



# AGENDA

## CABINET

**MONDAY, 4 APRIL 2005**

**10.30 AM**

**COUNCIL CHAMBER, COUNCIL OFFICES, ST PETERS HILL,  
GRANTHAM**

Duncan Kerr, Chief Executive

<b>CABINET MEMBERS:</b>	Councillor Mrs. Linda Neal (Leader), Councillor Peter Martin-Mayhew (Deputy Leader/Portfolio: Housing), Councillor Teri Bryant (Portfolio: Community Affairs), Councillor Ray Auger (Portfolio: Environmental), Councillor Paul Carpenter (Portfolio: Technology), Councillor Mrs Frances Cartwright (Portfolio: Cultural) and Councillor John Smith (Portfolio: Economic)
Cabinet Support Officer:	Lena Shuttlewood tel: 01476 406119 e-mail: <a href="mailto:l.shuttlewood@southkesteven.gov.uk">l.shuttlewood@southkesteven.gov.uk</a>

**Members of the public are entitled to attend the meeting of the Cabinet at which key decisions will be taken on the issues listed on the following page. Key decisions are marked \*.**

1. **Apologies**
2. **Minutes**  
To approve the record of the Cabinet meeting held on 7<sup>th</sup> March 2005. **(attached)**
3. **Declarations of Interest (if any)**

**CATEGORY A PRIORITY ISSUES:**

4. **\*South Kesteven District Council Anti-Social Behaviour and Enforcement Policy**  
Report number DSC20 by the Director of Community Services. **(attached)**

**CATEGORY B PRIORITY ISSUES:**

5. **\*Supporting People: Constitution and Memorandum of Understanding**  
Report number DCS19 by the Director of Community Services. **(attached)**
6. **\*Securing Affordable Housing through Planning - Housing Needs Survey 2002**  
Report number PLA488 by the Head of Planning & Economic Regeneration.  
**(attached)**
7. **Private Sector Accreditation Scheme**  
Report number HSG158 by the Head of Housing Services. **(attached)**
8. **Local Area Assemblies**  
Report number DLS33 by the Scrutiny Officer. **(attached)**
9. **Matters Referred to Cabinet by the Council or the Development & Scrutiny Panels**
10. **Items raised by Cabinet Members including reports on Key and Non Key Decisions taken under Delegated Powers.**
11. **Representations Received from Members of the Public on Matters within the Forward Plan (if any)**
12. **Representations received from Non Cabinet Members**
13. **Any other business which the Chairman, by reason of special circumstances, decides is urgent**



**MEETING OF THE CABINET**  
**7 MARCH 2005 - 10.30 AM – 12.02 PM**

**PRESENT:**

**Councillor Terl Bryant**  
**Councillor Ray Auger**  
**Councillor Paul Carpenter**  
**Councillor Mrs Frances Cartwright**  
**Councillor John Smith**

**Councillor Peter Martin-Mayhew – Deputy Leader / Chairman**

**Corporate Director, Regulatory Services**  
**Corporate Director, Community Services**  
**Head of Planning Policy & Economic Regeneration**  
**Head of Design Services (Surveying)**  
**Business Services Manager**  
**Member Services Manager**  
**Senior Planning Officer (Policy)**  
**Public Relations Manager**

**Non Cabinet Members – Councillors Kerr ; Stokes ; Mrs M. Wheat ; Wilks**

**CO108. APOLOGIES**

An apology for absence was received from the Leader, Councillor Mrs Linda Neal.

## CO109. MINUTES

The minutes of the Cabinet meeting held on 7<sup>th</sup> February 2005 were confirmed as a correct record.

## CO110. PROVISION OF PUBLIC CONVENIENCES: GRANTHAM

### **DECISION:**

- (1) To approve the Grantham Bus Station as the most suitable site for the provision of attended toilets in Grantham;**
- (2) To approve the costs of refurbishment estimated to be £125,000 in 2005/2006;**
- (3) To ensure that the additional cost of providing an attended facility in Grantham will be contained within the 2005/2006 budget allocation. Should any additional budget be required in 2006/2007 this will be identified in the 2006/2007 budget round;**
- (4) To include as part of the scheme proper signposting within the town centre area to indicate the location of the attended facilities and approximate walking distance;**
- (5) That officers investigate the terms of the lease with Morrisons for the use of the Bus Station site;**
- (6) To seek a formal response from the Grantham TCMP and the Police on the preferred location.**

### Considerations/Reasons for Decision:

- (1) Recommendations from the Environment DSP Working Group set up to consider the location of an attended toilet in Grantham, together with an oral report given at the meeting by a member of that Working Group;
- (2) The Grantham Local Area Assembly's preference for the Bus Station as the location for the toilets;
- (3) A technical evaluation of the Abbey Gardens and the Bus Station sites which indicated that the Bus Station has the potential to provide larger facilities in an area of town where there is considerably higher footfall. The benefits of providing a facility where large numbers of people are either waiting for transport or completing journeys. The Bus Station therefore offers the greatest potential to provide quality facilities; is in an area where most people would expect to find toilets, and would have the advantage of being in a high footfall area;
- (4) Report number DCS15 by the Director of Community Services summarising the outcome of consultations and details of the technical evaluation for both options – Abbey Gardens and Grantham Bus Station;
- (5) The Capital Programme includes a sum of £200,000 to meet the capital costs of refurbishing the toilets in Grantham. Subject to

agreement with Morrisons, the work could be completed at the Bus Station in October 2005;

- (6) Signposting within the town centre area will inform visitors where to find the toilets and advise on approximate walking distance;
- (7) The lease on the Bus Station site has another 18 years to run; in view of the Council's proposed investment in the public conveniences, consideration needs to be given to the terms of this lease;
- (8) The comments from the Grantham TCMP and the Police were not contained in report DCS15.

Other options considered and rejected:

The Abbey Gardens site:

- (1) The site is away from the shops and is a smaller footfall area;
- (2) Recently approved plans for additional security measures for the Abbey Gardens, including extended railings and gates, will restrict access at the site to office opening hours only. Security at this particular location is a high priority issue having regard to previous arson attacks on the building and the inappropriate activity which necessitated the closure of the public toilets in Abbey Gardens and Conduit Lane;
- (3) The specified requirement for a 24 hour facility will not be possible at Abbey Gardens.

CO111. SCIENCE DISCOVERY CENTRE FOR GRANTHAM: OUTLINE FEASIBILITY STUDY

**DECISION:** To note the work undertaken by ABL Consulting and to approve the following actions:

- (1) Officers to consider how the development of a Science Discovery Centre could be taken forward as part of future work into the development of the Grantham Canal Basin; and
- (2) To bring forward options for the future use of Conduit Lane car park consistent with the Grantham Town Centre Masterplan;
- (3) To take forward discussion with Lincolnshire County Council to identify initiatives that promote and interpret Grantham's scientific heritage with the objective of increasing the number of visitors into the town centre.

Considerations/Reasons for Decision:

- (1) Report number DCS17 by the Director of Community Services summarising the results of the feasibility study undertaken by ABL Consulting;
- (2) Oral report made at the meeting by a local ward member in his capacity as the Council's representative on the Grantham Canal Partnership;

- (3) The study has shown that a significant market exists for a medium sized Science Discovery Centre. A larger site is therefore needed and the Grantham Canal Basin site offers a real opportunity to combine a visitor attraction with mixed development to create an interesting and exciting scheme;
- (4) The canal basin site has the potential for Section 106 funding contribution to the overall costs. Combined with a larger development project on this site with greater economic outputs, it may be possible to attract external funding in the longer term;
- (5) By opening up a dialogue with Lincolnshire County Council, opportunities for joint working can be examined. There may be the potential to develop joint proposals which would deliver a Science Discovery Centre in Grantham.

Other options considered and rejected:

Conduit Lane car park: This site was surveyed and a mixed development was considered to include the Science Centre and other uses. The study concluded that there was insufficient demand for anything other than a scheme that combined the Science Centre with residential development on the site. Given the predicted market for this attraction, the car park site is too small and would make it difficult to generate a significant capital contribution to make it viable. Without significant external financial support, the project is not deliverable.

CO112. WORTH COURT, BOURNE

**DECISION:**

- (1) To note the current position on the apparent unsuccessful bid for the Extra Care Scheme in respect of Worth Court, Bourne;**
- (2) To continue support for the re-development and improvement of this accommodation.**

Considerations/Reasons for Decision:

- (1) Oral report from the Director of Regulatory Services referring to the current informal notification that the bid submitted in partnership by this authority, the Lincolnshire County Council, and the Hanover Housing Association had been unsuccessful. Officers would now await formal feedback on the areas of the bid which were unsuccessful with a view to considering alternative measures for the site;
- (2) To note that ward representatives, residents, and the Cabinet would

continue to be kept informed on progress. The Cabinet wished to place on record its acknowledgement of the excellent record of communication between officers and those affected by this scheme despite the disappointing news.

## **CO113. REVIEW OF GRANTS CONDITIONS (DISCRETIONARY GRANTS SCHEME)**

### **DECISION:**

- (1) To approve the reviewed Grants Criteria as appended to report DCS16, subject to the title being changed to “Social Grants Criteria”;**
- (2) The Director of Community Services to investigate the appropriateness of the requirement for applicants to raise at least 10% of matched funding;**
- (3) That the maximum grant awarded to any single organisation be cash limited to £1,000;**
- (4) To delegated the award of discretionary grants to the appropriate Cabinet Portfolio Holder in consultation with the Director of Community Services.**

### **Considerations/Reasons for Decision:**

- (1) Report number DCS16 explaining how discretionary grants have been administered in the past and the reasons behind the review of this process;**
- (2) The Council’s prioritisation process has resulted in a number of service areas where realignment of budgets could be made in favour of the new priorities. As a consequence, the budget available for the award of discretionary grants has been adjusted;**
- (3) To ensure that grants are allocated on an equitable basis, the new guidance has been drawn up to help local organisations to make successful applications for financial support;**
- (4) The new critieria will ensure that any financial support given contributes to the overall objectives and priorities of the Council;**
- (5) A cash limit of £1,000 will enable the Council to support a larger number of organisations. It is intended not to accept applications for less than £100;**
- (6) To specify “Social Grants Criteria” distinguishes the scheme from the Business Grants award.**

**CO114. LOCAL DEVELOPMENT FRAMEWORK - STATEMENT OF COMMUNITY INVOLVEMENT**

**DECISION:**

- (1) To approve the draft Statement of Community Involvement (SCI) as attached to report number PLA485 for the purposes of an eight week period of consultation beginning in April; the consultation to form the pre-submission stage of the new Local Development Framework process;**
- (2) That the Economic Portfolio Holder be granted delegated authority to approve the questionnaire leaflet summarising the SCI to be sent out as part of the public consultation.**

Considerations/Reasons for Decision:

- (1) Report number PLA485 by the Head of Planning Policy and Economic Regeneration setting out the core aims of the Statement of Community Involvement – one of the documents which forms part of the new Local Development Framework (LDF), and what the consultation mechanisms will include;**
- (2) The SCI sets out the standards which the local authority intend to achieve in relation to engaging the community in the preparation, alteration and continuing review of all Local Development Documents and for all planning applications;**
- (3) Once the SCI is adopted, all Local Development Documents and planning applications must be subject to the appropriate community involvement and consultation set out in the Adopted SCI;**
- (4) A number of training events are to be held in parallel with the public consultation period. It is therefore sensible to extend the consultation period in order that these activities can co-incide.**

**CO115. REVIEW OF COUNCIL PRIORITIES AND CORPORATE PLANNING ARRANGEMENTS**

**DECISION:**

- (1) To refer the contents of the Chief Executive's report CEX283 to the relevant Development and Scrutiny Panels before any formal endorsement by the Cabinet;**
- (2) To adopt the new targets for Recycling as detailed in report CEX283.**

Considerations/Reasons for Decision:

- (1) Report number CEX283 prepared by the Chief Executive asking the Cabinet formally to review that element of the Corporate Planning Framework concerning the Council's priorities which are divided between Category A (step-change) and Category B (incremental change). The Council has determined that this review should be undertaken annually;
- (2) In reviewing the services in categories A and B, consideration is given to new data available to the Council, in particular the results of the 2005 customer survey, reports from inspectors, any new government priorities and the performance of the Council against the targets set;
- (3) Indications from the un-weighted data of the customer survey show a strong support for the Council priorities, the Council's Vision, and a fairly high level of pride in the local community;
- (4) Status of progress on recycling: the Council's ability to meet future recycling targets is becoming increasingly dependent upon its success in securing DEFRA grants. DEFRA have made it clear that priority for future grant applications will be given to those Councils who have elected to set higher targets than the minimums set. Increased targets for this priority would enable the Council to address the current inequity and variations in the service across the district which has resulted in some customer dissatisfaction;
- (5) Status of affordable housing: improved projected provision in 2004/05 of new affordable homes – 60 compared with 35 in 2003/04. Outcome of the Strategic Housing Services Inspection which has challenged several aspects of the Council's performance in this area and suggested ways of improving. The inspectors were of the opinion that targets already set represented a step-change. Early indications from the Stock Options Appraisal Commission (SOAC) that stock transfer may emerge as a recommendation to the Council. Coupled with a valuation of the housing stock, transfer could deliver a considerable capital receipt to the authority which could be used to fund the delivery of affordable housing. Taking these factors into account, there would appear to be a clear justification in moving Affordable Housing from Category B to a Category A priority with consequential adjustments to the targets;
- (6) The Cabinet is of the view that the DSPs must have an opportunity to consider the above factors before any formal endorsement is taken by the Cabinet;
- (7) Because of the need to improve the Council's performance on recycling, the revised targets are accepted.

Other options considered and assessed:

Category B - Planning and Conservation: The Council has made substantial progress in improving the speed of planning applications and has exceeded most of the targets set. As a result of this, new targets have been set and will be included in future Best Value Performance Plans. In view of the importance of the service to residents and the present large incentive grants from the OSPM, it is not recommended that the Category B status of this

service is changed.

**CO116. PERFORMANCE MANAGEMENT - NEW LOCAL INDICATORS/MEASURES  
2005/06**

**DECISION: To amend the targets for the following local indicators:**

**(1) Street Scene Priority A: Satisfaction with street scene by TCMPs:**

**To reduce the percentages accordingly: 80% for 2005/06;  
82% for 2006/07, and 84% for 2007/08**

**(2) Communications: No. of editions of Districtline issued: To increase the target for 2005/06 to 4 editions.**

**(3) Diversity Priority B: % of new applicants for housing from ethnic backgrounds: To delete this local indicator for the time being and to review in 6 months' time;**

**(4) That the revised recycling targets approved under the previous minute CO115 be aligned within the Performance Indicators for 2005/06.**

Considerations/Reasons for Decision:

- (1) Report number DOS274 by the Director of Operational Services explaining that the Council's ongoing development of its performance management arrangements requires new local indicators/measures to better reflect the priorities. Following the Cabinet's approval of the draft set of indicators/measures on 10<sup>th</sup> January 2005, comments were sought from the DSPs, the LSP and the recent round of the Local Area Assemblies;
- (2) Details of observations/comments received during the consultation period;
- (3) Recommendations made by the Environment DSP that the targets set for the percentage satisfaction with the street scene by the TCMPs is too high;
- (4) The original target of 3 editions of Districtline for 2005/06 was set when staffing resources were low. The recent appointment of a PR Manager and the imminent appointment of a Communications Manager should bring the capacity up to meet the quarterly publication target;
- (5) The % of new applicants for housing from ethnic backgrounds is considered premature at this stage but will be subject to review in 6 months.

**Other options considered and assessed**

The existing set of national best value performance indicators does not provide sufficient coverage for the Council to effectively measure its progress

CO117. ITEMS RAISED BY CABINET MEMBERS INCLUDING REPORTS ON KEY AND NON KEY DECISIONS TAKEN UNDER DELEGATED POWERS.

**Non Key Decisions:**

**(1) Councillor Ray Auger: Portfolio - Environment**

Decision: To approve a new Dog Control Contract running from 1 April 2005 to 30 March 2009 to K9 (Euro) Ltd of PO Box 133, Wigan, Lancs, WN1 1AA, registered office K9 (Euro) Ltd, Empire House, 175 Piccadilly, Mayfair, London, W1V 9DB.

[Decision made 07.03.05]

**(2) Councillor Paul Carpenter: Portfolio - Technology**

Decision: To approve the awarding of a contract to develop an ICT strategy for the Council to Western Connect.

[Decision made 28.02.05]

**(3) Councillor John Smith: Portfolio - Economic**

Decision: To approve a partnership contribution to Lincolnshire Development of £15,000 towards development costs, estimated to be in excess of £5 million, for a 30 Acre, proposed employment site on the Northfields Business Park (adjacent to Park Air Systems) in Market Deeping. The contribution to be made available from the service area budget for this financial year.

[Decision made 07.03.05]

**(4) Councillor Mrs Frances Cartwright: Portfolio - Cultural**

Decision: That in compliance with its contractual commitments and E-Gov targets the District Council acquires a range of software and hardware for its leisure centres at Stamford, Grantham, Bourne and the Deepings as detailed in the appendix to report LAC141 at a cost of £83,649.23.

[Decision made jointly with Councillor P. Carpenter on 07.03.05]

Decision: To give approval to the write off of uncollectable non-domestic rates totalling £27,556.73.

[Decision made on 21.02.05]

**(5) Councillor Peter Martin-Mayhew: Portfolio – Deputy Leader  
[Decisions made in the absence of the Leader]**

Decision: To approve the awarding of the internal audit contract to Pricewaterhouse Coopers, for a period of 4 years beginning 2 May 2005.

[Decision made 07.03.05]

Decision: To approve a Councillor Development Charter the commitment to which to be signed on behalf of the Council by the Leader and Chief Executive, subject to:

1. A cabinet member being designated to “champion” the charter.
2. A councillor being designated to undertake Councillor Development Charter assessor training alongside the training and development manager to achieve the standard.
3. The Capacity and Resources Development Scrutiny Panel to hold the development responsibility and progress towards the charter be part of the Development Scrutiny Panel’s workflow.

[Decision made 07.03.05]

**DATE DECISIONS EFFECTIVE:**

Key Decisions at minutes numbers CO110, CO111, CO113, CO115, and CO116 and other non key decisions made on 7<sup>th</sup> March 2005 can be implemented on 16<sup>th</sup> March unless subject to call-in by the relevant Development and Scrutiny Panel.

**South Kesteven District Council, Council Offices, St. Peter’s Hill, Grantham,  
Lincolnshire NG31 6PZ**

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## REPORT TO CABINET

REPORT OF: Corporate Director (Community Services)

REPORT NO: DCS20

DATE: 4<sup>th</sup> April 2005

<b>TITLE:</b>	South Kesteven District Council Anti-Social Behaviour and Enforcement Policy
<b>FORWARD PLAN ITEM:</b>	Yes
<b>DATE WHEN FIRST APPEARED IN FORWARD PLAN:</b>	17 <sup>th</sup> March 2005
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	P.F.P

<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	Councillor Teri Bryant Community Affairs
<b>CORPORATE PRIORITY:</b>	Anti-Social Behaviour – Priority A
<b>CRIME AND DISORDER IMPLICATIONS:</b>	Meets the Council's requirements under Section 17 of the Crime and Disorder Act 1998
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	Recognised in the appendix to the report
<b>BACKGROUND PAPERS:</b>	Report DCS10 Tackling Anti-Social Behaviour

## **1.0 INTRODUCTION AND SUMMARY**

- 1.1 Anti-Social Behaviour was approved by the Council as a Category A Priority in May 2004.
- 1.2 The Crime and Disorder Act 1998 requires Local Authorities, the Police, other key agencies and the community to work together at district level to develop and implement strategies for reducing crime and disorder, thereby increasing community safety. The Act also requires Local Authorities to integrate consideration of crime and disorder issues into all their functions and corporate thinking. This is a duty contained under Section 17 of the Act which seeks to identify corporate responses to crime and disorder by stating:

*“Without any prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area”*

- 1.3 The aim of South Kesteven District Council is to improve the quality of life of the people of South Kesteven through a partnership approach to the reduction of both the fear and the reality of crime and disorder. Councillors and officers must consider the community safety implications of every element of their work. Managers must especially consider it in the process of service planning. This will ensure that the Council continues to maintain its commitment to the community and the Crime and Disorder Reduction Partnership.

