

Subject:	Designating the use of Community Protection Notices (CPN) to local Registered Social Landlords		
Date of Meeting:	21 January 2019		
Report of:	Executive Director for Neighbourhoods, Communities & Housing		
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Ward(s) affected:	(All Wards);		

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The report is seeking approval to designate the use of Community Protection Notices to Registered Social Landlords (RSL) in Brighton and Hove to increase the remedies available to them to tackle anti-social behaviour in the city

2. RECOMMENDATIONS:

- 2.1 That the Committee approves the designation of Community Protection Notices to RSLs in accordance with section 53 of the Anti- Social Behaviour, Crime and Policing Act 2014.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Anti-social Behaviour Crime and Policing Act 2014 received Royal Assent in April 2014. It brought together 19 previous powers into six with the intention of making them quicker and easier to obtain. The majority of the anti-social behaviour (ASB) provisions came into effect in October 2014.

- 3.2 Community Protection Notices (CPNs) are designed to stop a person aged 16 or over, or a business or organisation, committing anti-social behaviour if that behaviour:

- has a detrimental effect on the quality of life of those in the locality
- is persistent or continuing nature; and
- is unreasonable

- 3.3 The aim of a CPN is to stop behaviour and put in place steps to ensure it will not reoccur. A CPN can include any or all of the following:

- a requirement to stop doing specific things
- a requirement to do specific things
- a requirement to take reasonable steps to achieve specific results within set timescales.

- 3.4 In November 2017 the Neighbourhoods, Inclusion, Communities and Equalities committee agreed to the use of CPNS by Brighton and Hove City Council (BHCC) officers to address a range of ASB in Brighton and Hove.
- 3.5 Since November 2017, CPNS have been used to successfully by BHCC to address a range of issues in Brighton and Hove including untidy or unkempt garden, noise nuisance that does not meet the statutory threshold for intervention and anti-social gatherings, often late at night or in the early hours.
- 3.6 BHCC already has agreed procedures and officer guidance for using and issuing CPNS, including when they are used to address behaviour by 16 and 17 year olds, and for addressing breaches of CPNS, and these processes and guidance will be adapted for use by Registered Social Landlords if this report is approved by the committee.
- 3.7 Before a CPN can be issued, a CPN warning letter must be issued to the person committing the anti-social behaviour. The written warning must make it clear that if the behaviour does not cease that a CPN could be issued. If the designation of CPNS to RSLs is agreed by committee then a process whereby the RSL must get the authorisation of a BHCC Safer Communities Manager before issuing a CPN warning letter or CPN will be implemented.
- 3.8 BHCC has CPN warning letter and CPN templates and these will be adapted for use by RSLs if this report is approved by committee.
- 3.9 The BHCC Safer Communities Manager (ASB and hate incidents) and BHCC Senior lawyer for Housing and Litigation have met with local RSLs and have identified two housing providers that would like to use CPNS, namely Southdown Housing Association and Brighton Housing Trust.
- 3.10 If this report is approved by committee it is proposed that these two RSLs will use CPNS to address the following range of ASB concerns:
 - cannabis use where the smell/fumes/smoke is emanating into shared areas and other persons property and having a detrimental effect on neighbours health and wellbeing.
 - environmental Issues, including graffiti, dog fouling, upkeep of gardens, bonfires etc
 - fly-tipping and dumping of items in communal areas
 - gatherings of persons at property where the behaviour of those gathered is having a detrimental effect and the identity of the visitors are not known to the RSL
 - noise nuisance e.g. loud music, including the playing of music in communal areas
 - pets e.g. dog attacking other dogs or people, dogs straying into neighbours gardens
 - vehicles e.g. dumping vehicles in gardens, carrying out works on vehicles in shared areas or in a manner that is detrimental to the community
 - where the condition of the property is having a detrimental effect on the locality

