

## Changes to the Officer Scheme of Delegation

The following additional powers are requested:

### Assistant Director Housing and Social Care Commissioning

- Service and enforcement of community protection notices and fixed penalty notices under the Antisocial Behaviour, Crime and Policing Act 2014 in relation to residential premises

Reason	<p>Community Protection Notices (CPNs) are an additional tool which will help the Housing Standards Team address problems of unacceptable behaviour associated with residential premises.</p> <p>Currently the Housing Standards Team do not have an effective enforcement tool for tackling lower-level unacceptable conduct, such as threatened illegal eviction or harassment. Currently the only formal recourse for such acts is prosecution once an eviction has taken place. Prosecutions for such offences can be difficult to prove evidentially, and often rely heavily on witness testimony. CPNs offer a versatile solution which can be used to prevent such issues from occurring or escalating, for example a Community Protection Warning (which must be served before a CPN can be issued) can be used to effectively set a ‘line in the sand’ for what is acceptable or unacceptable conduct. If the conduct persists, the breach of a CPN is an offence which is easier for an officer to witness, and can be discharged either by fixed penalty notice or prosecution, and ultimately post-conviction orders can be sought. This gives a wide range of enforcement options which can be used independently, or in parallel with existing powers.</p>
Lead Member Support	<p>Gillian Douglas and Cllr John Donaldson have been consulted and are content with the proposal which they regard as a useful addition to the Housing Standards Team’s range of enforcement powers.</p>
Financial Implications	<p>No particular increased risk over and above existing similar enforcement powers.</p> <p>Low risks of non-payment of Fixed Penalty Notices as maximum penalty £100.</p> <p>Comments checked by:          Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, <a href="mailto:dominic.oakeshott@cherwell-dc.gov.uk">dominic.oakeshott@cherwell-dc.gov.uk</a></p>

Risk Implications	<p>Without CPN provisions, the Housing Standards Team have to rely on existing powers which do not adequately cover the range of conducts encountered, rely on prosecution as the only recourse, or have higher thresholds for action, for example statutory nuisance.</p> <p>These will be managed as part of the services operational risk register and escalated as and when necessary to the leadership risk register.</p> <p>Comments checked by:  Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, <a href="mailto:louise.tustian@cherwell-dc.gov.uk">louise.tustian@cherwell-dc.gov.uk</a>,</p>
Legal Implications	<p>Monitoring of CPWs and CPNs for compliance by Housing Standards Team.</p> <p>Non-compliance with CPN can be discharged via Fixed Penalty Notice or prosecution in Magistrate’s Court.</p> <p>Post-conviction orders can be requested, including seizure and forfeiture of equipment.</p> <p>Limited provision for works-in-default (but it is expected existing powers would be used in most cases).</p> <p>Comments checked by:  Richard Hawtin, Team Leader – Non-contentious, 01295 221695, <a href="mailto:richard.hawtin@cherwell-dc.gov.uk">richard.hawtin@cherwell-dc.gov.uk</a></p>

**Assistant Director Planning and Economy (now Planning and Development)  
Building Control**

- To consider and respond to any applications in respect of structures on ordinary watercourses
- To undertake, or arrange the undertaking of, any works on ordinary watercourses
- To undertake any enforcement action in relation to any matter or thing affecting ordinary watercourses which may give rise to flood risk
- To liaise with and provide any information necessary to any other public authority, statutory body or other entity in respect of flood risk, including the Lead Local Flood Authority (as identified in the Flood and Water Management Act 2010)
- To exercise any power which is relevant to ordinary watercourses contained in either the Land Drainage Act 1991, the Land Drainage Act 1994 and the Public Health Act 1936 as the same may be amended, replaced or superseded from time to time

Reason	The Council has resolved to resume from April 2020 using its powers under the various Land Drainage Acts to ensure that the maintenance of and works to “ordinary watercourses” are done so that flood risk is minimised. These delegations will enable these powers to be used in an efficient and timely manner.
Lead Member Support	Councillor Colin Clarke and Councillor Daniel Sames
Financial Implications	There are no financial implications arising directly from this change.  Comments checked by: Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, <a href="mailto:dominic.oakeshott@cherwell-dc.gov.uk">dominic.oakeshott@cherwell-dc.gov.uk</a>
Risk Implications	Flood risk to our community will be reduced by the effective use of these delegated powers.  Comments checked by: Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, <a href="mailto:louise.tustian@cherwell-dc.gov.uk">louise.tustian@cherwell-dc.gov.uk</a> ,
Legal Implications	The legal implications arising from this addition to the officer scheme of delegation are covered in the reasons given for the change.  Comments checked by: Richard Hawtin, Team Leader, Non-contentious, 01295 221695, <a href="mailto:richard.hawtin@cherwell-dc.gov.uk">richard.hawtin@cherwell-dc.gov.uk</a>

**Assistant Director Environmental Health and Licensing (now Assistant Director Regulatory Services and Community Safety)**

- To deal with all matters, and exercise the Council’s powers, including enforcement, under legislation relating to pavement licences

Reason	To delegate authority by function rather than reference to specific legislation. This will avoid the need for the scheme of delegation to be amended every time there is a change/amendment to the legislation.
Lead Member Support	Councillor McHugh
Financial Implications	There are no financial implications arising directly from

	<p>this change.</p> <p>Comments checked by:  Dominic Oakeshott, Assistant Director – Finance (Interim), 01295 227943, <a href="mailto:dominic.oakeshott@cherwell-dc.gov.uk">dominic.oakeshott@cherwell-dc.gov.uk</a></p>
<p>Risk Implications</p>	<p>Officers are currently only authorised to enforce the specific statutory power (section 115 of the Highways Act 1980) and not the wider function around regulation of pavement licences.</p> <p>Comments checked by:  Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786, <a href="mailto:louise.tustian@cherwell-dc.gov.uk">louise.tustian@cherwell-dc.gov.uk</a>,</p>
<p>Legal Implications</p>	<p>The current delegation states ‘To exercise powers to permit third parties to place objects over or on the public highway, under section 115 of the Highways Act 1980’. For information section 115 of the Highways Act 1980 falls in Part VII of the Act and relates to the parking of heavy goods vehicles. Pavement licences come under Part VIIA and sections 115A onwards so the change will additionally rectify this potential anomaly.</p> <p>Comments checked by:  Richard Hawtin, Team Leader, Non-contentious, 01295 221695, <a href="mailto:richard.hawtin@cherwell-dc.gov.uk">richard.hawtin@cherwell-dc.gov.uk</a></p>