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## **2.0 RECOMMENDATIONS**

### **2.1 The Cabinet is requested to:**

- (a) **Approve and adopt the South Kesteven District Council Anti-Social Behaviour and Enforcement Policy.**
- (b) **Note that the document is subject to amendment and review in line with changes in Government legislation.**
- (c) **Note that the document is subject to development, amendment and review following ongoing consultation with; the Council’s CDRP partners, the community and with other statutory and non-statutory agencies, any amendments will be reported back to Cabinet.**

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## **3. DETAILS OF REPORT**

- 3.1 The Council’s Policy for dealing with anti-social behaviour and enforcement is attached at appendix 1.

- 3.2 The requirement of Section 17 is to make sure community safety issues are considered throughout the Council as a whole when carrying out all activities and functions. It is one of the most comprehensive and fundamental sections of the 1998 Act, and dictates the way in which authorities need to plan, implement and monitor their work on crime and disorder issues.
- 3.3 The policy aims to bring the remit of community safety issues directly into each Service, and encourage lateral corporate thinking of a subject that should overlap and weave throughout the entire work of the Council.
- 3.4 It is only through this work that commitment to the community can be successfully managed and implemented
- 3.5 There are very real implications which exist for this Council if Section 17 is not effectively implemented, however it is fair to say the extent of these will be developed over time through case law and the court's interpretation of the Act, it still remains a vital consideration for districts across the country.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications directly attributable to this report, however, as the action plans for implementing the Policy are developed any financial implications will be identified and considered at the time.

#### **5.0 COMMENTS OF DIRECTOR OF FINANCE AND STRATEGIC RESOURCES**

- 5.1 None.

#### **6.0 COMMENTS OF CORPORATE MANAGER DEMOCRATIC AND LEGAL SERVICES (MONITORING OFFICER)**

- 6.1 Legal Services have been consulted and contributed to the development of the policy. Legal Services are supportive of the policy and consider it sound from a legal point of view.
- 6.2 As regards the part of the policy on Possession Orders at page 7, it does need to be clarified that possession can be sought under grounds 1 and 2 of Part 2 of the Housing Act 1985. It is suggested that availability of ground 1 is included in the policy.

#### **7.0 CONCLUSIONS**

- 7.1 Section 17 of the Crime and Disorder Act 1998 establishes a challenging opportunity, which can be used in a positive way by the Council to address anti-social behaviour.
- 7.2 It is fair to say that much has already been done by the Council to tackle community safety issues but there is more action that can be taken to reduce anti-social behaviour.

7.3 The purpose of this Policy Framework Document is to increase the awareness and acceptance of established strategies. Once adopted it is proposed to bring forward more detailed action plans to address specific issues within South Kesteven.

8.0 **CONTACT OFFICER**

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## **South Kesteven District Council**

### **Anti-Social Behaviour and Enforcement Policy**

#### **Introduction**

South Kesteven District Council is committed to the reduction and prevention of Anti-Social Behaviour within the District. The South Kesteven Crime and Disorder Reduction Partnership have set a target to reduce the level of crime by 15% over 3 years. This policy seeks to enhance the Authority's commitment to the reduction of anti-social behaviour, and sets out the framework and procedures to support this target. Anti-Social Behaviour is defined within the Crime and Disorder Act 1998 and this definition has been adopted by South Kesteven District Council.

*"Any person acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself".*

#### **Aim**

In 1998 the Crime and Disorder Act was introduced, under the 1998 Act, the Council has a legal duty to consider the crime and disorder implications of all its policies and practices. The view South Kesteven District Council is taking; is that the legislation should cover all areas and activities that impact on residents and communities of South Kesteven. Section 17 of the 1998 Act requires that consideration of crime and disorder issues are integrated into all functions and corporate thinking. This part of the Act seeks to identify corporate responses to crime and disorder by stating that:

*"Without any prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area"*

The requirement of Section 17 is to make sure Community Safety is considered throughout South Kesteven District Council as a whole when carrying out its activities and functions, there is a further reference with this section entitled partnership working. Section 17 is one of the most comprehensive and fundamental sections of the 1998 Act, and dictates the way in which authorities need to plan, implement and monitor work on crime and disorder issues in the future. Section 218A of the Housing Act 1996 inserted by Section 12 Anti-Social Behaviour Act 2003 requires landlords that are local housing authorities to prepare and publish policies and procedures in relation to Anti-Social Behaviour by 30 December 2004. The Council approved the Housing Services Anti-Social Behaviour Policy and procedure on 9<sup>th</sup> December 2004.

This policy and procedure extends beyond the scope of the Landlord function and include other enforcement polices within the South Kesteven District

Council's statutory functions and framework. Anti-Social Behaviour statements, policies and procedures should support the priorities of South Kesteven District Council; its Corporate aims and objectives.

## **Scope of the Anti-Social Behaviour and Enforcement Policy**

The Anti-Social Behaviour and Enforcement Policy and Procedures seek to provide guidance to officers responsible for Anti-Social Behaviour and Enforcement of any nature. It informs and explains to employees, the public and businesses how the Council will enforce this legislation. In addition this policy supports and enhances the Enforcement Polices already in place covering the following service areas; Housing, Community Safety, Cleansing (Contracts), Food, Licensing, Health and Safety, Environmental Protection, Planning, and Building Control.

## **Who is affected by the Policy?**

"Everyone who lives in, works in or visits South Kesteven".

## **Implementation Accountability and Responsibility**

Corporately the accountability for the strategic overview rests with the partners within the South Kesteven Crime and Disorder Reduction Partnership.

Heads of Service will be responsible for making sure this policy is implemented, communicated to staff and that appropriate training is made available. Accountability and responsibility for operational issues rests with the Heads of Service and delegated officers.

Authority to serve Formal Notices will only be given to those officers that are suitably qualified. All authorised officers must have received appropriate training and must have suitable relevant experience to demonstrate competence through an understanding of legislation and enforcement powers.

Any recommendations to prosecute will be referred by the enforcing officer to the Manager, who will seek legal advice. In all cases where there is a likelihood of a prosecution; approval will be sought from the Heads of Service or delegated officer with the appropriate delegated authority for the specific service area. The Heads of Service will need to have due regard for the nature of the offence and where appropriate, link their decisions to other relevant service units, where there may be an overlap in enforcement action and where other legal remedies can be considered.

South Kesteven District Council will work to make sure that enforcement decisions are consistent, well balanced, fair and related to common standards both locally and nationally.

## **Partnership Working**

Anti-social behaviour has to be tackled in partnership and the various functions of South Kesteven District Council can contribute to tackling anti-social behaviour through prevention, early intervention, rehabilitation and enforcement.

South Kesteven as a district authority has responsibility for tackling anti-social behaviour and in line with Section 17 of the Crime and Disorder Act (1998) there is a requirement on Housing, Environmental Health, Cleansing, Planning and Building Control functions of South Kesteven District Council to consider the crime and disorder implications and how they can contribute to tackling anti-social behaviour in their policies and procedures.

Section 17 of the Crime and Disorder Act (1998) requires that consideration of crime and disorder issues are integrated into all council functions and corporate thinking. In line with this requirement in the following service areas; Housing, Community Safety, Cleansing, Environmental Health, Planning, and Building Control should include in their service plans a statement in relation to tackling Anti-Social Behaviour.

## **Summary of the Legislation**

### Anti-Social Behaviour Act 2004

The purpose of the Act is to provide the tools for practitioners and agencies to effectively tackle anti-social behaviour. The Act is comprised of eight parts, which build upon existing legislation to clarify, streamline and re-enforce the powers that are available to practitioners.

### Crime and Disorder Act 1998

The purpose of this Act is to tackle crime and disorder and help create safer communities. The Act gives the lead responsibility for Crime and Disorder to the Police and Local Authorities. The 1998 Act provides additional powers for agencies to use when carrying out their work to reduce crime, namely:

- Section 115 which allows for the sharing of information for the purposes of preventing crime and disorder without contravening the Data Protection Act 1998
- The establishment of local partnerships between Police, Local Authorities and others to help fight crime
- Section 17 places a duty upon local authorities to consider the community safety within their district for any function that it may undertake. This section dictates the way in which authorities need to plan, implement and monitor work on crime and disorder issues.
- Section 1 introduced the Anti-Social Behaviour Order, which aims to prevent serious and persistent anti-social behaviour.

## Police Reform Act 2002

The purpose of this Act is to make provisions about the supervision, administration functions and conduct of Police Forces, Police Officers and other persons serving with or carrying out functions in relation to the Police.

In relation to Anti-Social Behaviour the Police Reform Act 2002 strengthened the arrangements in the Crime and Disorder Act 1998 for anti-social behaviour orders:

- Extending the use of Anti-Social Behaviour Orders to the British Transport Police and Registered Social Landlords
- Extending the area over which an Anti-Social Behaviour Order can be made within the United Kingdom
- The provision of imposing an Anti-Social Behaviour Order in addition to a sentence on conviction for a criminal offence involving Anti-Social Behaviour
- Section 59 of the Police Reform Act 2002 introduced Police powers to deal with the anti-social use of motor vehicles on public roads and off road.

## Local Government Act 2000

Puts a duty on Local Authorities to promote economic, social and environmental wellbeing in its area

## Housing Act 1985 and the Housing Act 1996

The purpose of these Acts gave measures to local housing authorities to enforce the terms and conditions of tenancy where there are breaches which may be considered to be nuisance and or annoyance and where the local housing authority may wish to seek possession.

## Protection from Eviction Act 1997

The Act covers racial harassment and is defined as the use of words or behaviour, which would put the victim in fear of violence.

## Human Rights Act 1998

The Act gives statutory effect to the European Convention on Human Rights, key rights include:

- Freedom of expression
- Right to life
- Prohibition of torture
- Prohibition of discrimination
- Right to freedom of thought and religion
- Right to respect for private and family life

South Kesteven District Council will ensure it is doing all it can within its powers to enable quiet enjoyment by people of their homes and to ensure that it is not breaching the human rights of anyone it may take action against for anti-social behaviour.

#### Children Act 1989

This Act places a duty on authorities to co-operate with each other in the protection of children. In particular information on one authority's actions must be shared with others if it would help them carry out their functions.

#### Disability Discrimination Act 1995

This Act made it unlawful for a local authority to discriminate against a disabled person by evicting them. The Council has to ensure that a person's anti-social behaviour is not a direct consequence of their disability.

#### Race Relations Act 1976 and the Race Relations (Amendment) Act 2000

This places a statutory duty on Public Authorities to eliminate unlawful discrimination, promote equality of opportunity, and promote good race relations. Race equality issues must be considered in all of its policies.

### **Examples of ASB**

Listed below are some of the types of anti-social behaviour that the Authority considers to be unacceptable. This is not a complete list:

- Noise nuisance
- Intimidation and harassment
- Fouling of public areas
- Dumping rubbish
- Vandalism and graffiti
- Aggressive and threatening language and behaviour
- Abandoned vehicles
- Actual violence against people and property
- Hate behaviour targeting people or members of identified groups because of their perceived background or their gender race, religious beliefs, disability, sexual orientation or other perceived difference
- Using public or private housing accommodation to sell drugs and for other unlawful activities
- Domestic violence

### **Principle of Enforcement**

The overriding principle of Enforcement and that which has been adopted by South Kesteven District Council is contained within the Office of the Deputy

Prime Minister's Enforcement concordat. Any enforcement action that is taken has to be in the best interests of the public and the four principles of enforcement are:

- **Proportionality:** the degree of enforcement action taken should be proportional to the risk involved.
- **Consistency:** officers should take a similar approach in similar circumstances to achieve similar outcomes.
- **Transparency:** making sure that our role is clear to businesses, employees and customers and that any advice given or action taken by enforcement officers is understood.
- **Targeting:** inspection priorities are aimed at highest risk areas and we identify those responsible for controlling those risks.

The Council will be guided by codes of practice issued under the various pieces of legislation. Any departure from these policies must be exceptional, capable of justification and approved by the appropriate Corporate Director, unless there is a significant risk in delaying a decision.

The Community Safety Team, Housing Services, Environmental Health Services, Cleansing Services, Planning and Building Control; may use a variety of means such as education, advice and guidance, warning letters and or legal notices to ensure that individuals and or groups are made aware of their actions, and responsibilities and what the outcomes may be.

Depending upon the individual circumstances; the following actions may be taken:

- No action necessary.
- Mediation and arbitration.
- Informal action – written or verbal advice.
- Issuing formal notices.
- Use of formal cautions.
- Seizure of equipment.
- Direct action.
- Prosecution.

### **Enforcement options specific to the Anti-Social Behaviour Act**

The options available for the enforcement of Anti-Social Behaviour are contained primarily within, Housing Act 1996, Crime and Disorder Act 1998, Anti-Social Behaviour Act 2003. Where there are serious cases of Anti-Social Behaviour the following remedies can be applied:

#### Acceptable Behaviour Contracts (ABC)

ABC's are voluntary written agreements between a person, the authority and the Police. Under the ABC a person agrees not to be involved with certain

specified anti-social acts and agrees to a range of undertakings. The contract is not a legally binding document and usually lasts for about six months.

### Anti-Social Behaviour Orders (ASBO)

ASBOs under section 1 of the Crime and Disorder Act 1998 are legally defined court orders designed to prevent persistent anti-social behaviour. ASBOs have effect for a period of not less than two years and if breached a prison sentence of between six months to five years depending upon the severity of the breach can be imposed along with a fine.

### Post Conviction Anti-Social Behaviour Orders (ASBO)

A person that is convicted of a relevant offence in the Criminal Courts, can under Section 1c of the Crime and Disorder Act 1998, as amended by Section 64 of the Police Reform Act 2002, make an order that is equivalent to an Anti-Social Behaviour Order, prohibiting the defendant from doing anything that may be specified in that order.

### Injunction and Exclusions Orders

Injunctions and exclusions orders under sections 153a, 153b, 156c or 153d of the Housing Act 1996. Injunctions were introduced to prevent anti-social behaviour, unlawful use of premises and breaches of tenancy agreements. In order for injunctions to be appropriate there has to be some blame on behalf of the perpetrator. The injunction order can force the perpetrator to do something and or forbid a further breach of the tenancy. The length of the order is left to the discretion of the Judge. However, it is unlikely that the order will not exceed 12 months and will only take effect once personally served upon the perpetrator. Injunctions can also be obtained under section 222 of the Local Government Act 1972.

### Demoted tenancies

Where a tenant or resident of or visitor to the dwelling is guilty of anti-social behaviour, the local housing authority will be able to apply for an order for the demotion of the tenancy. In relation to secure tenancies the tenancies will become demoted tenancies.

### Possession Orders

Possession can be sought under Ground Two of Schedule 2 to the Housing Act 1985, (as substituted by Section 144 of the Housing Act 1996) Ground 2 – The tenant or a person residing in or visiting the dwelling house:

- a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- b) has been convicted of:

- (i) using the dwelling house or allowing it to be used for immoral or illegal purposes, or
- (ii) an arrestable offence committed in, or in the locality of, the dwelling-house

Any other legal action which could be taken with the support of the Police or Local Authority for example Environmental Protection Act 1990 action or criminal prosecution.

## **Other Tools**

There are a range of services and enforcement tools that are available to South Kesteven District Council to deal with and to address anti-social behaviour and this depends on the specific nature of the complaint, but these can include the following:

### Community Safety Manager

The Community Safety Manager will assist the Council in discharging its functions under the Crime and Disorder Act 1998 and will be responsible for the co-ordination of activities of the South Kesteven District Council Crime and Disorder Partnership, and will take action to address the objectives of the Crime and disorder Strategy and comply with Anti-Social Behaviour Legislation. The Community Safety Team Manager will manage the Community Safety Team.

### The Community Safety Team

The Community Safety Team aims to reduce anti-social behaviour by:

1. Having due regard in carrying out its function for the agreed procedures set out in the Lincolnshire County Partnerships Protocol on Anti-Social Behaviour Orders and Acceptable Behaviour Contracts and by;
2. Working in partnership with a number of key agencies such as the Police, PCT, Probation, Drug Action Teams, Youth Offending Teams, the County Council's education, and social services, Registered Social Landlords, Victim support, Women's Aid and, both other statutory and voluntary agencies.

The Community Safety Team will provide training and support to staff and other external bodies on issues around Anti-Social Behaviour. The role of the team is to:

- introduce and implement diversion and prevention strategies
- review jointly with the police individual cases of anti-social behaviour and take the appropriate enforcement measures
- develop and implement anti-social behaviour policies and procedures
- strengthen community partnerships

## Housing Services on mixed Tenure Estates

Housing services will include direct contact with a member of the Housing Service Estate Management Team. The Estates Management Team Manager has the overall responsibility for co-ordinating the Estate Management Services and enforcing the terms and conditions of the tenancy. The Estates Management Team will be the first point of contact and will make an initial assessment, as to the severity of the problem and the appropriate course of action.

## Cleansing

Cleansing (Contract Services) deal directly with the following:

- Litter
- Abandoned vehicles
- Rubbish
- Graffiti
- Fly tipping

## Environmental Health

Environmental Health Service deals directly with the following:

- Noise nuisance
- Graffiti
- Bonfires

## Planning Enforcement

Planning Enforcement will deal with the following enforcement issues:

- Unauthorised physical development
- Unauthorised changes of use
- Unauthorised works to protected trees
- Unauthorised works to listed buildings
- High hedges
- Breaches of planning conditions
- Fly-posting and unauthorised advertising
- Untidy sites

## Referral to other Enforcement Agencies

Where the enforcement action is outside of the local authority's remit the following agencies may be contacted.

- Police, criminal activities and anti-social behaviour that is not covered by South Kesteven District Council
- Education

- Registered Social Landlords

### Referral to Support or Advice Agencies

- Victim Support
- Mediation
- Community Development Projects and Youth Workers
- Social Services
- Drug and Alcohol Action Teams
- Independent Legal Advice
- Citizens Advice Bureau
- Domestic Violence Services

### **Data Protection and Confidentiality**

Under the Crime and Disorder Act 1998 section 115, personal data or information may be disclosed to the police, probation service or health authority, where it is necessary or expedient for the purposes of obtaining an ASBO. The information must however still be processed in accordance with the data protection principles under the Data Protection Act 1998 and the common law e.g. defamation, duty of confidence.

### **Training and Support for Staff**

South Kesteven District Council recognises that its staff must be trained in tackling anti-social behaviour. Heads of Service will be responsible for ensuring that all front line staff involved should receive training in best practice, legal solutions, evidence gathering, and attendance at Court, and dealing with racial incidents. Training needs are identified through annual appraisal interviews.

South Kesteven District Council recognises that staff dealing with complaints of anti-social behaviour may well face threats of or actual abuse, both physical and verbal. As such, all staff should receive training in how to deal with violence and difficult situations. Effective lone working procedures should be in place together with risk assessments for all front-line staff.

South Kesteven District Council will take appropriate legal action such as seeking injunctions, anti-social behaviour orders, possession proceedings against any individuals who threaten, abuse or harm its staff. It will also support criminal prosecutions where necessary.

