



ADUR & WORTHING
COUNCILS

Joint Strategic Committee
14 January 2020
Agenda Item 9

Key Decision [No]

Ward(s) Affected:All

Preventing anti-social behaviour: Trialling the extension of Community Protection Notice powers with Worthing Homes

Report by the Director for Communities

Executive Summary

1. Purpose

- 1.1. Community Protection Notices are part of the legal remedies available to the Councils to address anti-social behaviour and are used as an early intervention warning and enforcement measure.
- 1.2. This report considers a request to extend these powers to Worthing Homes for a one year pilot, as an early intervention measure with tenants that are involved in anti-social behaviour

2. Recommendations

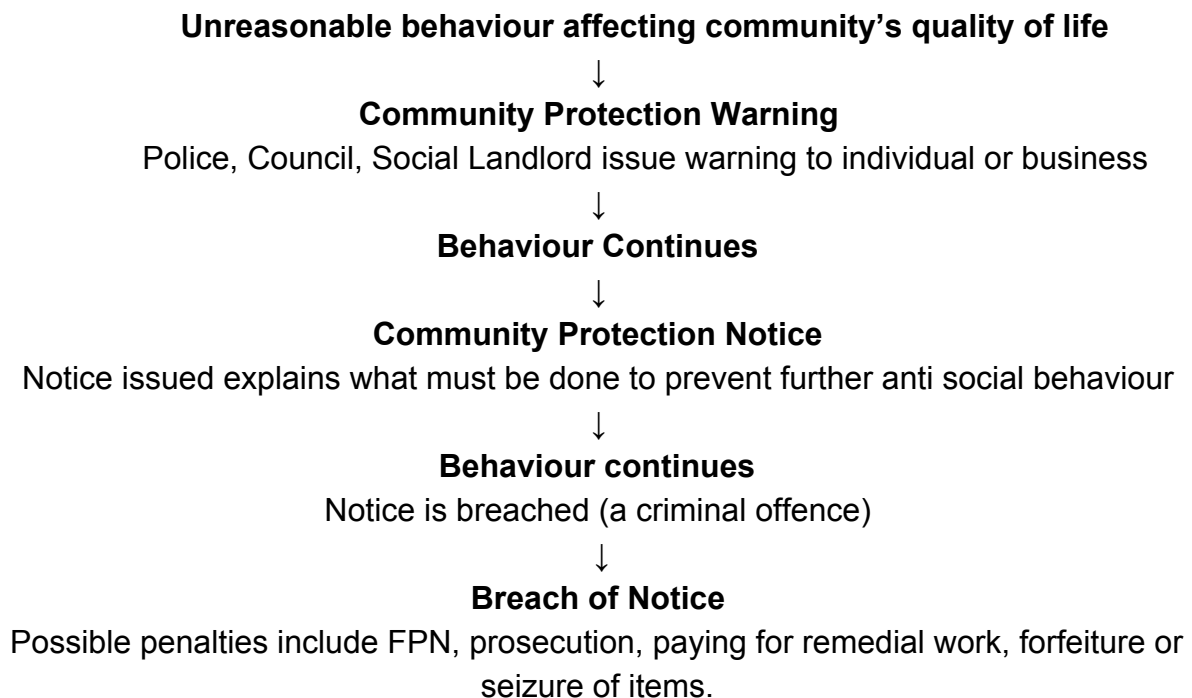
- 2.1. Members of the Joint Strategic Committee are recommended to:
 1. Note the background to Community Protection Notices as an early intervention approach for anti-social behaviour;
 2. Consider the proposals set out in the report and agree to delegate authority to Worthing Homes for issuing Community Protection Warnings and Notices for a pilot period of one year;
 3. Note that this pilot, if agreed, will be subject to review meetings and monitoring of these measures.

3. Context

- 3.1. The Anti Social Behaviour, Crime and Policing Act 2014 (“the Act”) radically overhauled the powers available to tackle anti-social behaviour and nuisance. It both simplified a multitude of powers and extended the legislative tools available. In 2014, Adur and Worthing Councils implemented a refreshed Anti-Social Behaviour Policy to reflect these changes in legislation, ensuring that the new powers became embedded in the Councils’ approach. This approach is focused on early intervention and prevention in order to resolve complaints of anti-social behaviour and nuisance, and prevent harm to vulnerable victims.
- 3.2. The foundation of Adur and Worthing Councils’ approach is aimed at resolving anti social behaviour at the lowest level of intervention; taking a balanced approach, giving perpetrators of anti social behaviour the opportunity to change their behaviour, before considering enforcement approaches. One of the powers provided by the Act is the Community Protection Notice (CPN) which allows the authority to issue a warning, followed by a legal notice, to perpetrators of anti- social behaviour. This provides two opportunities for the perpetrator to cease the nuisance behaviour before embarking on enforcement action.
- 3.3. The purpose of a CPN is to stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community’s quality of life. The CPN can deal with a range of behaviours; for instance, it can deal with noise nuisance and litter on private land.
 - The CPN can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti-social behaviour occurring again.
 - A written warning must first be issued informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing.
 - Where the warning is ignored, a CPN can then be issued including the requirement to stop doing things, do things or take reasonable steps to avoid further anti-social behaviour.
 - If there are specific works to be carried out, for example to make premises secure to prevent ASB, this power allows the Council to carry out those works and recharge the perpetrator if they fail to comply.

