub-delegations set out within the scheme are made to officers of suitable experience, competency and seniority.

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 The Anti-Social Behaviour, Crime & Policing Act 2014 sets new powers to respond and prevent anti-social behaviour which replaces existing powers. LASBT Team Leaders, LASBT Team Supervisors, ASB Supervisors (EHO) & ASB Case Officers require the authority to use these powers in order to effectively manage and prevent anti-social behaviour.
- 3.2 Under Section 43 ASPCPA 2014, local authority can serve a **Community Protection Notice (CPN)** where behaviour is proven to be
 - having detrimental impact on quality of life for community;
 - is unreasonable;
 - and is persistent or continuing in nature.

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. A CPN is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible. It is vital that LASBT Team Leaders, LASBT Team Supervisors, ASB Supervisors (EHO) and ASB Case Officers have the authority to issue and enforce CPNs to prevent further harm to communities following a proactive investigation and where other remedies are not suitable.

- 3.3 Under Section 48 ASBCPA 2014, local authorities are given the power to issue **Fixed Penalty Notices** where a CPN was not complied with. In order for the tools to be used effectively to reduce the impact of anti-social behaviour on communities, LASBT Team Leaders, LASBT Team Supervisors, ASB Supervisors (EHO) and ASB Case Officers require authority to issue FPN notices where there is a failure to comply with the terms of the notice. The maximum penalty for a FPN is £100 fine.

3.4 Under Section 76 ASBCPA 2014, local authorities are given power to authorise issue of **closure notices** where:

- Use of premises has resulted or is likely to soon result in nuisance to members of the public; or
- There has been or is likely soon to be disorder near the premises associated with the use of those premises

The authority to issue, cancel or vary a closure notice should be delegated to the Head of Anti-Social Behaviour & Chief Officer Community Safety to facilitate effective responses to ASB that reduce the impact of harm on communities. Within the act, this power is also given to Police Inspector (for 24 hour closures) and to Police Superintendent (for 48 hour Closures.)

3.5 The **Public Space Protection Order (PSPO)** replaces Gating Orders, Designated Public Places Order which are used to ensure public safety and prevent crime & disorder. It is proposed that the power to authorise the PSPO is delegated to Chief Officer Community Safety, Head of Anti- Social Behaviour & Head of Community Safety Partnerships & Localities

3.6 Following on from the integration of domestic noise nuisance into the ASB Team, LASBT Team Leaders, Team Supervisors and ASB Case Officers have developed the appropriate competencies and experience to investigate statutory nuisance, specifically related to noise, as defined in the Environmental Protection Act 1990. These officers require authority to apply for **Applications for Warrants** under Paragraph 2 of Schedule 3 of the Environmental Protection Act 1990 so as to ascertain whether or not a statutory nuisance exists and/or to take action to execute works required to abate the likely occurrence or recurrence of a statutory nuisance at the premises.

3.7 Further LASBT Team Leaders and Team Supervisors require authority to sign and issue **Section 80 abatement notices** to prevent or stop statutory nuisance.

Corporate Considerations

3.8 Consultation and Engagement

3.8.1 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.

3.9 Equality and Diversity / Cohesion and Integration

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

3.10 Council policies and City Priorities

3.10.1 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.

3.10.2 Therefore, updating the attached sub-delegation scheme will contribute towards this principle.

3.11 Resources and value for money

3.11.1 There are no resource or value for money implications arising from this report.

3.12 Legal Implications, Access to Information and Call In

3.12.1 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.

3.12.2 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.

3.12.3 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.

3.13 Risk Management

3.13.1 Ensuring that the Director of Environment & Neighbourhoods 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 Neighbourhoods is asked to approve the amendments to the sub-delegation scheme set out as Appendix 1 to this report and set the penalty of a Fixed Penalty Notice at the level of a £100 fine.

5 Background documents

5.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.