### **Lincolnshire County Partnership Protocol on ASBO and ABC**

The Lincolnshire County Partnership Protocol on Anti-social Behaviour Orders and Acceptable Behaviour Contracts it set out the protocol for what this policy seeks to achieve; that is to protect the community from anti-social behaviour by effectively stopping and then preventing it. The protocol is attached at appendix A.

## **Monitoring and Data Collection by the Community Safety Team**

Details of the data that will be record by the Community Safety Team and the agreed Performance Indicators for South Kesteven District Council for the period 2005 to 2006 are shown at appendix B.

**Lincolnshire County Partnerships Protocol on**  
**Anti-social Behaviour Orders and**  
**Acceptable Behaviour Contracts**

Based on Local Government Association and Home Office Guidance November 2002

<http://www.homeoffice.gov.uk/cdact/index.htm>

March 2004

## **Contents**

Foreword

Introduction

Information Sharing

Consultation The Orders Group

Other Criminal Proceedings

Order Group Decisions

The Lead Agency

Evidence

Applying for an Anti-Social Behaviour Order

Summons Procedure

An Application Hearing

Appeal Against an Anti-Social Behaviour Order

Post Anti-Social Behaviour Order Procedure

Beaches of an Anti-Social Behaviour Order

Prosecuting Anti-Social Behaviour Order Breaches

Variation and Discharge of an Anti-Social Behaviour Order

Monitoring and Evaluation

Registered Social Landlords

Anti-Social Behaviour Order Process Map

Brief Process Guide

File Content

## **Foreword**

### **Anti-Social Behaviour Orders Introduction**

Anti-Social Behaviour Orders (ASBOs) were introduced in 1998 by Section 1 of the Crime and Disorder Act and have been available since April 1999. These powers were enhanced by the Police Reform Act 2002, which introduced orders in County Court Proceedings, interim orders and orders made on conviction in criminal proceedings. The Police or Local Authority pursues post conviction orders, which must be applied for with the prior authorization of the community safety Chief Inspector or the Local Authority Anti-Social Behaviour Co-coordinator. Additionally orders can now extend across England and Wales.

ASBOs are civil orders designed to protect the public from behaviour that causes or is likely to cause harassment, alarm or distress. The order would contain conditions, which would prohibit the offender from committing the specific anti-social acts or entering defined areas and are effective for a minimum of two years. These are not criminal convictions, and their intention is not to punish the offender. An ASBO should not be seen as an option of last resort, however it must be shown to the court that other remedies have been tried or considered and why they have either failed or were dismissed as options.

Stand-alone applications for ASBOs are made to the Magistrates Court, which acts in its civil capacity. The Order can be applied for during related proceedings in the County Court and requested (without the need for a formal application) if a defendant is convicted of an offence in the criminal courts. It remains a civil order irrespective of the issuing court.

The Police, the Local Authority and Organizations registered under Section 1 of the 1996 Housing Act as a Registered social Landlord (who provides or manages any houses or hostels in a local government area), can initiate an order and they must show that:

- the defendant acted in an anti-social manner; and
- an order is necessary for the protection of persons from further anti-social behaviour by the defendant.

Anti-social behaviour for which ASBOs have been granted is defined as generally loutish and unruly behaviour such as verbal abuse, harassment, assault, graffiti and excessive noise. They have also been used to combat racial harassment, drunk and disorderly behaviour, throwing missiles, vehicle crime and prostitution.

An ASBO serves to restrict the activities of an individual. It specifically lists the antisocial activities from which the individual must refrain.

The objective of the ASBO is to bring to an end the specific acts of anti-social behaviour that are complained about. If there are other more effective means of dealing with particular instances then they must be considered first. One such potential solution, which is closely linked to the ASBO, is the Acceptable Behaviour Contract (ABC), in that the ABC specifically lists activities from which the individual must refrain.

## **Acceptable Behaviour Contracts Introduction**

An Acceptable Behaviour Contract is a written agreement with a person who has been engaged in anti-social behaviour. Although commonly used for young people it may also be used for adults.

The contract is agreed and signed at a meeting with the individual and at least two of the partner agencies. If the person whose behaviour is at issue is a child or young person, parents or guardians or an appropriate adult should attend.

The contract specifies a list of anti-social acts in which the person has been involved and which he/she agrees not to repeat. Where possible, the individual should be involved in the drawing up of a contract. This may assist in the success of the contract.

Support to address the underlying causes of the behaviour should be offered in parallel with the contract. This may include diversionary activities (such as attendance at a youth project), counselling or support for the family. It is vital to ascertain which agencies are already involved, especially if the individual is aged between 10 and 17 years.

Legal action in the form of an application for an Anti-Social Behaviour Order or a Possession Order (if the young person is in social housing) should be stated on the contract where this is a potential consequence of the breach. This threat of legal action provides further incentive to behave as agreed in the contract.

### **ASBO or ABC?**

It is important to note that ASBOs and ABCs are in no way competing with each other. Both are potentially powerful tools for dealing with anti-social behaviour and it is a matter for the Orders Group, which one is the more appropriate for each individual case. An ASBO is a step of neither first nor last resort: it depends on the individual circumstances.

It is also important to understand what the authorities are trying to achieve; it is to protect the community from anti-social behaviour by effectively stopping and then preventing it.

**This protocol has been agreed between the following:**

Lincolnshire County Council  
South Kesteven District Council  
Lincolnshire South Division  
Primary Care Trust  
Police Authority  
Lincolnshire Fire and Rescue

**The following partner agencies have also been consulted in respect of this document:**

Lincolnshire Social Services  
Lincolnshire Youth Offending Service (YOS)  
Lincolnshire Probation Service  
Lincolnshire Education and Cultural services  
Lincolnshire Magistrates Courts Service  
Lincolnshire Crown Prosecution Service (CPS)  
Registered Social Landlords (RSL)  
Housing and Tenants Associations  
Connexions

## **Introduction**

Each local authority area has its own Crime and Disorder Partnership, which comprises:

The appropriate District Authority;  
Lincolnshire County Council;  
Lincolnshire Police Authority;  
Lincolnshire Police;  
Lincolnshire Fire and Rescue; and  
Lincolnshire Primary Care Trusts.

The statutory partners will consult and share appropriate information with other statutory agencies as necessary, having due regard to the information sharing protocol. (Registered Social Landlords have a duty to consult and therefore would need to contact the Police or Local Authority ASB Coordinator for that area)

Each of the statutory partners will appoint a designated Anti-Social Behaviour Coordinator (ASBC).

This Protocol sets out agreed procedures for considering and making an application for, and variations in the discharge, of an ASBO.

An ASBO can apply only to a person aged 10 or above. Anti-social behaviour is defined as a 'manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as the perpetrator'. It is necessary to show that an ASBO will protect persons in the local authority area in which the anti-social behaviour is occurring.

ASBOs may be applied for only after consultation between the Police and local authorities. An application for an ASBO must be made within six months of the behaviour-taking place, although earlier incidents may be used to support a case.

An ASBO application will be considered to protect individuals or families who are targets of anti-social behaviour or whose lives or communities are being blighted by such behaviour.

Partner agencies must be satisfied that applications have not been motivated by discrimination or victimization on the grounds of race, disability, gender, sexual orientation, age, religion or cultural beliefs.

It is unlawful for a public authority to act or fail to act in a way that is incompatible with the European Commission of Human Rights (ECHR). All partner agencies must comply with the ECHR, recognizing the need to protect the rights and freedoms of members of the community as well as those of the defendant.

An ASBO application is likely to succeed only if:

- What is being sought complies with the ECHR;
  - Any interference with the defendant's rights is necessary, proportionate and ECHR compliant;
  - The proposed terms of the ASBO are reasonable and proportionate to the anti-social behaviour in question and the rights of the community; and
  - The ASBO application is not in such terms that the defendant is bound to breach it.

### **Acceptable Behaviour contracts (Appendix E)**

ABCs have been used to address a wide range of anti-social behaviour including:

- Harassment of residents or passers-by
- Verbal abuse
- Criminal damage
- Vandalism
- Noise nuisance
- Writing graffiti
- Engaging in threatening behaviour in large groups
- Racial abuse
- Smoking or drinking alcohol while underage
- Substance misuse
- Joy riding
- Begging
- Prostitution
- Kerb crawling

Once agencies identify a suitable candidate for a contract, checks should be made into whether the individual or family is subject to any other investigations or support. In the case of a young person, the Youth Offending Service should be informed and if appropriate, the Social Services or the Education Welfare Service.

Once the appropriate agencies have been consulted, the individual involved should be formally invited to take part in the meeting with the relevant parties.

The meeting should be used as an opportunity for the individual involved in the anti-social behaviour to discuss his/her behaviour and its impact on others.

The meeting can be used as an early intervention process to stop the inappropriate behaviour becoming worse and outline the possible repercussions should the behaviour be repeated. It could also be an opportunity to provide support to address underlying causes such as family problems.

Parents or Guardians, Housing or local Police Officers and any other interested party, such as a social worker or family friend, may be present.

Home Office Guidance November 2002 provides further guidance and suggests a format for the ABC.

## **Information Sharing**

When a statutory partner receives information about behaviour that might require an ASBO, it will immediately notify the designated ASBC and other partner agencies as agreed with the ASBC. Each partner agency will have a Designated Information Liaison Officer for exchanging information quickly and confidentially. (Section 115 of the Crime and Disorder act deals with information sharing, including with non-statutory partners)

Before convening the Orders Group the Organization receiving the information may, if it deems it appropriate, send a warning letter. This will be done in consultation with the ASBC for that organization (attached Appendix). If this does not achieve a marked improvement in the behaviour within fourteen days, then it may be followed up by a joint agency visit, involving only two agencies. It is essential that the ASBC consider the most appropriate agencies to make the visit.

## **Consultation The Orders Group (Appendix A)**

The Orders Group should comprise:

- The Local Authority Anti-Social Behaviour Coordinator (ASBC) and where necessary
- Designated representatives from the Police, Education, Social Services, Youth Offending Service, Registered Social Landlords, the Primary Care Trust and the National probation service.

Other agencies, such as Connexions, should be engaged as and when appropriate.

Members of the Orders Group are senior officers with delegated decision-making authority. The Orders Group will then convene a 'case management meeting'. The agreed statutory agencies will each provide a delegate to attend a case management meeting where it has been required by the Orders Group; all attendees must have information about the individual in question and be able to contribute. An ASBC will normally Chair these meetings and arrange for minutes to be recorded. Consultation must be demonstrated and a 'Certificate of Consultation' signed. This does not mean a unanimous decision is required: a majority decision is acceptable. All attendees of the case management meeting must have the authority to sign the Certificate of Consultation (Appendix B). The Orders Group has a responsibility to ensure that appropriate organizations are involved, either on that group or on the case management group and also to clarify the role those individuals fulfill. This could also include, where appropriate, consultation with the parents at a case management meeting.

They will also establish which is the lead agency and subsequently the lead officer. It is this individual who manages the case. This will include:

- Instructing solicitors

- Witness liaison and support
- Coordinating service of summons, and
- Communicating developments to the Case Management Meeting and subsequently the Orders Group

Participants of the Orders Group and the case management meeting must be recorded on the File Attendance document. Non-attendance must also be recorded.

The purpose of the Orders Group meeting is:

- To agree an action plan to support victims and witnesses and prevent further anti social behaviour.
- To ensure a complaint has not been made as a result of malice or discrimination.
- To agree which is the lead agency.
- Consider the duty to assess any person who may be in need of community care services under the NHS and Community Care Act 1990

The originating agency and the ASBC will decide on the urgency of the case. Where urgent, the ASBC will appoint the Police or local authority as the lead agency and ask other agencies for comments. An early (within 10 working days) meeting of the Orders Group will be convened if necessary.

If the anti-social behaviour is likely to affect people in an adjoining local authority area, the ASBC will simultaneously consult the ASBC in that area. There may be a need for an ASBO to apply in more than one local authority area.

In all adult cases the lead agency will consult with the Probation Service. If the individual is known, an assessment of the prospect of securing a positive outcome by a direct approach will be requested.

Where the case is urgent, the partner agencies receiving the information will respond within 10 working days to the lead agency. They will give any relevant information and comments and provide a copy to the designated ASBC. The case will then be considered at the next case management meeting.

No requirement exists to interview or write to a person who is the subject of an ASBO application or to offer that person a chance to comment. However, there are advantages:

- Where the individual may not be aware of the proposal and/or
- To take their views into account when considering an action plan

Any case management meeting action plan will take the following considerations into account:

- Is there evidence that the individual has acted in a manner that caused harassment, alarm or distress to another person not of the same household in circumstances where there is no reasonable excuse for his/her behaviour?
- Is there evidence that the actions of the individual have had a serious negative impact on others?
- What action (if any) has been taken in the past to restrain this type of behaviour or to positively divert their activities (e.g. youth work, YOS intervention, Social Services or the Probation Service involvement, Police cautions)?

Are there more appropriate courses of action available? Options include:

- Acceptable Behaviour Contracts (ABCs) (appendix E)
- Challenges
- Warnings
- Mediation
- Injunctions
- Criminal prosecution; or
- Eviction

Does the orders Group and the case management meeting agree that it is appropriate, necessary and proportionate to apply for an ASB?

If the decision to apply for an ASBO is agreed, what other actions (if any) should be taken?

If the decision made is not to pursue an ASBO, what alternative action is agreed and why?

The Case Management Meeting Group will only sanction an application for an ASBO when it concludes that it is necessary and proportionate to protect an individual, a group of people or a community in its area of responsibility. Where either an ASBO or an ABC is obtained, the details must be passed to the Lincolnshire Police Legal Services Department Database.

Where any harassment is of a racial nature, the Orders Group will consult the Racial Equality Council and any relevant ethnic minority organization for their views on whether or not an ASBO is appropriate and for any support they can give to victims, taking account of their wishes.

Where the individual or victim is not residing in the local authority property, but in Registered Social Landlord accommodation, then the Registered Social Landlord should be included in the orders group.

### **Other Criminal Proceedings**

Where the individual is also the subject of other criminal proceedings or is appealing against conviction, relating to the same or similar conduct, the orders Group could consider

applying for a post conviction ASBO, in consultation with the community safety Chief Inspector. The Crown Prosecution Service (CPS) needs to be contacted in this instance. In certain cases where there has been no conviction the Orders Group may agree with the CPS that an ASBO is more appropriate than a criminal prosecution.

This will apply where:

- An ASBO application is likely to be a more effective means of tackling the anti-social behaviour and the CPS is content for any criminal evidence to be used in connection with the application; or
- An ASBO would be equally effective as the criminal proceedings and there would be advantage in preventing the immediate criminalization of the defendant; or
- Where several perpetrators are involved and a mix of criminal prosecutions and ASBOs is appropriate

Where a criminal prosecution fails, the Orders Group will take account of legal procedural and ECHR implications in pursuing an ASBO application in respect of another matter. Factors to be considered are:

- The length of the criminal proceedings and their effect on the individual
- The reason why those proceedings failed; and
- Any representations made to the individual about future action

Where the individual is the subject of a successful criminal prosecution, the Orders Group will consider whether it is appropriate to seek an Order. There may be a threat of further anti-social behaviour and the sentence does not, or is unlikely to, offer sufficient public safeguards.

### **Order Group Decisions**

Following an Orders Group meeting, the minutes and action plan (to support victims and deal with the anti-social behaviour) will be circulated within an agreed number of working days, according to the urgency needed. The action plan will commence from the date of the meeting and its duration will also be agreed.

Where there has been no Orders Group meeting, the ASBC will review responses from the members of the Orders Group as a matter of urgency with the Police and the Local Authority. Where the Orders Group agrees on an ASBO application, the ASBC will convene a meeting as soon as possible to assess the needs of victims and witnesses and discuss future handling of the case.

If a decision is taken to apply for an ASBO, the delegated officer for the lead partner agency will, in addition to the minutes and action plan, obtain a completed Certificate of Consultation from the other statutory partners as soon as possible.

If the Orders Group is unable to agree on a course of action, the lead agency will review the reasons for applying for an ASBO.

If it is decided to apply for an ASBO the lead agency will:

- Ensure the complainants are kept informed of progress and take responsibility for handling the media, (there will normally be no reporting restrictions in court);
- Convene a (further) meeting no later than 4 weeks from the date of the decision in order to monitor progress against the action plan;
- Where the individual is under 18 years, Social Services will arrange for an assessment for consideration of a parenting order if appropriate and recommended by the Orders Group to be submitted to the court when the ASBO application is made; and
- Appoint an officer in charge (OIG) of the case who will:
  - a) Keep the ASBG and partner agencies informed about preparation of the ASBO application, including any witness statements and other evidence.
  - b) Notify the court of the decision to apply for an ASBO in order to discuss Listing arrangements for the hearing.
  - c) In the case of someone under 18 discuss with the court the arrangements For ensuring that the court proceedings are tailored to their needs.

### **The Lead Agency**

**The Local Authority** will lead where the incidents take place on a council housing estate or on local authority land.

**The Police** will lead where: the incidents occur in shopping precincts or other community areas; or the individual is also subject to other criminal proceeding.

**The Orders Group ASBC will decide** the lead agency where the incidents take place in non-local authority residential areas.

### **Evidence**

The lead agency has to prove its case under civil rules of evidence and the burden of proof is on the balance of probabilities. The following are key considerations:

- The safety of witnesses from harassment and intimidation;
- The court will need to be satisfied that
  - a) The defendant has acted as stated
  - b) Harassment, alarm or distress was caused or was likely to be caused and
  - c) An order is necessary and proportionate;
- An application for an ASBO must be made within six months of the behaviour giving rise to the complaint

- Earlier evidence may be used to support the case
- Hearsay evidence is admissible.

The lead agency will gather and present the evidence, in consultation with other partner agencies. Although proceedings are civil, an ASBO application will be based on good quality evidence, presented to a court in a professional manner. Any covert evidence will comply with the Regulation of Investigatory Powers Act. Where there are concerns about the standard or integrity of evidence, the lead agency will seek further evidence before the ASBO application is made.

The Rehabilitation of Offenders Act 1974 does not allow evidence of spent convictions to be admissible.

Evidence from criminal proceedings that have failed may be used in support of an ASBO application, providing the lead agency consults the police and the CPS.

If, after consultation with the CPS, it is decided to proceed with an ASBO application instead of a criminal prosecution, the lead agency will consult the CPS, via the police, as to what criminal evidence may be used.

Where the CPS agrees to the use of the evidence, the agreement of the police will also be obtained and recorded.

The Local Authority and the Police will encourage and support witnesses.

### **Applying for an Order**

The OIC will be responsible for preparing the ASBO.

The case summary will include:

- Details of the individual or group/family
- An outline of the incidents involved
- Any welfare issues relating to the defendant to confirm that consultation has taken place between appropriate agencies, e.g. Social Services and VOS
- Appropriate information about the defendant and family circumstances is obtained to enable the court to discharge its duties correctly
- Evidence that consideration has been given to ensure that the defendant has not been victimized or discriminated against on the grounds of race, gender disability, religious or cultural beliefs, sexual orientation or other grounds (this will be subject of scrutiny by the court); and
- Evidence of any attempts at mediation and warnings etc.

The OIC will ensure that the file of evidence is prepared with related documents together and in chronological order, including a case summary in which all the evidence must be referred to.

The court will decide what prohibitions to apply but the Lead Agency can help to inform that decision by including:

- The prohibitions being applied for, which are necessary and proportionate to the aim of protecting people within the area from ASB of the defendant
- The requested duration of the ASBO, the minimum being two years and the maximum being indefinite (review arrangements need to be stipulated in the latter by the orders group).