- 3.11 A person issued with a CPN may appeal to a magistrates court against the notice on specified grounds under s46 of the Act.
- 3.12 If the notice is not complied with then the matter comes back to the local authority, who will decide whether to serve a Fixed Penalty Notice (FPN), for which the money comes to the Local Authority, whether to prosecute the breach of the notice or whether to decline to prosecute.
- 3.13 The Council will specify the RSL and the specific roles that are authorised within each RSL to use CPNs
- 3.14 There will be an ongoing review process with the RSL's and if they operate in such a way as to cause concern this could lead to withdraw of their designation and or a refusal to prosecute.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Designating the use of CPNs to RSLs will allow them to address ASB that would otherwise not be serious enough to warrant other legal action to be taken against the perpetrator. Currently perpetrators are often warned about the behaviours listed at 3.10, but if after the warning the behaviour continues the RSL is often powerless to take action as the behaviour is unlikely to meet the threshold for an injunction or possession action
- 4.2 Designating the use of CPNs to RSLs will also allow RSL tenants to have the same protection from ASB as afforded to BHCC tenants and the private sector.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 There is no requirement for the use of CPNs to be consulted on. However the consideration of their use in Brighton and Hove will be documented through the democratic process by bringing them to the attention of this committee and subsequently, the Policy, Resources and Growth Committee.
- 5.2 There is a bi-monthly CPN officers group which meets to monitor and review the use of CPNs in Brighton and Hove

6. CONCLUSION

- 6.1 In addressing ASB the local authority should ensure that it is making use of the full range of tools and powers, ensuring that all residents, irrespective of tenure, are protected from ASB.
- 6.2 Designating the use of CPNs to RSLs will further ensure that ASB is proactively addressed in Brighton and Hove and that BHCC is fulfilling its statutory duty under the Crime and Disorder Act 1998 to do all that it reasonably can to prevent anti-social and other behaviour adversely affecting the local environment.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 If this report is approved, any officer time in support of the recommendation made in this report will come from within existing staffing budgets.

Finance Officer Consulted: Michael Bentley

Date: 12/12/18

Legal Implications:

- 7.2 S53 of the Anti-Social Behaviour Crime and Policing Act 2014 (the Act) allows a person designated by the relevant local authority to utilise the power of a CPN (notice and FPN). The Anti-Social behaviour (Authorised Persons) Order 2015 enables local authorities to give housing providers the power to issue CPNs and FPNs under the Act.
- 7.3 The designation will only apply to activity within Brighton and Hove. The Council could not authorise use of CPN's in relation to activity that took place in another local authority area.
- 7.4 If the designation is approved, the Council would have oversight of those cases that are referred back to the Council for prosecution. In all other cases, a review process involving the BHCC Safer Communities Manager would be advisable to ensure that the CPNs are being used in line with their agreed purposes and in accordance with the Statutory Guidance updated in December 2017.
- 7.5 As set out above, an RSL cannot prosecute under the Act and so any failure to comply with either a CPN or FPN would have to be referred back to the local authority.

Lawyer Consulted: Simon Court

Date: 12/12/18

Equalities Implications:

- 7.6 Guidance from the minister for crime, safeguarding and vulnerability advises that CPN powers should be used proportionately to tackle anti-social behaviour and not to target specific groups or the most vulnerable.
- 7.7 The general equality duty applies to organisations that exercise public functions, so may apply to RSLs carrying out public functions on behalf of the council. Even if the law does not apply directly, RSLs are advised by the Equality & Human Rights Commission to comply with the duty.
- 7.8 An equality impact assessment of what actions/behaviour may be subject to a CPN will help identify potential disproportionate impacts and actions to avoid or minimise these.
- 7.9 Given that the BHCC Safer Communities Manager will provide oversight, along with the CPN officers' group, disproportionate or inappropriate applications of CPNs will be avoided and any emerging trends or feedback analysed.

Sustainability Implications:

7.10 None

Any Other Significant Implications:

7.11 None