Currently, the legislation provides the power to issue Community Protection Notices to a Local Authority and the Police and when they are not complied with, the consequential enforcement power of Fixed Penalty Notices. Failure to pay the Fixed Penalty Notice can ultimately result in a criminal prosecution.

- 3.4. A CPN can only be issued where a warning has been previously issued and the appropriate individual(s) or bodies have been informed. The process for CPWs/CPNs is as follows:



- 3.5. CPNs can only be issued by “ authorised persons” defined as a constable, the relevant local authority or a person designated by the relevant local authority. In Adur and Worthing, these powers are currently only being exercised by Adur and Worthing Councils and Sussex Police.
- 3.6. To date, Adur and Worthing Councils have been using the CPNs and Notices to deal with a variety of issues and have been used by both the Anti Social Behaviour and Public Health and Regulation teams. Examples of their use include tackling nuisance caused by an individual's encampment in the town centre, requesting a landlord to make a building secure to prevent ASB, dog fouling, and accumulation of waste.
- 3.7. Since the new legislation was introduced in 2014, Adur and Worthing Councils have issued 25 Community Protection Warnings. Of these, 18

were successful in preventing further anti social behaviour, 6 progressed to notices and 1 resulted in a notice followed by a fixed penalty notice. This is a compliance rate of 72% at warning stage which increases to 96% at notice stage. Blackpool City Council are the most prolific authority in terms of issuing CPWs and CPNs. The Council issued 700 CPWs in a two year period with a compliance rate of 76%. Whilst Blackpool hasn't delegated these powers, these figures suggest that the warnings are an effective and low cost way of preventing anti social behaviour in the majority of cases.

- 3.8. Worthing Homes, Worthing's largest social housing provider, has made a request to the Councils to be delegated the power provided under the Anti Social Behaviour, Crime and Policing Act 2014, to issue Community Protection Warnings (CPW) and Community Protection Notices (CPN) in cases of anti social behaviour perpetrated by tenants of their properties. Worthing Homes works closely in partnership with the Communities and Wellbeing Team and the Housing Needs Team, to take a proactive approach to anti social behaviour in the community which could be enhanced by the delegation of this power.
- 3.9. Worthing Homes are dealing with a variety of tenant issues that, whilst negatively impacting on the quality of life of surrounding neighbours and the wider community, fall below the threshold of the interventions available to them through housing legislation tools and powers. Worthing Homes have given examples of the types of issues they experience including uncontrolled teenage children of their tenants causing nuisance on one estate and properties with littered gardens.
- 3.10. Using this power would provide Worthing Homes with a means of ceasing problematic behaviour before it escalates and potentially avoiding the leap to more serious legal notices and enforcement action around housing measures such as Notice of Seeking Possession or Housing Injunction.
- 3.11. Examples of this way of working do exist elsewhere, Brighton and Hove City Council has delegated this authority to two housing providers, and developed a process that contains control measures to ensure that the delegation is exercised appropriately. For example, the delegation is only provided to named specific Officers employed by the Registered Social Landlord ("RSL"), the RSL is still required to obtain sign-off from the City Council before issuing a CPW or CPN and the

power to take enforcement action if a Notice is breached, enforcement action is retained by the City Council.

- 3.12. Adur and Worthing Councils have a long history of working together with Worthing Homes to tackle ASB including undertaking joint casework in complex cases. Officers have met with Worthing Homes to consider how they would use the delegation in practice and to emphasise the need for process and safeguards to ensure proportionate and fair application of the legislation. Adur and Worthing Councils have proposed a process that will ensure continued oversight throughout the application of the legislation (Appendix 1)

4. Issues for consideration

- 4.1. Delegating this power to Worthing Homes will improve the capacity to address low level ASB that could otherwise escalate, whilst protecting more vulnerable victims of this behaviour. With more officers being involved in this type of work, we anticipate an increase in the overall levels of intelligence around issues related to ASB.
- 4.2. As there is a duty to tackle ASB from a multi agency perspective, without delegating this power, Adur and Worthing Councils risk becoming the lead agency by default, even where it is a social landlord's property. The risk is that the demand on AWC staff and resources will increase. Broadly from government and local Criminal Justice partners there is a desire for these powers to be used more widely and for that responsibility to be shared across the system which includes housing providers.
- 4.3. Safeguards will need to be put in place to ensure that vulnerable tenants (eg those being cuckooed or at risk of ASB enforcement due to mental health related behaviour) are not put at additional risk through this process. Where a case is moving to a Notice from a warning, this will require multi agency consultation. The monthly ASB Risk Assessment Conference (ASBRAC) provides a multi agency forum to discuss these cases. This is attended by a Community Mental Health Practitioner which provides an additional safeguard but a specific multi agency meeting should be convened before considering the enforcement of a breach and there are additional vulnerabilities. Echoing Brighton and Hove's approach, we would host a quarterly meeting with Worthing Homes to review the use of the powers and address any issues.