The OIC will obtain advice from the case solicitor on drawing up the proposed prohibitions, which:

- Must relate to actions already committed by the defendant and which it is believed will be committed again if no ASBO is granted
- Must be reasonable and proportionate
- Must be practical and realistic
- Must be clear, concise and accurate
- Must be particularly specific about matters of time and place (OS maps will be used to mark out roads and areas which are subject to any prohibitions)
- Must not be mandatory, i.e. worded to compel the defendant to do specific actions; and
- Need not be confined to criminal acts but may also prohibit actions which are precursors to a criminal act e.g. a prohibition on entering a shop rather than on shoplifting.

## **Summons Procedure**

The OIC will arrange for a Summons Form to be completed with a copy retained on the application file and for the defendant to be served with the following:

- The summons
- A copy of the completed ASBO application
- A copy of the certificate of consultation
- Guidance on how the defendant may obtain legal advice and representation
- Any notice of hearsay evidence
- Such details of evidence in support of the application as agreed with the lead agency Solicitor; and
- A formal warning to the defendant that it is a common law offence to pervert the course of justice and that witness intimidation is liable to lead to prosecution.

Wherever possible, the OIC will ensure that service of the summons is made on the defendant in person. If personal service is not possible, the summons will be served by first class post to the last known address. The Officer serving the summons will complete the Certificate of Service, which will then be placed on the file.

Where a person under 18 is concerned, any person with parental responsibility must also receive a copy of the summons.

The OIC will inform the case Solicitor of the availability of every witness prior to the date of the hearing and liaise with the court on whether witnesses will be required at the first hearing. If it is to be held simply to take a plea and consider any preliminary legal issues, the Clerk should be asked to consider an early resumption of the case.

## **Hearing**

The hearing will be conducted in a Magistrates Court, the Magistrates acting in their civil capacity.

- There will be no reporting restrictions unless the court decides to impose them to protect the identity of a person under 18
- The question of reporting restrictions is for the court, taking into account community needs to be made aware of the terms of the ASBO, if granted
- Evidence will be given on oath. The evidence of a child (under 14) is given unsworn
- The attendance of a parent or legal guardian is required at court for any
- Person under 17. Every effort should be made before a hearing to ensure this takes place to avoid adjournments
- In the case of a person under 18, the court will require information about his/her background, home surroundings and family circumstances. Such information should be offered in support of an application or be available to avoid the need for an adjournment.

The OIC will ensure that all the evidence and witnesses are available at the hearing, including any evidence in support of the need for the court to make an immediate order.

Where the court has decided to adjourn the hearing and the defendant failed to appear at the resumed hearing, the Lead Agency legal representative should ask the court for a decision in his/her absence.

Where an ASBO is granted, the Magistrates' Clerk will undertake to serve a copy of the ASBO on the defendant prior to their departure from court. In the case of a child or vulnerable adult, a copy will also be given to a parent or guardian. Where the defendant is under 18, the court will also consider making a Parenting Order. A copy of the ASBO will be provided to the Lead Agency and in the case of a juvenile, the court will serve a further copy on the YOS.

## **Appeal against an Order**

Any appeal against the making of an ASBO is to the Crown Court. This will be in the form of a re-hearing of the case. The agency, which brought the initial application, will consider and take charge of defending any appeal. It will also lead any action to guard against witness intimidation and monitor possible breaches in the event that the ASBO is upheld on appeal.

## **Post Order Procedure**

An ASBO is effective from the date it is made but the duration commences from the date of service. Where an individual has not been personally served with the Order at the court, the court will be asked to arrange for personal service as soon as possible.

The lead agency, if not the police, will ensure that a court copy (not a photocopy) of the ASBO is forwarded immediately to them. The agency will also give details of the ASBO to the Anti-social behaviour coordinator of the other partner agencies and to the victims and witnesses, so that breaches can be reported and acted upon. The Police will notify the appropriate Police Divisional Commander the same working day in order that details of the defendant and the conditions of the ASBO are recorded.

The Orders Group will draw up a plan to ensure that the ASBO is effective and provides any necessary support to victims.

In addition to monitoring compliance with the prohibitions, by means of visits and other checks, the Orders Group will consider whether any help can usefully be given to diversion from further anti-social behaviour. ASBOs can act as catalysts for wider ranging action with local communities in order to involve local people in crime reduction and self help initiatives.

In respect of a juvenile ASBO, the lead agency will immediately inform Social Services who may liaise with other agencies in order to ensure that:

- The young person understands the seriousness of the ASBO; and
- Appropriate support programmes are in place to avoid a breach of the ASBO by diverting him/her from the behaviour that led to it.

## **Breaches of an ASBO**

Information on breaches can be received from any source including Housing Officers, other local authority officers, neighbours and other members of the public. Any information received by a partner agency about a breach will be passed immediately to the Police and the ASBC, who will inform the other agencies involved.

A breach of an ASBO is a criminal offence, which is both arrestable and recordable. The Police will be the Lead Agency in its investigation and prosecution. The Commander of the Police Division where the breach has occurred will nominate an officer to take charge of the investigation. The OIC will keep the other relevant agencies informed of progress and of the outcome of the breach investigation. A particular consideration will be the need to protect members of the community from harassment wherever possible.

Where the Police consider there has been a breach, they may consult the CPS on whether to prosecute and will also consider police bail.

Where the defendant is under 18, the police should also consult the YOS on whether to prosecute. If the young person is a first offender, the YOS may advise that a final warning with an intervention programme is appropriate, provided the breach was not a flagrant one.

## **Prosecuting**

Responsibility for prosecuting a breach of an ASBO lies with the CPS. Intended prosecutions must pass both the evidential and public interest test.

The standard of proof is the criminal one. Cases will be tried summarily in the Magistrates' Court or on indictment in Crown Court. Cases against children will be in Youth Courts. Proceedings may be subject to reporting restrictions.

A defence of 'reasonable excuse' may be made in a breach prosecution. Legal aid will be available to the defendant.

## **Variation and discharge of an ASBO**

Variation or discharge of an Order is by complaint to the court. The application can be made either by the original applicant in the case or the defendant. An Order cannot be discharged within two years of its service without the agreement of the original applicant.

If the Lead Agency, or other partner agency, considers that it is necessary to vary the conditions of an ASBO or that an ASBO should be discharged, it will consult the Orders Group, including the CPS as necessary. The relevant application will be made to the Magistrates' Court by the Lead Agency.

If the individual asks for a variation or discharge of an ASBO, the agency that obtained the ASBO will ensure that a considered response is given to the court, after consulting the Orders Group, including the CPS. If it is decided that the Lead Agency should contest the variation or discharge of the ASBO, it will give the court its reasons, supported as appropriate by evidence gathered in the course of monitoring the effectiveness of the ASBO.

The Magistrates' Clerk will send details of the variation or discharge of any ASBO to the local Police Force and local authority within 24 hours. The Police will then record any discharge or variation of the ASBO with in the Legal Services Database

## **Monitoring and Evaluation**

The Police and local authority will agree common procedures for monitoring both successful and unsuccessful ASBO applications. Details will be sent to the ASBC and the local authority/Police, as appropriate.

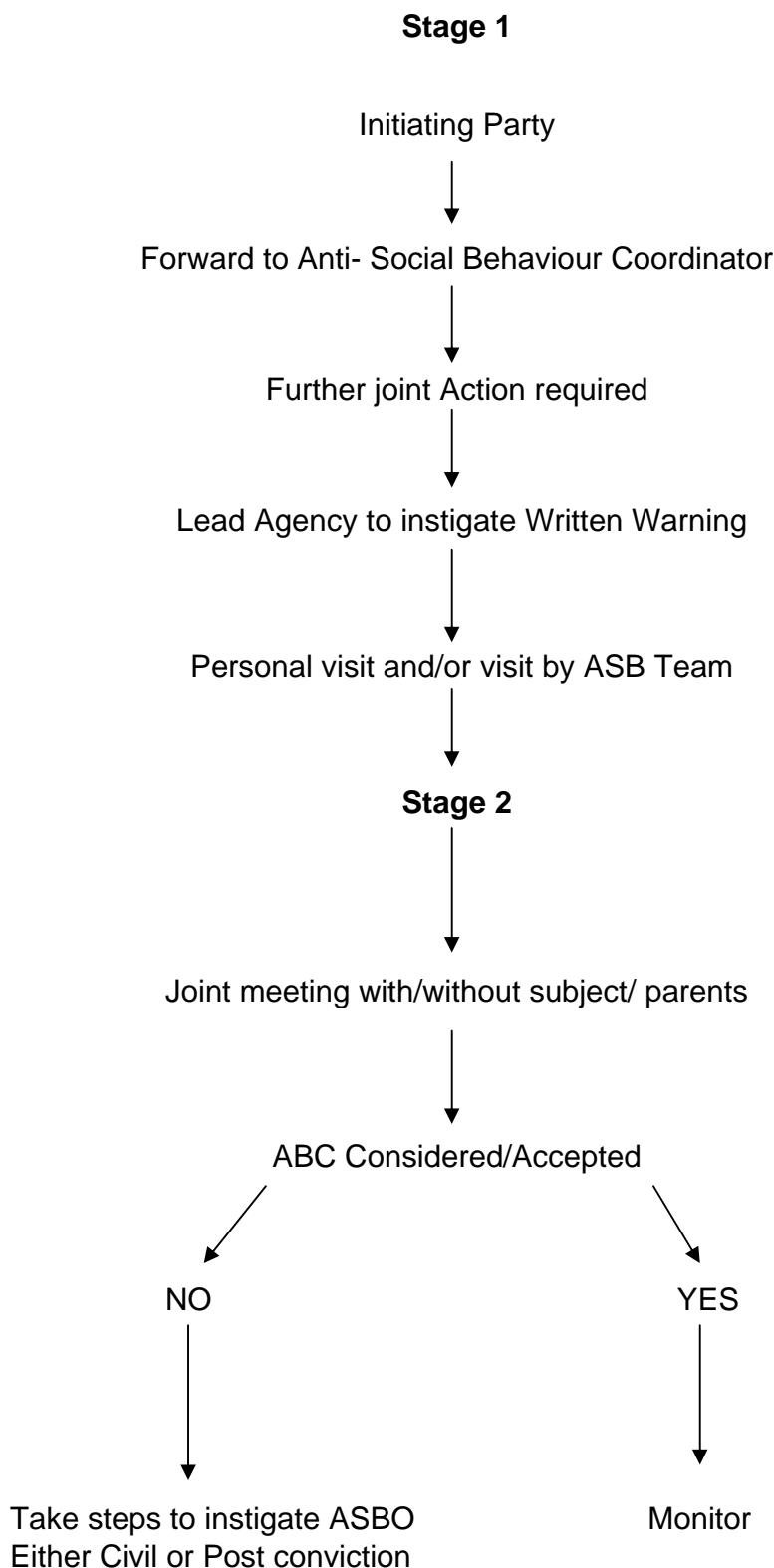
## **Registered Social Landlords**

Recent amendments to The Crime and Disorder Act allow Registered Social Landlords to pursue ASBOs on their own account through the county courts system.

It is anticipated that Registered Social Landlords will continue to comply with this protocol and work closely in partnership with other relevant agencies.

It is important that Registered social Landlords make early contact with the relevant public authorities if incidents of anti social behaviour are reported to them.

## Anti-Social Behaviour Process Map



## **Anti-Social Behaviour Process Guide**

1. A statutory partner or RSL receives information about behaviour, which might require an ASBO.
2. Early statutory consultation with at least one other partner.
3. That organization's ASB coordinator will be informed, who in turn will immediately inform the designated ASB coordinators from the other statutory partners.

• Lincolnshire County Council	Chris Lamberton	01522 554591
• Primary Care Trust	tbc	
• Lincolnshire Police	C/ Insp Community Safety	
• Lincoln City Council	David Ward	
• North Kesteven District Council	Tony Green	01529 414155
• South Kesteven District Council	Community Safety Team	01476 406107
• West Lindsey District Council	ASBO Unit	
• East Lindsey District Council	tbc	
• South Holland District Council	Nigel Payne	01775 761161
• Boston Borough Council	tbc	
• National Probation Service	tbc	
• Connexions Lincolnshire and Rutland	tbc	
• Registered Social Landlord	tbc	
• Lincolnshire Fire and Rescue	Station Officer	01522 582296
• Lincolnshire Police Authority	tbc	

4. The coordinator convenes the Orders Group and the agreed statutory agencies will provide a delegate to attend a maximum of two meetings from which a majority decision will be taken.
5. They decide a suitable course of action. Decide if suitable for ABC, ASBO or PO etc.
6. Initiating Officer informed.

## **ANTI-SOCIAL BEHAVIOUR - FILE CONTENT**

The files should be in loose-leaf format, indexed and paginated.

- an indexed content sheet
- summons for anti-social behaviour together with proof of service
- application for anti-social behaviour order (in the format provided by the Magistrates Court)
- defendants details
- defendant's previous convictions
- defendant's ABC agreements
- summary of incidents being relied upon by the applicant;
- map and description of the exclusion area;
- association chart (in the case of group related anti-social behaviour)
- documentation of statutory consultations (Certificate of Consultation)
- Orders group Attendance/Non-attendance record
- supporting statements from multi-agency consultation
- statement from the officer in the case
- statement from the other witnesses
- hearsay notices
- draft order for endorsement by the court; and
- home circumstances report.

Disclosure should be transparent and complete.

There should be a minimum of eight identical court bundles required:

- 3 Magistrates
- 1 Clerk to the court
- 1 Applicant Solicitor
- 1 Defence Solicitor
- 1 Defendant
- 1 Witness Box

## STATUTORY CONSULTATION FORM

At (time) ..... On (date).....

a consultation regarding:

Name ..... D.O.B. .....

present were .....

.....

.....

and it was agreed that the following were required for the Orders Group:

## CERTIFICATE OF CONSULTATION

(Name) .....

I (name) .....

(Position) .....

Certify that I have consulted with LINCOLNSHIRE POLICE in connection with an application for an Anti-Social Behaviour Order in respect of:

Name ..... D.O.B .....

Address .....

.....  
.....

and that I have no objections to the application

Signed ..... Date .....

## **ANTI-SOCIAL BEHAVIOUR ORDER Application Request Form**

From ..... (Name of Organization)

To the ASB Coordinator for ..... (Crime and Disorder Partnership)

We ask you to consider making an application to ..... Magistrates Court for an Anti-Social Behaviour Order in respect of:

Name ..... Sex ..... D.O.B. .....

Address .....

.....

Occupation .....

Local Authority Tenant: YES/NO Registered Social Landlord YES/NO

Outline of the problem: (give a brief summary of the relevant incident(s). (Continue on a separate sheet if necessary)

.....  
.....  
.....

Outline of action taken to date: (give a brief summary of measures which have previously been taken to control his/her behaviour). (Continue on a separate sheet if necessary)

.....  
.....  
.....

Other solutions are not expected to work in this case because: (Outline main reasons an ASBO application is the most appropriate solution. (Continue on a separate sheet if necessary)

.....  
.....  
.....

Should the Orders Group consider the case with a view to applying for an ASBO

Investigation Officer and Address:

.....  
.....  
.....

Line Manager .....

Organization .....

Rank/Grade ..... Date .....

Submit this form to your Anti-Social Behaviour Coordinator for comments, then to the Local Authority Liaison Officer for further action.

# UNACCEPTABLE BEHAVIOUR WARNING LETTER

To: .....

Address: .....

Date: .....

Dear

On behalf of the South Kesteven Crime and Disorder Reduction Partnership, which includes Lincolnshire Police, Lincolnshire County Council and the District Council. I have been investigating a compliant of unacceptable behaviour involving:

The complaint is outlined as follows:

This is a warning for you to cease this behaviour and to inform you that your conduct will continue to be monitored. This is a serious matter and should you continue with this behaviour, you may be subject of the following actions:

## County Court Injunction:

A breach of this warning may result in the application to the County Court for an injunction to place restrictions on you and your behaviour.

## Notice Seeking Possession:

If you and your family live in rented accommodation you may be in breach of your tenancy agreement, or other terms and conditions. If you ignore this warning and continue this behaviour and it is considered to be anti-social behaviour, this may result in the serving of a Notice Seeking Possession (NSP). This action could lead to the County Court ordering you and your family to be evicted from your home.

## **Anti-Social Behaviour Order (ASBO)**

A breach of this warning or committing other acts of unacceptable behaviour may result in an application to the Magistrates' Court for an Anti-Social Behaviour Order. This would prohibit you from acting in a manner likely to cause harassment alarm or distress to one or more persons not of the same household.

If you breach such an order you would commit an arrestable offence, which, on conviction carries a penalty of up to five years imprisonment.

The authorities could also pursue a Notice Seeking Possession if you are residing in rented accommodation, in addition to the ASBO application. Your tenancy agreement may be breached potentially resulting in you being evicted.

If this were to be the case and you were evicted from your home you would be regarded as "intentionally homeless", in such a situation no housing organization in the country has a legal duty to re-house you.

As part of the warning you are asked to:

Signed .....

Date .....

Signed .....

Date .....



## ACCEPTABLE BEHAVIOUR CONTRACT

THIS CONTRACT is made on ..... 2005

BETWEEN South Kesteven District Council, St Peters Hill, Grantham,  
Lincolnshire

AND .....

AGREES the following in respect of future conduct:

FURTHER: ..... enters into a commitment with  
South Kesteven District Council not to act in a manner, which causes or is

likely to cause harassment, alarm or distress to one or more persons not in the same household.

**BREACH:** If ..... does anything, which ..... has agreed not to do under this contract, which the South Kesteven District Council considers to amount to anti-social behaviour. The South Kesteven District Council will make an application to the Magistrates Court for an Anti-Social Behaviour Order to prohibit ..... from acting in a manner likely to cause harassment, alarm or distress to one or more persons not of the same household.

**FURTHER:** ..... acknowledges that where an Anti-Social Behaviour Order is made by the Court and breached he will be liable on conviction to a term of imprisonment not exceeding five years or to a fine or both.

#### **DECLARATION**

**I confirm that I understand the meaning of this contract and that the consequences of breach of the contract have been explained to me.**

**Signed:** (Youth) **Date:**

**Signed:** (Parent/Guardian) **Date:**

#### **WITNESSED**

**Signed:** (Police Officer) **Date:**

**Signed:** (Local Authority) **Date:**

# ANTI-SOCIAL BEHAVIOUR ORDER APPLICATION FORMS

P.654 (10/04)

## INTERIM

## Application for an Interim Order (Crime and Disorder Act 1998 S.1D)

## **Magistrates Court**

Date:

**Defendant:**

D.O.B:

Address:

**Applicant Authority:**

### Authorities Consulted:

## **Reasons for applying for an Interim Order:**

Do you wish this application to be heard?

Without notice being given to the defendant

With notice being given to the defendant

If you wish the application to be heard without notice state reasons:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

The complainant of: .....

.....

Address of Applicant .....

.....

Who upon oath, states that the information given is correct.

Taken (and sworn) before me

**By Order of the Court**

.....

# APPLICATION FOR ANTI-SOCIAL BEHAVIOUR ORDER (Crime and Disorder Act 1998 s.1)

## **Magistrates Court**

Date:

D.O.B.

**Defendant:**

Address:

### Applicant Authority:

### Authorities Consulted:

It is alleged that:

(a) the defendant has acted on/between  
and (date(s)) at:  
(place(s)) in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and

(b) that an anti-social behaviour order is necessary to protect relevant persons from further anti-social acts by him/her, and accordingly application is made for an antisocial behaviour order containing the following prohibition(s):

### Description of Acts:

The complainant of: .....

Address of applicant:  
.....  
.....  
.....  
.....

Who upon oath, states that the defendant was responsible for the acts of which particulars are given above, in respect of which this complaint is made.

Taken (and sworn) before me

**By Order of the Court**

.....

APPLICATION FOR ANTI-SOCIAL BEHAVIOUR ORDER ON CONVICTION  
(Crime and Disorder Act 1998 Section 1C)

To: (Name of Court)

In

R -

v

(Name of Defendant)

Case reference number:

Defendant's address:

Applicant: Lincolnshire Police

It is alleged that:

(a) the defendant has acted on

(date(s)) at

(place(s)) in

an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself/herself; and

(b) that an anti-social behaviour order is necessary to protect relevant persons from further anti-social acts by him/her.

If the defendant pleads guilty or is found guilty in these proceedings, the prosecutor will apply for an anti-social behaviour order containing the prohibitions set out in the attached draft order, or such order as the court decides to make.

In support of this application, the prosecutor intends to rely on: (*facts in these proceedings*).....

and

the defendant's history of convictions

### full statement of facts

## community impact statement

any further witness statements

### other Authority involvement

Signed:

*For the relevant authority*

Date:

If application refused, please state reasons  
(to be completed by Prosecuting Lawyer)

# BREACH OF ANTI-SOCIAL BEHAVIOUR ORDER (Crime and Disorder Act 1998)

Original Case Reference Number:

Name of Defendant:  
(*Surname first*)

Date of Birth:

Address: *(if not shown elsewhere)*

Name of Court:

Date of Appearance:

*(where Original Anti-Social Behaviour Order was granted)*

### **Details of alleged breach:**

Please indicate as to whether the following documentation is attached to this breach application:

## Copy of original Anti-Social Behaviour Order

## Original Statement of Facts

## Community Impact Statement

## Further Statements

**Other Evidence (*please give details*)**

**Result of Breach (*to be completed by Prosecuting Lawyer*)**

**Copy of this form to be sent to the Anti-Social Behaviour Coordinator on completion**

**STATEMENT OF FACTS**

## Appendix B

### Monitoring and Data Collection by Community Safety Team

All cases dealt with by the Community Safety Team will be logged on the flare database. The Community Safety Manager will carry out a monthly review on the progress of each case. The following details should be recorded on flare:

- Date first reported
- Details of age, ethnicity, gender of victims and perpetrators
- Details of action taken
- Date closed

Cases will be discussed at the Community Safety Team meeting; this meeting will provide guidance on action needed and will monitor action taken. This will allow hotspots to be identified and trends monitored to allow for targeted action.

The following performance indicators are kept:

- Number of Anti-Social Behaviour Orders issued in a year
- Numbers of Acceptable Behaviour Contracts
- Number of unacceptable behaviour warning letters issued
- Number of reports to the Council of anti-social behaviour
- Percentage of those reports successfully resolved

# Agenda Item 5

## REPORT TO CABINET

REPORT OF: CORPORATE DIRECTOR (COMMUNITY SERVICES)

REPORT NO: DCS19

DATE: 4<sup>th</sup> April 2005

<b>TITLE:</b>	<b>SUPPORTING PEOPLE - CONSTITUTION AND MEMORANDUM OF UNDERSTANDING.</b>
<b>FORWARD PLAN ITEM:</b>	17th March 2005
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Key Decision

<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	Vulnerable People COUNCILLOR Peter Martin-Mayhew
<b>CORPORATE PRIORITY:</b>	CATEGORY B
<b>CRIME AND DISORDER IMPLICATIONS:</b>	
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	
<b>BACKGROUND PAPERS:</b>	Supporting People (England) Directions 2003

### 1.0 INTRODUCTION AND SUMMARY

- 1.1 Supporting People went live on the 1<sup>st</sup> April 2003. From this date responsibility for the funding, commissioning and review of housing related support services in Lincolnshire was transferred from national government to a local decision making partnership called the Supporting People Commissioning Body.
- 1.2 Supporting People is a partnership between service users, service providers and service commissioners. The Partnership comprises representatives from Housing, Health, Probation and Social Care services. All these stakeholders have been involved in developing the Constitution and Memorandum of Understanding.
- 1.3 All agencies represented on the Supporting People Commissioning Body are being requested to adopt the Constitution and enter into the Memorandum of Understanding pursuant to Clause 4 of the Supporting People (England) Directions

2003 in order to make clear how the work required of them in the Directions will be accomplished.

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## **2.0 RECOMMENDATION**

### **2.1 Members are requested to approve the Constitution and agree to enter into the Memorandum Of Understanding for the Lincolnshire Supporting People Commissioning Body.**

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## **3.0 DETAILS OF REPORT**

### **3.1 The Constitution (Attached as Appendix A)**

The Constitution provides for an officer to represent the participating organisation on the Commissioning Body, with a Scrutiny Panel comprising elected members of the participating organisations to oversee the work of the Commissioning Body. Provisions have been made for the Chairman and Vice Chairman to be selected annually on rotation. On this basis the South Kesteven elected member representative will become Vice Chairman of the Scrutiny Panel on 1<sup>st</sup> April 2008 and Chairman of the Scrutiny Panel on 1st April 2009.

### **3.2 The Scrutiny Panel will have responsibility for the scrutiny of Commissioning Body decisions with appropriate call-in arrangements. It will be necessary for not less than three Scrutiny Members to action a 'call-in'. The Supporting People Scrutiny Panel would have the responsibility to consider the original decision of the Commissioning Body and the reasons for the call-in, and determine either:-**

- To endorse the decision in which case the decision shall become effective from the date of such endorsement; or
- To refer the matter back to the commissioning Body for reconsideration with its own recommendations.

### **3.3 It is intended for the commissioning Body to meet at least six (6) times per year and the Supporting People Scrutiny Panel at least four (4) times per year.**

### **Memorandum Of Understanding (Attached as Appendix B)**

### **3.4 The Administering Body (Lincolnshire County Council) is required to enter into a Memorandum of Understanding with the Commissioning Body. The document sets out the functions of the Administering Body and the Commissioning Body and identifies the accountability that the Commissioning Body has to the Administering Body.**

### **3.5 The Memorandum Of Understanding also makes provisions for the Commissioning Body to produce a Supporting People Strategy. This document had been prepared and will be considered by the appropriate Development and Scrutiny Panel before being submitted to Council for approval and adoption.**

## 5.0 COMMENTS OF THE DIRECTOR OF FINANCE AND STRATEGIC RESOURCES

No comments.

## 6.0 COMMENTS OF THE CORPORATE MANAGER DEMOCRATIC AND LEGAL SERVICES (MONITORING OFFICER)

- 6.1 Both the Constitution and Memorandum of Association are documents that are subject to national guidance and direction. They are subject to the Supporting People (England ) Regulations 2003. It therefore appears that there is limited scope for amendment to wording or structural arrangements.
- 6.2 It is therefore important to consider the way in which functions and responsibilities have been arranged. The Memorandum of Understanding is between the Commissioning Body (upon which this Council will have representatives) and the Lincolnshire County Council as the administering authority. The District Council is not, however, a party to this document. It has significance in that it sets out the functions of the Commissioning Body that this council will be a part of in terms of having a representative directly upon the Body. The functions of the Body are to produce a Supporting People Strategy and generally be responsible for operational matters . The district council representative is specified within the Constitution document to be an officer of the council and not an elected member.
- 6.3 The Constitution of the Commissioning Body is significant not only for setting out its formal management arrangements but also it makes clear that a panel will be set up to Scrutinise decisions of the Commissioning Body. Membership of that panel will be from only elected members of each district council. Elected Members role will therefore concern exclusively the scrutiny of decisions of the Commissioning Body.
- 6.4 Although these documents have already been subject to consultation and are based on national guidance, the respective officer/member roles do need to be appreciated.

## 7.0 CONCLUSIONS

- 7.1 The Administering Body and Commissioning Body have adopted both the Constitution and Memorandum of Understanding on an interim basis while the constituent organisations on the Commissioning Body consider whether or not to approve and adopt the documents. It appears that the arrangements are working satisfactorily.

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## 8.0 CONTACT OFFICER

John Pell, Corporate Director of Community Services  
Tel: 01476 406510  
Email: [j.pell@southkesteven.gov.uk](mailto:j.pell@southkesteven.gov.uk)

# **LINCOLNSHIRE SUPPORTING PEOPLE COMMISSIONING BODY**

## **CONSTITUTION**

### **1. Definitions**

1.1 The terms set out below shall have the following meanings unless inconsistent with the context

“Commissioning Body”	the Lincolnshire Supporting People Commissioning Body as constituted herein
“Confidential Information”	information furnished to any Participating Body, the Commissioning Body or the Supporting People Scrutiny Panel by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; or information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court
“Directions”	the Supporting People (England) Directions 2003
“Exempt Information”	information falling within any of the descriptions set out in Part I of Schedule 12A to the Local Government Act 1972 subject to the qualifications set out in Part II and the interpretation provisions set out in Part III of the said Schedule in each case read as if references therein to “the authority” were references to “the Commissioning Body or any of the Participating Bodies”
“Guidance”	any guidance issued from time to time in respect of Supporting People grant
“Participating Body”	a body listed in paragraph 4.1
“Representative”	persons nominated by the Participating Bodies from time to time as members of the Commissioning Body and named from time to time on the list of Representatives maintained by the Secretary under paragraph 4.2
“Scrutiny Member”	shall have the meaning set out in paragraph 5.1
“Secretary”	the person identified under paragraph 15 of this Constitution from time to time to provide administrative and secretarial services to the Commissioning Body
“Supporting People Scrutiny Panel”	shall have the meaning set out in paragraph 5.1

## 2. Name

2.1 The full name of the Commissioning Body shall be the Lincolnshire Supporting People Commissioning Body.

## 3. Objects

3.1 The Commissioning Body is established to fulfil the functions of the Commissioning Body as set out in the Directions and the Guidance from time to time and to carry out such role as shall be set out in any Memorandum of Understanding entered into under paragraph 4 of the Directions from time to time.

## 4. Membership of the Commissioning Body

4.1 The Commissioning Body shall consist of the representatives from the Participating Bodies set out below:

Lincolnshire County Council	One Representative
City of Lincoln Council	One Representative
West Lindsey District Council	One Representative
East Lindsey District Council	One Representative
North Kesteven District Council	One Representative
South Kesteven District Council	One Representative
Boston Borough Council	One Representative
South Holland District Council	One Representative
West Lincolnshire Primary Care Trust	One Representative
Lincolnshire South West Teaching Primary Care Trust	One Representative between them (“the PCT Representative”)
East Lincolnshire Primary Care Trust	
Lincolnshire Probation Service	One Representative

4.2 Each Representative on the Commissioning Body shall be an officer of the Participating Body that they represent and shall not be an elected member (in the case of a local authority) or (in the case of a Primary Care Trust or the Probation Service) a member of their governing Boards. The Secretary shall establish and maintain a list of the nominated Representatives of the Participating Bodies from time to time. The Lincolnshire County Council Representative shall not be the Accountable Officer for Supporting People.

4.3 Each Participating Body shall be entitled on giving written notice to the Secretary to appoint a replacement Representative in the event of any resignation or casual vacancy or in the event that its Representative is unable to attend any meeting so as to ensure that the Participating Body is represented at the next meeting of the Commissioning Body.

## 5. Supporting People Scrutiny Panel

5.1 There shall be established a Panel to be known as the Supporting People Scrutiny Panel which shall consist of representatives of the Participating Bodies (to be known as Scrutiny Members) as set out in the table at paragraph 4.1. Each Scrutiny Member shall (in the case of local authorities) be an elected member of the Participating Body that they represent and shall (in the case of the Primary Care Trusts or the Probation Service) be a member of the relevant governing Board. The Scrutiny Member on behalf of the Primary Care Trusts shall be known as the PCT Scrutiny Member.

5.2 The Secretary shall establish and maintain a list of the nominated Scrutiny Members of the Participating Bodies from time to time.

5.3 Each Participating Body shall be entitled on giving written notice to the Secretary to appoint a replacement Scrutiny Member in the event of any resignation or casual vacancy or in the event that its Scrutiny Member is unable to attend any meeting so as to ensure that the Participating Body is represented at the next meeting of the Supporting People Scrutiny Panel.

5.4 In the financial year 2004/2005 the Chairman of the Supporting People Scrutiny Panel shall be the Scrutiny Member from Lincolnshire County Council and the Vice Chairman shall be the Scrutiny Member from Lincolnshire Probation Service. The Vice Chairman shall automatically become the Chairman on 1 April in each subsequent financial year commencing with the Lincolnshire Probation Service Scrutiny Member becoming Chairman on 1 April 2005. The Scrutiny Members from the other Participating Bodies shall become Vice Chairman in the order set out in the following table and so will become Chairman in the following financial year.

Date	Scrutiny Member to become Vice Chairman
1 April 2005	North Kesteven District Council
1 April 2006	The PCT Scrutiny Member
1 April 2007	South Holland District Council
1 April 2008	South Kesteven District Council
1 April 2009	West Lindsey District Council
1 April 2010	Boston Borough Council
1 April 2011	East Lindsey District Council
1 April 2012	City of Lincoln Council

5.5 The role of the Supporting People Scrutiny Panel shall be to carry out the functions and only the functions set out in paragraph 11 below.

5.6 The quorum for the Supporting People Scrutiny Panel shall be not less than 6 Scrutiny Members in attendance. Neither the Chairman nor the Vice Chairman need be in attendance for a meeting of the Supporting People Scrutiny Panel to be quorate. If the Chairman is not in attendance within 15 minutes of the scheduled start of the meeting

or at the time when the meeting becomes quorate if it is outside the said period of fifteen minutes but the Vice Chairman is in attendance then the Vice Chairman shall chair the meeting. If neither the Chairman nor the Vice Chairman are in attendance within 15 minutes of the scheduled start of the meeting or at the time when the meeting becomes quorate if it is outside the said period of fifteen minutes then those present shall elect a chairman for that meeting.

- 5.7 Failure to achieve a quorum within thirty minutes of the time advised for any meeting of the Supporting People Scrutiny Panel shall render the meeting closed and the meeting shall be deemed to have endorsed the original Commissioning Body decision.
- 5.8 Any meeting of the Supporting People Scrutiny Panel which becomes inquorate shall cease its business until a quorum is re-established provided that a quorum is re-established within 30 minutes of the meeting becoming inquorate. Failure to re-establish a quorum within the said time of 30 minutes shall render the meeting closed. Decisions taken while the meeting was quorate shall remain valid. Otherwise the meeting shall be deemed to have endorsed the original Commissioning Body decision.

## **6. Attendance at Meetings of the Commissioning Body**

- 6.1 The Commissioning Body shall be entitled to invite such other persons as it shall see fit to attend its meetings.
- 6.2 Unless otherwise determined by the Commissioning Body the following Participating Bodies and other bodies shall be entitled to send the following numbers of persons to meetings of the Commissioning Body and in the case of Participating Bodies such persons shall be entitled to attend in addition to the Representative of those Participating Bodies

<b>Body</b>	<b>Numbers of Persons</b>
Lincolnshire County Council	One person
West Lincolnshire PCT	One person
East Lincolnshire PCT	One person
Lincolnshire South West PCT	One person
Lincolnshire Housing Forum	Two persons

- 6.3 The Scrutiny Member from time to time of any of the Participating Bodies or any replacement Scrutiny Member nominated in accordance with paragraph 5.3 shall be entitled to attend any meeting of the Commissioning Body in addition to the Representative of that Participating Body. Such Scrutiny Members shall be sent copies of all papers prepared for any meeting of the Commissioning Body at the same time as the papers are sent to the Representatives. A Scrutiny Member shall be entitled at any stage of a meeting of the Commissioning Body to request a short adjournment (not exceeding 15 minutes) to the meeting and such an adjournment shall be granted. Save for such right to request an adjournment, the Scrutiny Members shall have such rights in respect of meetings of the Commissioning Body as are granted from time to time in accordance with paragraph 6.4 below.
- 6.4 Subject to paragraph 6.3, invitees, persons entitled to attend under paragraph 6.2 and Scrutiny Members shall be entitled to take such part and only such part in meetings of the Commissioning Body as the Commissioning Body shall determine and for the avoidance of doubt no person other than a Representative shall be entitled to vote.

6.5 Each body entitled to appoint a person under paragraph 6.2 above shall notify the Secretary of the identity of the person so appointed and any changes thereto from time to time. Unless the Commissioning Body otherwise determines, the said persons shall be entitled to receive all information provided to the Commissioning Body, shall be entitled to attend meetings of the Commissioning Body and to take part in its debates and discussions. No such person shall be entitled to vote.

## 7. Chairmanship of the Commissioning Body

7.1 In the financial year 2004/2005 the Chairman of the Commissioning Body shall be the Representative from Boston Borough Council and the Vice Chairman shall be the Representative from East Lindsey District Council. The Vice Chairman shall automatically become the Chairman on 1 April in each subsequent financial year commencing with the East Lindsey Representative becoming Chairman on 1 April 2005. The Representatives of the other Participating Bodies shall become Vice Chairman in the order set out in the following table and so will become Chairman in the following financial year.

<b>Date</b>	<b>Representative to become Vice Chairman</b>
1 April 2005	Lincoln City Council
1 April 2006	Lincolnshire County Council
1 April 2007	Lincolnshire Probation Service
1 April 2008	North Kesteven District Council
1 April 2009	The PCT Representative
1 April 2010	South Holland District Council
1 April 2011	South Kesteven District Council
1 April 2012	West Lindsey District Council

## 8. Quorum of the Commissioning Body

8.1 A meeting of the Commissioning Body shall be quorate if not less than 6 Representatives are in attendance. Neither the Chairman nor the Vice Chairman need be in attendance for a meeting of the Commissioning Body to be quorate. If the Chairman is not in attendance within 15 minutes of the scheduled start of the meeting or at the time when the meeting becomes quorate if it is outside the said period of fifteen minutes but the Vice Chairman is in attendance then the Vice Chairman shall chair the meeting. If neither the Chairman nor the Vice Chairman are in attendance within 15 minutes of the scheduled start of the meeting or at the time when the meeting becomes quorate if it is outside the said period of fifteen minutes then those present shall elect a chairman for that meeting.

8.2 Failure to achieve a quorum within thirty minutes of the time advised for any meeting of the Commissioning Body shall render the meeting adjourned for seven days after which the meeting shall be reconvened.

8.3 Any meeting of the Commissioning Body which becomes inquorate shall cease its business until a quorum is re-established provided that a quorum is re-established within 30 minutes of the meeting becoming inquorate. Failure to re-establish a quorum within the said time of 30 minutes shall render the meeting closed. Decisions taken while the meeting was quorate shall remain valid.

## **9. Voting Rights of the Commissioning Body**

9.1 Each Representative on the Commissioning Body shall have one vote.

## **10. Decisions of the Commissioning Body**

- 10.1 In accordance with Schedule 1 of the Directions any decisions made by the Commissioning Body shall be by a unanimous vote. Where there is a failure to reach unanimity on any of the issues referred to in paragraph 5 of Schedule 1 of the Directions, Lincolnshire County Council as the Administering Authority under the Directions may refer the matter to the Secretary of State as set out in paragraph 5 of Schedule 1 of the Directions.
- 10.2 Each Representative shall be deemed to have been granted by his or her Participating Body such delegated authority as shall be necessary to enable them to assent on its behalf to any decision of the Commissioning Body and no decision of the Commissioning Body shall be invalidated by any failure of such delegation.
- 10.3 In respect of any vote taken at a quorate meeting of the Commissioning Body, any Representative who does not record a vote against the matter for decision shall be deemed to have voted in favour of it.
- 10.4 Without prejudice to paragraph 13 below, a Record of Decision in relation to each decision taken at a meeting of the Commissioning Body shall be sent out to all Scrutiny Members of the Participating Bodies within 5 working days of the relevant Commissioning Body meeting. The Record of Decision shall be deemed to have been sent out on the date it was posted or in the case of facsimile or e-mail transmission on the date it was sent, whether or not it was received.
- 10.5 A decision of the Commissioning Body shall not be effective until a period of 10 working days has elapsed from the date on which the Record of Decision was sent out in accordance with paragraph 10.4. If called-in for scrutiny under paragraph 11 the decision shall not become effective except in accordance with paragraph 11.4.1. A decision taken by the Commissioning Body on a matter referred back to the Commissioning Body by the Supporting People Scrutiny Panel pursuant to paragraph 11.4.2 shall be effective from the date on which it is taken.