- 4.4. Should Members of the JSC agree to these proposals, the detailed work that has been drafted by the Councils, in consultation with Worthing Homes, will be implemented for a period of one year. This will work with specific named officers in Worthing Homes, working alongside officers in the Communities and Wellbeing Team. The use of these tools will be tested and signed off by those Council Officers that are currently delegated with these powers. All of this work will be overseen by the Head of Wellbeing and reported back to Members after the pilot period.

5. Engagement and Communication

- 5.1. The Executive Members for Health and Wellbeing and Housing have been consulted about this proposal prior to the more detailed work which is presented in this report. They have stressed the importance of prevention and are supportive of a pilot, subject to reassurances that this would not negatively affect our most vulnerable residents (this is addressed in 4.3 above), that there is a clear process and approach in place before the powers commence and that the specific Worthing Homes Officers that are delegated these powers receive appropriate training from the Councils' Legal Service team.
- 5.2. We have consulted with Brighton and Hove Community Safety Team who designated the power to two social landlords in April 2019. They have reported that the landlords that were designated the power, have proposed 4 Community Protection Warnings since April. Of these, 2 have been agreed by BHCC and 2 have been declined as BHCC deemed other tools and powers more appropriate. Of the 2 agreed, one required no further action, one progressed to Notice which was complied with, meaning no enforcement was required.

6. Financial Implications

- 6.1. There will not be a direct financial cost to the council as any legal enforcement work undertaken will be charged to Worthing Homes.
- 6.2. However, there is potentially a resource implication for the Communities and Wellbeing Team and Financial Services Team. These teams will be required to process requests for Community Protection Notices and to issue and monitor resulting Fixed Penalty Notices. However much will depend on the volume of notices issued and it is expected that initially this work will be absorbed by the teams.

The impact will be monitored over the forthcoming year as part of the pilot.

7. Legal Implications

- 7.1. The Anti-social Behaviour, Crime and Policing Act 2014 allows the Councils to designate a person or persons to issue a Community Protection Notice provided they fall within a description the Secretary of State has authorised. The Anti-social Behaviour (Authorised Persons) Order 2015 allows the council to designate housing providers.

- 7.2. If the pilot is approved, Legal Services will work with the Communities and Wellbeing team and Worthing Homes to agree a procedure setting out the full process of how the delegation will operate, what consultation is required before Worthing Homes issue a warning or CPN as well as how breaches are dealt with. Legal Services will provide Worthing Homes with training prior to the pilot commencing and will provide ongoing legal advice to Worthing Homes as required. Legal Services will also be responsible for prosecuting individuals or organisations who fail to comply with a CPN.

Background Papers

- Anti Social Behaviour, Crime and Policing Act 2014

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Sustainability & Risk Assessment

1. Economic

The use of all ASB tools and powers contributes to the perception of Adur and Worthing as safe and vibrant spaces to invest and spend time in.

2. Social

2.1 Social Value

Communities will benefit from safer spaces, increasing interventions will address behaviour that threatens stability of housing and community cohesion.

2.2 Equality Issues

We have considered and discussed the possible impact this power will have on vulnerable tenants housed by Worthing Homes. The report details the safeguards that have been developed to mitigate these risks.

2.3 Community Safety Issues (Section 17)

Delegation of this power to Worthing Homes will enhance Community Safety but increasing the range of agencies who can tackle antisocial behaviour and nuisance in our communities.

2.4 Human Rights Issues

- The Council must ensure that the powers afforded by the ASB, Crime and Policing Act are used responsibly and proportionately, and only where necessary to protect the public.
- Due regard must be had of the Equalities Act 2010. The powers must not be directly or indirectly discriminatory. Consideration should be given to certain groups of persons who may be disproportionately affected, .e.g. vulnerable persons, persons living in poverty and travellers.
- The powers should not restrict rights protected under the Human Rights Act , in particular Article 8, the right to a private and family life, Article 10, the right to freedom of expression and Article 11, the right to freedom of assembly and association.
- Wherever proposals for an Order have the potential to impinge on the rights under articles 10 and 11, consideration must be given as to how to demonstrate that they satisfy the requirements of paragraph 2 in each of the articles

3. Environmental

Extending the powers to Worthing Homes will ensure more community spaces can be protected from the harmful impact of anti social behaviour.

4. Governance

Delegating the powers to Worthing Homes will support the Social Economies commitment of:

'Develop and deliver projects to support and enforce the prevention and reduction in antisocial behaviour' .

Appendix 1: Process: Fixed Penalty Notices