## **11. Scrutiny of Commissioning Body Decisions**

- 11.1 If, within the period of 10 working days after the date that a Record of Decision was sent out in accordance with paragraph 10.4, not less than three Scrutiny Members shall, by written notice complying with paragraph 11.2, notify the Secretary of their wish to call any decision in, the decision specified in such notice shall stand called-in. Notice may be given by any number of Scrutiny Members jointly or by any Scrutiny Member individually. At any time prior to any Commissioning Body decision being taken, a Scrutiny Member who believes that he or she will not be sufficiently available within the 10 working days after the decision to exercise their call-in power properly or at all may notify the Secretary that his or her call-in power will be exercised in relation to any decision or decisions specified in the notice by a named substitute. If such notice is given, the named substitute shall be entitled to exercise that Scrutiny Members' power of call-in and any written notice of call-in signed by the named substitute shall be effective as if signed by the Scrutiny Member concerned in respect

of those decisions and only those decisions specified by the Scrutiny Member in his notice.

- 11.2 A written notice under paragraph 11.1 shall specify the decision to be called in and set out the reasons for the call-in.
- 11.3 On receipt of the requisite notices under paragraph 11.1 the Secretary shall arrange a meeting of the Supporting People Scrutiny Panel for a date not later than 10 working days after receipt by the Secretary of the last of the required notices.
- 11.4 At the meeting convened pursuant to paragraph 11.3 the Supporting People Scrutiny Panel shall consider the original decision and the reasons for the call-in and determine either
  - 11.4.1 to endorse the decision in which case the decision shall become effective from the date of such endorsement; or
  - 11.4.2 to refer the matter back to the Commissioning Body for reconsideration with its own recommendation.

If the decision is referred back to the Commissioning Body the Commissioning Body shall reconsider the matter at its next meeting and its decision at its next meeting on that matter shall be final and shall not be capable of further call-in.

- 11.5 The Supporting People Scrutiny Panel shall regulate its own proceedings provided that
  - 11.5.1 the Commissioning Body shall be entitled to attend the meeting and shall be given reasonable support and opportunity to give its reasons for the decision and the evidence on which it is based and to answer any objections thereto; and
  - 11.5.2 the Scrutiny Members who submitted notices calling-in the decision shall be afforded a reasonable opportunity to explain their reasons for calling in the decision and the evidence on which such call-in was based.
- 11.6 Each Scrutiny Member shall have one vote.
- 11.7 A simple majority of votes shall be required for a resolution of the Supporting People Scrutiny Panel to endorse a Commissioning Body decision the subject of a call-in. In the event of an equality votes the decision the subject of the call-in shall be referred back to the Commissioning Body.
- 11.8 Subject to paragraphs 11.9 and 11.10 meetings of the Supporting People Scrutiny Panel shall be open to the press, public and observers.
- 11.9 The press, public and observers shall be excluded from a meeting of the Supporting People Scrutiny Panel whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if the press, public or observers were present during that item Confidential Information would be disclosed to them in breach of the obligation of confidence.
- 11.10 The press, public and observers may by simple majority vote be excluded from a meeting of the Supporting People Scrutiny Panel whenever it is likely, in view of the

nature of the business to be transacted or the nature of the proceedings, that if the press, public or observers were present during that item Exempt Information would be disclosed to them.

## **12. Frequency and Venue – Commissioning Body and Supporting People Scrutiny Panel**

- 12.1 The Commissioning Body shall meet as and when necessary to fulfil the objects in paragraph 3 but in any event shall meet a minimum of six times in each financial year. Meetings shall take place at a venue and on such dates and times as shall be agreed by the Commissioning Body. Where such dates times and venues cannot be agreed the Chairman or in his or her absence the Vice Chairman shall select the date time and of the next meeting.
- 12.2 At least 14 days notice of a meeting shall be given to each Participating Body and their Representative by the Secretary. Such notice will give the date, time and venue for the meeting.
- 12.3 The Supporting People Scrutiny Panel shall meet as and when necessary to consider a call-in under paragraph 11. Meetings shall take place at a venue and on such dates and times as shall be notified to the Scrutiny Members by the Secretary.
- 12.4 In addition, the Supporting People Scrutiny Panel shall meet as and when it chooses to, but this should be at least four times each year.

## **13. Minutes – Commissioning Body and Supporting People Scrutiny Panel**

- 13.1 The Secretary or his nominated representative shall prepare the minutes of all Commissioning Body meetings and shall distribute a fair copy to each Representative within 14 days of the date of the meeting in question.
- 13.2 The Secretary or his nominated representative shall prepare the minutes of all Supporting People Scrutiny Panel meetings and shall distribute a fair copy to each Representative and each Scrutiny Member within 14 days of the date of the meeting in question.

## **14. Disclosure of Interests of Representatives and Scrutiny Members**

- 14.1 Representatives (in relation to the Commissioning Body) and Scrutiny Members (in relation to the Supporting People Scrutiny Panel) shall comply with the provisions relating to the disclosure of interests set out in their own organisation's governance arrangements.
- 14.2 All disclosures of interests shall be recorded in the minutes.

## **15. Secretary**

- 15.1 The Secretary to the Commissioning Body shall be the County Secretary and Solicitor of Lincolnshire County Council or a representative thereof notified from time to time to Representatives and Scrutiny Members by the Committee Services Section of the County Secretary and Solicitor's Office of Lincolnshire County Council.

15.2 The Commissioning Body shall be serviced by the County Secretary and Solicitor's Office Committee Services Section of Lincolnshire County Council whose costs will be met from the Supporting People Administration grant.

**16. Alterations to the Constitution**

16.1 Full details of any proposal to alter this constitution must be delivered in writing to the Secretary not less than 14 days prior to the date of the meeting at which it is first to be considered. Any alteration will require a unanimous decision of the Commissioning Body and the approval of the Administering Authority.

**17. Adoption of the Constitution**

17.1 This Constitution was adopted as the Constitution of the Lincolnshire Supporting People Commissioning Body at a meeting duly convened at Lincolnshire County Offices.

Signed for and on behalf of Lincolnshire County Council

.....

Signed for and on behalf of Boston Borough Council

.....

Signed for and on behalf of City of Lincoln Council

.....

Signed for and on behalf of West Lindsey District Council

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Signed for and on behalf of East Lindsey District Council

.....

Signed for and on behalf of North Kesteven District Council

.....

Signed for and on behalf of South Kesteven District Council

.....

Signed for and on behalf of South Holland District Council

.....

Signed for and on behalf of Lincolnshire Probation Service

.....  
Signed for and on behalf of West Lincolnshire Primary Care Trust

.....  
Signed for and on behalf of East Lincolnshire Primary Care Trust

.....  
Signed for and on behalf of Lincolnshire South West Teaching Primary Care Trust

**Appendix B**

**LINCOLNSHIRE SUPPORTING PEOPLE COMMISSIONING BODY**

**MEMORANDUM OF UNDERSTANDING**

**1. This Document**

This document is a Memorandum of Understanding between Lincolnshire Supporting People Commissioning Body and Lincolnshire County Council. The parties are entering into this Memorandum of Understanding pursuant to Clause 4 of the Supporting People (England) Directions 2003 ('the Directions') in order to make clear how the work required of them in the Directions will be accomplished.

**2. The Administering Authority**

Pursuant to Clause 1(ii) of the Directions the Administering Authority will be Lincolnshire County Council.

**3. The Commissioning Body**

Pursuant to Clause 2 of the Directions the Commissioning Body is the body established by the Lincolnshire Supporting People Commissioning Body Constitution adopted on 10 March 2005.

**4. Functions of Administering Authority**

(1) The Administering Authority shall:

- (a) ensure that payments of Supporting People grant monies are in accordance with the intended allocation of Supporting People grant for each welfare service category set by the Commissioning Body pursuant to sub-paragraph 5(3) of the Directions.
- (b) advise the Commissioning Body whether or not proposed arrangements for access to Supporting People services would enable the Commissioning Body to meet any cross-authority service baseline target.
- (c) advise whether the adoption by the Commissioning Body of a Supporting People strategy, annual plan or significant change to those documents would result in the termination of funding of any designated service.
- (d) advise the Commissioning Body on financial and compliance matters affecting the Supporting People programme grant, including but not limited to:
  - (i) Supporting People budgetary constraints
  - (ii) contractual risks
  - (iii) whether a service is an eligible welfare service.
  - (iv) whether a proposed decision of the Commissioning Body will or is likely to be contrary to any Supporting People guidance; and
  - (v) whether a proposed decision of the Commissioning Body will or is likely to place the Administering Authority in breach of these Directions or any Conditions attached to a Supporting People programme grant.

- (e) assist the Commissioning Body in preparing its Supporting People strategy and annual plan and any changes to those documents.
- (f) send as soon as reasonably practicable a copy of the draft Supporting People strategy and annual plan and any proposed significant changes to those documents to the Secretary of State for his consideration; and
- (g) refer any proposed significant change needed to the Supporting People strategy and annual plan to the Commissioning Body for consideration.

(2) The Administering Authority shall compile and maintain a list of all Supporting People services in the Commissioning Body's area. The list shall use the definitions set out in the SPLS Extract Data Dictionary and File Formats document (published by the Office of the Deputy Prime Minister in September 2002).

(3) The Administering Authority shall maintain a record of levels of cross-authority access to services within the Commissioning Body area.

(4) In addition the Administering Authority shall maintain administrative systems which are capable of:

- (a) compiling and maintaining the information relating to the Supporting People services referred to in sub-paragraph 7(2) of the Directions.
- (b) ring-fencing the Supporting People programme grant monies.
- (c) interfacing with the administrative systems of the Secretary of State; and
- (d) ascertaining, at any given time, Supporting People programme grant receipts and expenditure against Supporting People programme grant monies made by the authority.

(5) The Administering Authority shall use its best endeavours to ensure that the Commissioning Body has the ability:

- (a) to agree a Supporting People strategy and annual plan, having regard to any Supporting People guidance, which includes the matters referred to in sub-paragraphs (2) and (3) of the Directions respectively.
- (b) to have due regard to any comments made by the Secretary of State on the Supporting People strategy or annual plan or any proposed significant changes to those documents.
- (c) to consider any proposed significant changes to the approved Supporting People strategy and annual plan; and
- (d) to review the approved Supporting People strategy in a manner which has regard to any Supporting People guidance.

(6) Without prejudice to the foregoing the Administering Authority will carry out those tasks set out in relation to the Administering Authority in the "Roles and Responsibilities within the Supporting People Programme" document attached to this Memorandum of Understanding at Appendix A

## 5. Functions of the Commissioning Body

(1) The Commissioning Body shall:

- (a) agree a Supporting People strategy and annual plan, having regard to any Supporting People guidance, which includes the matters referred to in sub-paragraphs (2) and (3) of the Directions respectively;
- (b) have due regard to any comments made by the Secretary of State on the Supporting People strategy or annual plan or any proposed significant changes to those documents;
- (c) consider any proposed significant changes to the approved Supporting People strategy and annual plan; and
- (d) review the approved Supporting People strategy in a manner which has regard to any Supporting People guidance.

(2) The matters that will be included in the Supporting People strategy are:

- (a) a description of the different classes of welfare service recipients and their actual and predicted needs (including a separate description of the nature and level of current cross-authority access to services and the likely needs of cross-authority service recipients in the future).
- (b) a description of the nature and level of current Supporting People service provision including areas of poor provision (including a separate description of the nature and level of current cross-authority access to service including reference to the current cross-authority service baseline targets).
- (c) a description of the changes to be made to the current Supporting people service provision.
- (d) a description of any new high-cost projects proposed and a description of any existing high-cost projects (including the proposed duration of such projects).
- (e) the rules for the charging of service recipients, which shall include:
  - (i) the circumstances in which there is to be relief from charges.
  - (ii) the process for making an application for relief.
  - (iii) the rules for determining the relevant date of application.
  - (iv) the rules for recovery from service recipients of overpayments; and
  - (v) details of the review mechanism which is to apply where a service recipient disputes any decision under the charging rules; and
- (f) an explanation of the consultation undertaken by the Commissioning Body with service providers, service recipients and other interested parties.

(3) The matters that will be included in each annual plan are:

- (a) the intended allocation of Supporting People grant for each welfare category.
- (b) a description of the changes identified in the Supporting People strategy which are programmed to be implemented that year, including a description of any changes to cross-authority access to services to be introduced in that year.
- (c) a description of any new high-cost projects proposed for that year; and
- (d) a description of the process and the date by which each change is to be delivered.
- (e) high cost is defined as ‘whether the cost of the service is such that it has a significant impact on the overall management of the Supporting People budget’.

(4) Without prejudice to the foregoing the Commissioning Body will carry out those tasks set out in relation to the Commissioning Body in the “Roles and Responsibilities within the Supporting People Programme” document attached to this Memorandum of Understanding at Appendix A

## **6. Accountability of the Commissioning Body to the Administering Authority**

In acknowledgement that the Supporting People grant is paid to and audited by the Administering Authority the Commissioning Body shall not knowingly pursue a strategy which causes the grant available to be exceeded. In addition it will co-operate with the Administering Authority should it become apparent the grant may at any time be exceeded by amending its strategy to bring it into the parameters of grant availability.

## **7. Review**

The partners will keep the Memorandum under review in the light of emerging legislation guidance and directions and the developing needs of the people of Lincolnshire.

## **8. Legal Consequences**

Whilst the Memorandum sets out the expectations of the parties, it is not intended that failure by any party to achieve those intentions will incur legal consequences actionable as a result of this Memorandum.

## **9. Glossary of Terms**

‘eligible welfare service’ bears the meaning given in condition 2 of Annex B to the Supporting People programme grant.

‘high-cost project’ means a project which, due to the high level of unit cost in provision of the service, the Commissioning Body requires the Administering Authority to report details of its costs, and the range of Supporting People services provided to the service recipient.

‘section 93’ means section 93 of the Local Government Act 2000.

‘service provider’ means a person who provides, or arranges for the provision of, welfare services where those services are paid for.

‘Supporting People programme grant’ means the Supporting People programme grant determination in respect of the Administering Authority made by the Secretary of State under section 93.

‘Supporting People guidance’ means guidance issued by the Secretary of State under section 93 in relation to Supporting People programme grants or the Supporting People (England) Directions 2003.

‘Supporting People service’ means an eligible welfare service paid for (in part or in full) out of Supporting People programme grant monies; and

‘Supporting People strategy’ means the strategy approved (and from time to time reviewed and updated) by the Commissioning Body.

SIGNED for and on behalf of the Commissioning Body

.....  
Chairman

SIGNED for and on behalf of the Administering Authority

.....  
Authorised Officer

## **ROLES & RESPONSIBILITIES WITHIN THE SUPPORTING PEOPLE PROGRAMME**

### **Introduction**

This section of the document clarifies the respective roles and responsibilities of the main players within the Supporting People framework in Lincolnshire covering:

- The Commissioning Body;
- The Administering Authority;
- Elected Members;
- The Supporting People Accountable Officer; and
- The Supporting People Lead Officer.

The Supporting People programme in Lincolnshire is a partnership, bringing together a range of skills, knowledge and resources from across the Administering Authority and commissioning partners.

### **The Commissioning Body**

- A Partnership of senior representatives with decision making powers from:
  - Administering Authority, which is the County Council
  - The National Probation Service in Lincolnshire
  - The three Primary Care Trusts
  - All of the District Authorities
  - Non-voting Representatives of the Lincolnshire Housing Forum
- This document describes the Constitution and Memorandum of Understanding which describe the clear agreement on voting arrangements, when these will be invoked and how conflicts will be addressed and resolved. The roles of local authority elected members and PCT and Probation board members should be determined and agreed.
- The Commissioning Body will provide a strategic oversight of the Supporting People programme in Lincolnshire– including (but not solely) :
  - Oversight of service review process
    - Agree objectives and timetable for reviews
    - Understanding of process for reviews
    - Agree process of receiving reports on reviews
    - Monitoring of progress against timetable
    - Hear a review of a service review, where requested by a provider
  - Oversight of commissioning and decommissioning process
    - Set strategic objectives
    - Agree overall process, including rules for where decisions can be delegated and where key decisions come to the CB
  - Oversight of forward strategic planning

- Ensure preparation and publication of 5-Year Strategy
- Provide strategic steer for preparation of strategy
- Agree and monitor progress of process for preparation of strategy
- Set local Supporting People priorities, as reflected in strategy
- Ensure strategy recognises and addresses cross-authority and regional issues, including collaborative opportunities
- Ensure the strategy reflects the priorities of the Community Plan
- Sign off and own strategy
- Oversight of administration of the programme by the Administering Authority
  - Satisfy selves that grant conditions and statutory guidance are being adhered to
  - Satisfy selves that SP is being delivered in line with the strategy
  - Receive and approve key performance information on service reviews, progress against key milestones & grant expenditure
- Partners should be represented at a level which allows the partnership to take strategic and commissioning level decisions – not only as the Commissioning Body, but on behalf of their own organisations
- Partners should bring their own expertise to the decision making process, as part of ensuring that all issues are covered. But decisions should be taken in the interest of the overall local programme and in accord with the Community Plan.

## **Other Strategic Groups**

At the present time the Supporting People programme in Lincolnshire does not have a Core Strategy Group. Other temporary groups have undertaken some of the functions formally carried out by the Core Strategy Group, particularly around the development of the 5-Year Strategy.

For the future, the Supporting People programme in Lincolnshire is considering whether to establish a Strategy Implementation Group to drive forward the implementation of the 5-Year Strategy from 2005.

## **The Administering Authority**

- Responsible for the day-to-day administration and delivery of the Supporting People programme.
- The Administering Authority is not synonymous with the Supporting People team. While the Supporting People team will lead within the Administering Authority on SP matters, it is the wider authority which is responsible for the programme. As such, the Supporting People team draws on access to support and expertise from across the authority. In the future it is likely the Supporting People Team well be integrated into the mainstream work of the authority to make best use of the range of relevant expertise within the authority.
- Principal responsibilities are to :
  - Service and facilitate the Commissioning Body. The Administering Authority effectively acts as a Secretariat to the Commissioning Body, which relies on it for timely support and advice. This function requires the agreement of clear lines of responsibility and communication, which are reflected in the Memorandum of Understanding;

- Carry out the service review process and report outcomes to Commissioning Body as agreed;
- Undertake the research and development of the 5-Year Strategy under the direction of the Commissioning Body;
- Manage the individual Supporting People contracts, payments and the relationships with the providers;
- Monitor and report grant expenditure;
- Carry out performance monitoring and management and report to the relevant bodies at agreed intervals including national Supporting People Performance Indicators;
- Develop local PIs with key partners and be responsible for their collection and analysis;
- Deliver the programme in line with the strategic objectives set by the Commissioning Body and secure Best Value;
- Manage the overall programme in line with the standing orders of the local authority and with best practice in procurement and contract and programme management;
- Build and maintain links with other authorities, agencies, service users and delivery partners;
- Pursue and realise opportunities for cross-authority and cross-agency procurement and service delivery;
- Ensure the availability of good communication and ease of access to services for all users;
- Carry out reality checks to ensure quality of services; and
- Manage, support and encourage the provider base.

## **Elected Members**

- Elected Members need to ensure corporate support for the Supporting People programme. Within this, they should make sure that :
  - Supporting People is well integrated into local plans for housing, social care, education, employment and regeneration;
  - Connections are made between Supporting People and other local programmes (both those delivered by the authority and others more broadly); and
  - Supporting People becomes part of the mainstream of council activity.
- Members should act as champions for the programme to ensure it is recognised within the authority, including by partners and the general public. Publicly acknowledging and valuing the programme will assist officers in making and maintaining effective working relationships with commissioning partners and with providers.

- Through their local ward knowledge, elected Members have a key role in informing and making the case for services for vulnerable people and in feeding back experiences of people who use the services. This will include not only existing service users but many who may be at present denied a service, perhaps because of gaps in service provision, or because of some of the tenure restrictions of legacy services.
- Clear arrangements will need to be put in place between the Administering Authority and Commissioning Body to allow elected Members to feed their knowledge, including the local political perspective, into Commissioning Body deliberations.
- In Lincolnshire this is achieved through the development of a specific scrutiny function and the establishment of the Elected Member SP Scrutiny Panel. Furthermore, members of the Scrutiny Panel may attend any Commissioning Body meeting as an observer.
- Elected members may wish to consider developing partnership arrangements with board members in the PCTs and Probation in order to strengthen and consolidate the partnership arrangements established through the Commissioning Body. They may also wish to put in place similar arrangements to support cross-authority partnership working.

## **The Accountable Officer**

- The Accountable Officer should have sufficient seniority to actively participate in key strategic groups in order to drive forward the programme and mainstream SP into everyday AA activity. In Lincolnshire the Assistant Director, Social Inclusion is the Accountable Officer.
- The Accountable Officer is also responsible for ensuring that the Supporting People programme is recognised within the authority and that the SP team is able to access the resources and support needed to administer the programme.
- This is a very different role from that of the lead officer who actively manages all the tasks and people involved in delivering the programme – the SP lead officer is often line managed by the Accountable Officer.
- Clear lines of responsibility for the SP lead officer and Accountable Officer are essential.
- Prior to summer 2004, the Accountable Officer chaired the Commissioning Body. However, following the Audit Commission inspection it was recognised that this was not appropriate and this is reflected in the Constitution. The Accountable Officer is answerable to the Commissioning Body for the performance of the programme on behalf of the Administering Authority.
- The Accountable Officer has a key role in establishing and sustaining partnerships with PCTs and Probation at strategic and operational levels.

## **The Lead Officer (Supporting People Strategic Co-ordinator)**

- Manages the team which carries out the day-to-day administration of the programme.
- With the SP team, the Lead Officer ensures that the responsibilities and functions of the Administering Authority are carried out – i.e.

- Service and facilitate the Commissioning Body;
- Manage the service review process;
- Facilitate the development of the 5-Year Strategy;
- Manage the individual Supporting People contracts and the relationships with the providers;
- Ensure delivery of the programme in line with the strategic objectives set by the Commissioning Body and consistently with Best Value requirements;
- Manage the overall programme in line with propriety and financial probity rules;
- Build and maintain links with other authorities, agencies and delivery partners and act as SP representatives on other bodies and groups;
- Pursue and realise opportunities for cross-authority and cross-agency procurement and service delivery;
- Provide support and encouragement to the provider base; and
- Ensure opportunities for consultation with providers, users and other stakeholders.

# Agenda Item 6

## REPORT TO CABINET

REPORT OF: Head of Planning Policy and Economic Regeneration

REPORT NO. PLA488

DATE: 4<sup>th</sup> April 2005

<b>TITLE:</b>	<b>Securing Affordable Housing through Planning - Housing Need Survey 2002</b>
<b>FORWARD PLAN ITEM:</b>	Yes
<b>DATE WHEN FIRST APPEARED IN FORWARD PLAN:</b>	17 <sup>th</sup> March 2005
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Key Decision

<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	Cllr John Smith (Economic Portfolio ) Cllr Peter martin-Mayhew (Housing Portfolio)
<b>CORPORATE PRIORITY:</b>	Currently B (proposed to be A)
<b>CRIME AND DISORDER IMPLICATIONS:</b>	None
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	This report is publically available via the Council's website
<b>BACKGROUND PAPERS:</b>	Housing Need Survey 1999 Housing Need Survey updated 2002

## **1. INTRODUCTION**

- 1.1 This report follows on from the recent inspection of the Council's Housing Service, and particularly the Inspector's recommendations in relation to the provision of affordable housing in the District. Consideration is given in this report to the most appropriate ways of achieving this through the planning system over the next two years prior to the adoption of new planning policies included within the Local Development Framework (LDF).
- 1.2 It is proposed that new affordable housing policies will be included within the Core Principles of Development and Location Strategy document which will be the first of the LDF policy documents to be adopted which is timetabled to occur in August 2007. These policies will be expanded through a Supplementary Planning Document (SPD) published soon after adoption of the policy document.
- 1.3 It is important that the council continues to maximise opportunities to deliver affordable housing through the planning system in the intervening two year period. Ideally this would be done through the publication of Supplementary Planning Guidance, however changes to the planning system together with the age of the existing policies and the proposed availability in October of new affordable housing need survey data means that preparing such guidance at this stage is not possible.
- 1.4 It is proposed however that the existing procedure whereby the affordable housing policies (H8 and H9) of the South Kesteven Local Plan (adopted 1995) supported by the information provided by the Housing Need Survey (updated 2002) be formalised and approved by Cabinet.

## **2. RECOMMENDATIONS**

### **2.1 Cabinet is asked to adopt the following procedure for negotiating the delivery of affordable housing through the planning system:**

- a) The provision of affordable housing should be made in accordance with the requirements of Policy H9 of the South Kesteven Local Plan (Adopted April 1995) on all housing developments which meet the thresholds set out in Circular 6/98 Affordable Housing and the updated housing needs survey (2002)
- b) Provision should be made in accordance with the conclusions of the Housing Need Survey (2002) produced by Fordhams. This document will be used as evidence to support the Council's negotiations with applicants and in the drawing up any necessary conditions or S106 obligations.

### **3. DETAILS OF REPORT**

- 3.1 The South Kesteven Local Plan (adopted 1995) will be automatically “saved” until September 2007. This plan includes two policies on affordable housing. Policy H8 concerns rural exception schemes where planning permission will be granted for affordable housing in locations where development would not normally be considered acceptable (subject to certain proviso’s) and policy H9 which requires an appropriate mix of houses including the provision of affordable housing where there is a demonstrable lack of affordable housing to meet local needs.
- 3.2 Whilst these policies pre-date more recent government advice on delivering affordable housing through the planning system (notably PPG3 Housing and Circular 6/98) they do continue to provide a valid basis for determining applications for affordable housing schemes and more importantly for negotiating the provision of affordable housing on private market housing development. Ideally these policies and the information provided by the most recent housing need survey would be expanded upon through “Supplementary Planning Guidance”(SPG). The new planning system no longer allows for new SPG to be prepared, but Supplementary Planning Documents (SPD) can be prepared to expand upon adopted and saved policies.
- 3.3 A timetable has been proposed which will ensure that the first of the LDF policy documents – the Core Principles of Development and Location Strategy documents will be adopted by August 2007. This document will include new affordable housing policies which will replace those of the South Kesteven Local Plan. The preparation of these new policies will provide the opportunity to incorporate new national and regional policy advice on this matter and to incorporate the latest housing need survey data. A new housing need survey is expected by October this year.
- 3.4 In light of these changes and the proposed timetable for the LDF it seems sensible at this stage to formally endorse the findings of the 2002 Fordhams Housing need survey, as the evidential base for the Council’s negotiations with developers. When the new need survey is available work can begin on preparing either an interim affordable housing policy or a new SPD, which ever is most appropriate in light of the conclusions of the survey.

### **4. Findings of the 2002 Housing Need Survey (by Fordhams)**

- 4.1 The survey provides a definition of affordable housing as:

**“Households lacking their own housing or living in housing which is inadequate or unsuitable for its requirements and who cannot afford to resolve the unsuitability within the private sector housing market”.**
- 4.2 The report incorporates the survey data, based upon postal survey and interview data undertaken in 1999 to identify the level and sort of need. Financial information relating to average annual incomes, and housing market

survey which reveal the average property prices were undertaken in 2002 as part of the process of updating the conclusions of the report and survey in 2002. The objective of the survey was to identify the amount of affordable housing needed over the next five years, and to assess the size, tenure and level of affordability which is required.

#### Identifying the need

4.3 The study considers **backlog need** that is those households already living in unsuitable housing and currently in need and **newly arising need** – that is need arising from new households which form over the five year period, an estimate of existing households who will fall into the category of need within the next five years and the level of immigration expected. (This newly arising need excludes those households already in need which are calculated in the backlog need figure)

#### Existing supply

4.4 The survey then considers the amount of affordable housing available to meet this need. This process enables the identification of the level of need likely over the five year period. This process also indicates the supply of dwellings by size to the identified need by size. This reveals that there is a shortfall of housing across all sizes except 3 bedroom properties where there is a small surplus. The main area of shortfall is for 1 bedroom accommodation.

#### Tenure

4.5 By assessing average incomes and property prices it is concluded that low cost market housing cannot meet any of the housing need identified in the district. Shared ownership will only meet a fraction of the need, the remainder can only be met through social rented housing.

### SURVEY CONCLUSIONS

4.6 The survey concludes that over the five year period 2002 – 2007 there will be a shortfall of 147 affordable housing units per year. New affordable housing should be provided in the social rented sector, following the pattern of size indicated in the report. On the basis of the survey a target level of 36% is recommended for affordable housing provision on private market housing developments this should be achieved through negotiation with developers and applicants.

4.7 A threshold of 15+ dwellings or larger than 0.5 ha is suggested in settlements of 3000 or more and a lower threshold of 2+ dwellings in smaller settlements is also recommended for both allocations and windfalls. This threshold would normally be incorporated into a local plan policy.

## **5. CONCLUSIONS**

5.1 The affordable housing policies (H8 and H9) of the South Kesteven Local Plan – adopted 1995 will be the saved policy base for delivering affordable housing through planning over the next 3 years. Ideally these policies would be expanded upon through Supplementary Planning Guidance. However the changes to the new planning system means that this is not possible at this moment in time. The timetable for the preparation of the Local Development Framework together with the availability in the latter part of this year of a new housing need survey, means that the most resource effective approach at this moment is to endorse the current housing need survey as the evidence base for negotiating affordable housing provision on development sites through policy H9 of the adopted local plan.

## **6. CONTACT OFFICERS**

**Mike Sibthorp,  
Head of Planning Policy and Economic Regeneration and**

**Richard Edwards,  
Head of Development Control**

# Agenda Item 7

## REPORT TO CABINET

REPORT OF: Head of Housing Services

REPORT NO. HSG158

DATE: 4<sup>th</sup> April 2005

<b>TITLE:</b>	Private Sector Accreditation Scheme
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<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	Cllr. Peter Martin-Mayhew / Housing
<b>CORPORATE PRIORITY:</b>	Support to Vulnerable Persons - A Diversity - A Access to Services - A Anti Social Behaviour - A Affordable Housing - B
<b>CRIME AND DISORDER IMPLICATIONS:</b>	By working with landlords and managing agents we will be able to assist them in dealing with anti social behaviour issues.
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	The Accreditation Scheme will be subject to these provisions.
<b>BACKGROUND PAPERS:</b>	Accreditation Network UK(ANUK) - National Model Accreditation Scheme ANUK - Key Good Practice Points DET - Voluntary Accreditation for Private Landlords, No. 114 2001

## **1. INTRODUCTION OR SUMMARY**

In June 2002 an initial meeting of the Landlords Forum for private sector landlords and managing agents was held. A follow-up meeting was held in October 2003. Since then the group has met on a regular basis, working to improve standards in the private rented sector and the next step in that work is a voluntary Accreditation Scheme for private landlords.

## **2. RECOMMENDATIONS**

That the Cabinet endorses and approves the establishment of the South Kesteven Private Sector Accreditation Scheme.

## **3. DETAILS OF REPORT**

Accreditation of private landlords is supported by central government as a way of promoting self-regulation and the improvement of standards in the private rented sector.

The proposed Accreditation Scheme, which is attached as Appendix 1, has been designed with advice from ANUK and also input and consultation with Lincolnshire Trading Standards, the Rent Service, Lincolnshire Fire & Rescue Service and the landlords and letting agents in the district.

A unique feature of the proposed Accreditation Scheme is that managing agents are incorporated within the scheme, whereas the norm is for such a scheme only to apply to individual landlords. The purpose in doing so is to increase the coverage of the scheme and to recognise the very important contribution to be made by managing agents.

The key parts of the Accreditation Scheme are:

### **Property Standards**

The Accreditation Scheme standards are considerably higher than the current fitness standard as detailed in S604 of the Housing Act 1985 (as amended). The accreditation standard represents good practice in the private rented sector.

### **Management Standards**

Fair and equal treatment of tenants with written tenancy agreements, including written details for the return of deposits and repair contacts and procedures.

### **Benefits for Accredited Landlords and Agents**

The benefits available include greater access to support from housing benefit and the trading standards service. I am also currently negotiating discounts with local suppliers for services used by landlords and agents, i.e. key cutting, access to builders materials, etc.

### **Self-Regulation**

The Accreditation Scheme proposes that a Steering Committee be established by the accredited landlords and managing agents and that that Steering Committee also acts as a complaints and regulation panel, ensuring compliance with the standards of the scheme.

### **Procedure**

The procedure would be that a landlord or managing agent applying to be accredited would need to complete the necessary application form, providing details of the properties for which they sought accreditation. Initial indications from talking to landlords and letting agents are that interest is high and that in excess of 1,000 properties could be accredited in a short period of time.

On receipt of the application form, a membership card will be issued along with a certificate for display in the accredited properties. The logo proposed for the Accreditation Scheme will also be available to accredited landlords and agents for them to display as part of their marketing and publicity.

To ensure compliance with the scheme it is proposed that a sample of properties will be inspected each year to ensure that the standards of the Accreditation Scheme are being met and that the principles of self-regulation are working to the benefit of the community.

There is no request for additional resources to administer the proposed scheme.

## **4. OTHER OPTIONS CONSIDERED AND ASSESSED**

An alternative course of action would be not to introduce an Accreditation Scheme but to continue with the Landlords Forum and to promote good practice through that Fora. The difficulty is that the landlords and agents are keen on accreditation because such a scheme would differentiate them for the high standards they operate. It also demonstrates their commitment to working in partnership with the District Council. If the Accreditation Scheme was not actively considered then it is likely that interest would wane in the Landlords Forum.

**5. COMMENTS OF DIRECTOR OF FINANCE AND STRATEGIC RESOURCES**

To be supplied at the meeting.

**6. COMMENTS OF CORPORATE MANAGER, DEMOCRATIC AND LEGAL SERVICES (MONITORING OFFICER)**

To be supplied at the meeting.

**7. COMMENTS OF OTHER RELEVANT SERVICE MANAGER**

To be supplied at the meeting.

**8. CONCLUSIONS**

The approval and development of a Landlord Accreditation Scheme would be a valuable step forward in relation to the private rented sector that clearly links to Council Corporate Objectives. The willingness of the landlords and agents to work with the District Council on this scheme presents an ideal opportunity to promote partnership working.

**9. CONTACT OFFICER**

**Phillip Doughty  
Head of Housing Services**

**01476 406318      Email: [p.doughty@southkesteven.gov.uk](mailto:p.doughty@southkesteven.gov.uk)**

Draft

17 March 2005



**SOUTH KESTEVEN DISTRICT COUNCIL**

**PRIVATE SECTOR ACCREDITATION SCHEME**

## **CONTENTS**

Page 3	Benefits of the Scheme
Page 6	Policy Document
	Introduction
Page 7	The Standards for Accreditation
	Property Standards
	Management Standards
	Housing Health and Safety Rating System (HHSRS)
Page 8	Benefits to SKPAS Members
	Process of SKPAS
Page 9	Properties below standard at present
	Rewards and Benefits to Accredited Landlords and Agents
	How will the SKPAS standards be monitored
	Role of Housing Services
Page 10	Accreditation Steering Committee and Complaints Panel
	Complaints and Disputes procedures
Page 11	Good Practice Notes
	Property Standards
	Structurally sound Unit
	Facilities
Page 12	Structurally sound Unit
	Facilities (continued)
	Clean and in good repair
	Housing Health and Safety Rating System (HHSRS)
Page 13	Alterations made by the Tenant
	Freedom from Dampness
	Security
	Fixed Economic Heating
	Compliant to Fire Safety Regulations
Page 14	Furniture in a satisfactory condition and compliant with Fire
	Regulations
	Gas Safety
	Electrical Safety
	Buildings Insurance
	Agreement to random visits
Page 15	Fair and Equal Treatment of Tenants
	Accurate written Tenancy Agreement
	Rent Deposits
	Photocopies evidence of Buildings Insurance Cover and Gase and
	Electrical Safety Certificates
Page 16	Repairs Contact and Procedure
	Full explanation of use of fire Safety and Alarm Procedure and
	System
Page 17	Full explanation of the use of the Security Alarm and Procedure
	No evidence of Landlord harassment or unlawful eviction with the
	last 2 years.

## **BENEFITS**

### **National Representation**

South Kesteven District Council will join on behalf of the South Kesteven Landlords Forum the National Accreditation Network(ANUK). This network is keen to support the Private Sector as well as ensuring the improvement of standards. To this end it is in a position to lobby central Government with the concerns of Private Landlords and Managing Agents on their behalf.

### **Recognition and Promotion**

South Kesteven District Council is keen to recognise and accredit Private Landlords and managing Agents whose management of both property and tenants are professional by setting up the South Kesteven Private Sector Accreditation Scheme (SKPAS). It is expected that accreditation would give such Landlords and Managing Agents a market edge with discriminating tenants. The scheme will be promoted by regular press releases aimed at Agents, tenants and Landlords. Information concerning accreditation would hopefully be placed on the Council's website, in newsletters and advertising placements in local publications. It is envisaged that with consent, when an Agent or Landlord becomes accredited, the event should be recorded. Accredited Agents and Landlords would have the right to display an Accreditation Certificate within their property and to use an Accreditation Logo when advertising their property.

### **Earlier Vacant Possession**

We recognise that Agents and Landlords who are members of SKPAS would be demonstrating good practice in terms of Tenancy Management. Accredited Agents and Landlords would want to ensure that everything is done to prevent people from becoming homeless and will seek support from South Kesteven District Council to help with this. For example, if tenants are getting into arrears, a Landlord can contact Housing Services so that Officers can intervene to resolve this issue, thereby avoiding the need to serve Notice. We do accept that there are times when this intervention may not prevent the need for possession. Tenants will then be given advice on how to find alternative accommodation.

It is always important for the Agent or Landlord to ensure that the Notice has been served correctly. Where there may be a duty on the Council to house the tenant in question permanently, and if the tenants are still in the property when Notice expires, alternative temporary accommodation will be sought. However, as it is still the tenant's legal right to remain in the property until a Bailiff's Warrant expires, a tenant may still decide to choose this, despite other options available to them.

## **BENEFITS (continued)**

### **Empty Homes and Development**

The Council sees empty homes as a wasted resource and will do what it can to encourage Landlords to bring empty homes back into use for the benefit of the community. Where possible the Council will work with members of SKPAS to assist them in relation to acquiring homes for use in the Private Rented Sector.

### **Housing Benefit**

The Council recognises that delays in the processing of Housing Benefit claims can cause problems for Private Landlords and Agents.

The Benefit Office at this Authority is working closely with Housing Services to keep any delays to a minimum. Delays in processing are usually caused by the claimant submitting an incomplete application.

It is, therefore, important that Agents and Landlords ensure their tenants have completed the Benefit form correctly and supplied all the necessary evidence to process it. Information about how to do this is supplied with the form and there is also advice and a checklist in the form itself. It is also advisable to request a receipt when submitting the form.

Where a delay does occur, Accredited Agents or Landlords can contact Housing Services who will make enquiries with the Benefit Office as to the reasons.

**It is important to note that information about a claim can only be passed on to a third party with the claimant's written permission. Private Landlords should ensure their tenants have completed a disclaimer for this purpose.**

A tenant who is in receipt of Income Support or Jobseekers Allowance (Income Based) who is new to our area **must** advise the Department of Work & Pensions of their move and provide proof of their entitlement at their new address. **A new claim cannot be processed without this information.** Existing claimants who are moving within the area should advise the Department of Work & Pensions of their move, and **must** supply the Benefit Office with proof of their new rent details, their new residence and any change in income.

### **Discounts**

It is hoped that members of SKPAS will be able to benefit from discounted services through local businesses.

There may also be discounts available through membership of the Accreditation Network UK.

The discount scheme will be an agreement between the individual supplier and the member concerned.

## **BENEFITS (continued)**

### **HOUSE IN MULTIPLE OCCUPATION (HMO) Landlords**

Members of SKPAS who manage or own houses in multiple occupation, have expressed the wish to have informal and anonymous access to technical advice on aspects of HMO requirements by the Local Authority. This information can be obtained by contacting Housing Services on 01476 406080, or [housingservices@southkesteven.gov.uk](mailto:housingservices@southkesteven.gov.uk)

A national licensing scheme for HMO's has been introduced by the Housing Act 2004. The provisions are due to come into force late 2005.

Accredited Landlords will be given information about the scheme and will be assisted with the process of becoming licensed.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)**

#### **Introduction**

The Council recognises the role of the Private Rented Sector in providing accommodation throughout the district. The Council wishes to recognise good Agents and Landlords and to maintain standards within the Private Rented Sector, which are in line with good practice. This document is a guide setting out the procedure for working with Private Sector Landlords on the voluntary South Kesteven Private Sector Accreditation Scheme (SKPAS).

#### **Why have an Accreditation Scheme**

The encouragement of Private Landlords into the SKPAS will have a dual benefit. The provision of additional housing stock for people in need of housing and business advantages to Landlords involved. Property will be of a good standard, agreed by both Landlords and South Kesteven District Council , as well as being well managed.

#### **How will Landlords become aware of SKPAS?**

The general public will be informed of SKPAS, its standards and benefits through the local Press at periodic intervals as agreed by the SKPAS Steering Committee, allowing for budget constraints. Where opportunities exist to publicise the Scheme either through presentations or promotional events or indeed providing information through Council Offices, these will be utilised where appropriate.

#### **How can managing Agents become involved?**

Managing Agents will be able to participate in the SKPAS by becoming Accredited Managing Agents.

To become accredited, managing Agents have to comply with the requirements of the Scheme relating to Landlords.

#### **How will Tenants become aware of SKPAS?**

Tenants will be informed of SKPAS through general advertising and awareness raising. Persons who approach the Council for assistance for housing will be encouraged to seek out accommodation owned by Accredited Landlords. Landlords who are accepted onto SKPAS will be able to use the logo when advertising their properties or when they enter into written correspondence. SKPAS members will be encouraged to display the SKPAS Certificate in any accredited property. Businesses which offer discounts to SKPAS members will be encouraged to display information relating to the Scheme in their retail outlets. The SKPAS will be promoted through the local Press and it is hoped that there will be articles relating to the Scheme published on a regular basis.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **The standards for Accreditation**

The standards for Accreditation can be divided into two components. They relate to physical standards of the property and the standard of tenant management. For more details on this refer to 'Good Practice Notes,' but will include:

#### **Property Standards**

- Structurally sound and self contained
- Clean and in good repair
- Disposal of Waste
- Freedom from dampness that is detrimental to the health of the occupants
- Secure Locks
- Fixed Economic Heating for the size of the property
- Compliance with appropriate Fire Regulations
- Compliance with Furniture/Furnishings Fire Regulations
- Current Gas Safety Certificate
- Electrical Safety Certificate
- Current Buildings Insurance
- Agreement to random visits

#### **Management Standards**

- Fair and equal treatment of Tenants
- Accurate written Tenancy Agreement
- A Deposit Procedure
- Accurate written Inventory and Schedule of Condition
- Provision of Rent Receipts or Rent Book
- Photocopied evidence available to Tenants of Buildings Insurance, Gas and Electrical Safety Certificates
- Repair contacts and procedures
- Full explanation on the use of Fire Alarm systems if appropriate
- Full explanation of Fire Safety Equipment
- Full explanation of use of Security Alarm and procedures
- No evidence of Landlord harassment or illegal eviction within the last 2 years

#### **Housing Health and Safety Rating System (HHSRS)**

A new method of determining fitness of properties has been introduced by the Housing Act 2004 which is likely to come into force at the end of 2005.

Once further details are known this section will be subject to amendment to meet the standards set out in the HHSRS.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **The Benefits to SKPAS Members**

The benefits to SKPAS members will include access to support within the Housing Services section who will seek to provide general support and advice and to act as a link with other specialised officers within the Authority.

Recognition and promotion of SKPAS members and their properties in the Press and amongst Tenant Groups. The ability to display a Certificate and Logo at their premises and when advertising.

When funding is available, SKPAS members will be considered for grant support and improvement works in accordance with the Council's Private Sector Renewal Policy.

#### **The process of SKPAS**

Managing Agents and Private Landlords will be encouraged to contact the Housing Services who will spend time explaining the implications of the Scheme. If so requested, where possible, the officer will visit the applicant to complete this process. When the applicant expresses definite interest the officer will post out the Accreditation Check Lists and Application Form, together with a covering letter. This list itemises all expected standards to be achieved to obtain accreditation. An expanded version of this Check List will be forwarded to the applicant at the same time.

Upon receipt of a fully completed Application Form (and photographs for Landlords) plus a fully completed Check List, the Landlord or Managing Agent and his or her property(ies) will deemed to be accredited. The officer will ensure that details are input into the Scheme's Database. This database will be shared with Housing Benefit Department and the Rent Service.

Managing Agents will be encouraged to contact Housing Services to become Accredited Managing Agents (AMA). The Managing Agent will be required to comply with the conditions of SKPAS and will ensure that all properties managed by the Agent either comply with the standards of SKPAS or are the subject of a property improvement place agreed by the SKPAS Steering Committee.

Where properties are let but not managed by the Agent the property must meet the requirements of the Accreditation Scheme at first letting. Tenants must be made aware that such lettings are thereafter not covered by the scheme.

The Managing Agents must inform their client's Landlords that they have committed the properties to the Accreditation Scheme.

The Managing Agents must cease to act for non-compliant Landlords either on expiry or termination of their contract by the AMA.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **Properties below standard at present**

Properties, which at the time of application do not meet the full standards of SKPAS, can be considered, provided they do not breach Health & Safety requirements. Landlords can provide a property improvement plan which is agreed by the Steering Committee, then they can become accredited. Housing Services will ensure that the programme of work is monitored and is completed.

#### **Rewards and Benefits to Accredited Landlords and Agents**

Housing Services will forward to the newly Accredited Agent or Landlord an Accreditation Pack which will contain an Accreditation Certificate and an Accredited Landlord or Managing Agent Identity Card. The Certificate will have a duration of 3 years. The card will carry a number specific to the member concerned and will also have a duration of 3 years. This card is for use by the member when accessing discounted services and preferential rates. The member will have the right to use the Accreditation Logo on all advertising of his/her property(ies).

#### **How will the SKPAS standards be monitored?**

A Managing Agent or Landlord cannot become Accredited without agreement to random visits. Agreement is, therefore, necessary to cooperate with arrangements for Housing Services to carry out a visit to the property. Once Accreditation takes place, Housing Services will agree to carry out visits in no particular order. However, prior notice to the member will be given to enable access to be secured to the property.

It is further envisaged that tenants will police the situation when standards offered by their Agent or Landlord fall below acceptable levels.

Accreditation will be limited to a 3 year term initially, at the renewal stage a further visit may be carried out by Housing Services prior to further renewal.

#### **Role of Housing Services**

It will be the role of Housing Services to be a support and source of advice for members and to further be a link with other Council officers in order to resolve difficulties. We will be responsible for promoting SKPAS to a wide and varied audience. We will assist in providing training where necessary to members and the Head of Housing Services will provide an appointee for the post of Chair of the Steering Committee and Complaints Panel.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **Accreditation Steering Committee and Complaints Panel**

The Steering Committee will be made up of an appointee from South Kesteven District Council (the Chair) and four Accredited members of SKPAS. Where it is necessary to reach decisions, a majority vote will need to be reached. The Chair will only have voting rights in the event of no majority decision being able to be reached. Nomination to the Steering and Complaints Panel will be from membership of SKPAS whose members being Accredited Landlords or Agents will be asked to nominate Accredited members for positions on the Steering Committee and a vote will be held to determine membership of the Steering Committee. The vote will be by way of ballot of all accredited members. The ballot will be administered by the Council and the outcome recorded publicly. Membership of the Steering Committee and Complaints Panel will be reviewed on an annual basis and all SKPAS members will be invited to put themselves forward should they choose to do so.

#### **Complaints and Disputes Procedures**

Complaints: about a SKPAS member should be forwarded to Housing Services. The details of the complaint will then be discussed with the Accredited member to attempt to resolve the issue at an informal stage. Should resolution not prove possible then an inspection of the property will be undertaken by Housing Services and a referral made to the Accreditation Steering Committee and Complaints Panel. This Panel will meet quarterly or as required to hear such complaints and to arbitrate in any dispute between the Accredited member and their tenants. If it is found that an Accredited member has fallen below the standards of SKPAS and the complaint is upheld, then at the panel's discretion he or she will be removed from the Accreditation Register.

If the breach is such as to present a hazard actionable in law, then Housing Services will deal with the breach in accordance with its enforcement policy.

#### **Appeals**

Where a member or tenant appeals against the decision of the Complaints Panel, the appeal will be dealt with through the offices of the Accreditation Network of the United Kingdom (ANUK). The ANUK's decision will be final in such matters.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **Good Practice Notes to be read in conjunction** **With the Accreditation Check List**

##### **Property Standards**

**Accreditation can be granted on a probationary basis, provided a timed Property Improvement Plan is submitted with the initial application, time tabling when work is intended to be completed in order for the property to be brought up to the required standard. The Property Improvement Plan will be subject to agreement by the Steering Committee. Although not fully compliant all properties subject to a Property Improvement Plan must not be in a condition that may be prejudicial to health or safety. Any person becoming a tenant must be informed of the improvement plan.**

##### **Structurally sound Unit**

Both the external and internal structure of the property should be structurally stable and free from serious disrepair. It should be wind and weathertight, providing adequate natural and artificial lighting. No property should be knowingly overcrowded. The premises should be free from minor disrepair likely to adversely affect the health and safety of residents. Minor defects with potential adverse effects for residents will include doors/windows which do not close, small leaks, loose tiles and broken gutters. Should it be that the Landlord has programmed works to attend to in line with Accreditation he or she should explain this fully to the tenant (s).

- Facilities**

All facilities to be in good repair and easily cleanable

**Boiler:** The Central Heating Boiler should be adequate to the number of tenants resident in the unit.

**Kitchens:** Should have a sink and drainer with a piped supply of hot and cold water. The water should be fit for human consumption. Should contain facilities for the storage, preparation and cooking of food which are suitable for the number of occupants using the kitchen.

There should be an adequate amount of laminated plastic or other non-porous food preparation surfaces.

Floor covering in the kitchen should be appropriate and easily cleaned.

Any white goods supplied by the Landlord should be in working order and with instructions on how to use the appliance.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

A cooker point or gas connection point should be provided for the tenant's cooker

There should be an appropriate number of 13 amp sockets for the size of the kitchen (no fewer than 5 sockets), i.e. 2 double socket outlets and a single.

**Bathrooms:** Should have a piped supply of hot and cold running water and be provided with a bath or shower unit, along with a wash hand basin. Where a shower unit is provided, it is recommended that a shower curtain, screen or door is provided to prevent damage to the flooring and floors below. All sanitary facilities should be in good working order, in sufficient numbers for the number of occupants, suitably located and easily cleanable. The floor covering in both the toilet and bathrooms should be appropriate and easily cleaned.

### **Clean and in good repair**

The house or flat should be in a clean and hygienic condition at the beginning of any tenancy. The flooring within the property needs to be in a reasonable state, clean and free from tears.

Gutters, external pipes, drains and roofs should be in a proper state of repair, as should any out-house buildings.

All installations for utilities for water, gas and electricity should be well maintained and in full working order

The heating system and the hot water system for the unit needs to be in full working order and properly maintained.

The Landlord should provide operating instructions on how to use for any supplied appliances, such as a cooker, washing machine, refrigerator, water heater/boiler and the central heating system.

### **Housing Health and Safety Rating System (HHSRS)**

A new method of determining fitness of properties has been introduced by the Housing Act 2004 which is likely to come into force at the end of 2005.

Once further details are known this section will be subject to amendment to meet the standards set out in the HHSRS.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **Alterations made by the Tenant**

Tenant alterations shall be disregarded

#### **Freedom from Dampness**

The property must be free from any structural dampness which can affect the health of the tenants.

Suitable means of ventilation to minimise condensation dampness should be provided.

#### **Security**

All doors should be strong and in good working order. The locks should be properly fixed. British Standard Locks are highly recommended. **The use of deadlocks on fire escape will only be acceptable provided they allow easy operation from the inside without the use of a key.**

#### **Fixed Economic Heating**

The core standard for Accreditation is for a property to have fixed economic heating appropriate to the size of the property. If not, a timed programme of works needs to be provided to its installation. The provision of portable Liquefied Petroleum Gas (or storage of), or paraffin heaters for heating is not acceptable. Liquefied Petroleum Gas is associated with risk of explosions, fire, Carbon Monoxide poisoning and along with paraffin heaters are both dangerous and create a large amount of water vapour within the property leading to condensation. This condensation can both adversely affect the health of the tenant and in time the condition/structure of the property.

#### **Compliant to Fire Safety Regulations**

At least 1 smoke alarm complying to BS5839 Pt 6 (mains powered with battery backup) must be installed on each habitable floor and a fire blanket and suitable fire extinguisher (1kg Dry Powder) be provided to the kitchen of each rented unit.

Properties must also comply with Building Regulations relating to Fire Safety.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **Furniture in a satisfactory condition and compliant with Fire Regulations**

Furniture supplied by the Landlord should be in a suitable condition. All furniture and fittings provided by the Landlord should comply with the current Furniture and Furnishings (Fire Safety) Regulations 1988

Goods supplied with lettings including electrical items and furniture and most other items must comply with Trading Standards Safety Regulations. SKPAS members are strongly advised to seek and to adhere to advice given by Lincolnshire County Council Trading Standards.

#### **Gas Safety**

All gas installations and Landlord's appliances must comply with current Gas Safety Regulations. All Landlords are bound by law to have an annual Gas Safety Inspection and to have been issued with a Certificate stating that the installation is safe. This Certificate should be issued by a Corgi Contractor and a copy provided to the tenant. To provide additional security Carbon Monoxide monitors may be provided, but this is not a legal requirement.

#### **Electrical Safety**

A member of the Electrical Contractors Association, or a Contractor approved by the National Inspection Council of Electrical Installation Contractors (NICEIC) should certify that the electrical installation is safe and any appliances provided by the Landlord are also safe and in accordance with the relevant legislation at the time of accreditation. Re-inspection of the electrical installation shall be as recommended by the inspector.

#### **Buildings Insurance**

The Landlord will ensure that the building is covered by full Buildings Insurance against all risks at all times.

#### **Agreement to random visits**

In order to ensure that standards of Accreditation are maintained Housing Services Officers will need to occasionally visit properties which are Accredited. In order to cause as little inconvenience as possible, Landlords or Agents will be given prior notice to the intended inspection. Prior to the expiry of the Accreditation Term, the Accreditation standards will be checked again prior to renewal.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **Management Standards**

##### **Fair and Equal Treatment of Tenants**

A member of SKPAS should treat all tenants reasonably and fairly. An Accredited Landlord should not discriminate on the grounds of gender or race or do so on the grounds of sexual orientation, age, religion, marital status or disability. The exception being that positive action is a necessary element of fulfilling the declared objectives in providing the accommodation you manage. For example, property specifically adapted for the disabled.

If so requested by a Tenant, it would be seen as good practice for the member to supply a copy of the Scheme Standards to his or her Tenant.

It is recommended that a member should have a formal procedure for dealing with return of deposits and Tenants' complaints about which a Tenant is advised at the outset of their Tenancy. The aim of this would be swift resolution and the return to a speedy constructive working relationship. Housing Services, if requested, will be happy to offer support in this area.

##### **Accurate written Tenancy Agreement**

No tenancy shall be offered other than by a written Tenancy Agreement which complies with all relevant statutory requirements.

(Model Tenancy Agreements are available from trade organisations such as National Landlord Association, Letting Centre etc).

##### **Rent Deposits**

The Housing Act 2004 contains provisions for a National Rent Deposit Scheme, details to be finalised.

Once the Scheme is introduced members of SKPAS will be expected to comply with the Scheme's Regulations.

##### **Photocopies of Evidence of Buildings Insurance Cover and Gas and Electrical Safety Certificates**

A Tenant must be provided with a copy of the Gas Safety Certificate and the Electrical Safety Certificate. Upon request, a copy of the Buildings Insurance Cover should be made available.

## POLICY DOCUMENT

### SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS) (continued)

#### Management Standards

##### Repairs Contact and Procedure

The Tenant(s) should be provided with the Landlord's or managing Agent's telephone number for repairs reporting. A further contact name and telephone number should be provided in the event of the main contacts being away. Access arrangements for repairs or viewings should be made not less than 24 hours notice in advance, unless otherwise agreed or where such notice is impracticable. Tenants' privacy and entitlement to unnecessary intrusion is respected and business is pursued by the Landlord in a professional, courteous and diligent manner at all times.

Suggested Repairs Timetable	The timetable will run from the date on which a reported maintenance problem is reported.
Emergency Repairs	Which represent a danger to health and risk the safety of the Tenant(s) including heating, water supply, lighting, security, hot water and defective sanitary ware; or where the building or its contents have become seriously damaged, will be attended to within 24 hours. In circumstances where this is not practicable, owners will make best temporary arrangements
Urgent Repairs	Repairs to defects, which materially affect the comfort or convenience of the residents – <b>will be attend to within 5 working days</b>
Non Urgent Repairs	Day to Day repairs – <b>not falling into the above categories within 28 days</b> . Removal of debris, redundant components etc, to be ensured.
Making good	Decorative repairs for which the Tenant(s) have no responsibility, will be made good within a reasonable timescale if damaged or disturbed during repairs.

##### Full explanation of use of Fire Safety and Alarm Procedure and System

The member should take time to explain all fire safety measures and their correct operation including any fire alarm and ensure that the Tenant(s) has understood what his/her actions should be in the event of a fire.

## **POLICY DOCUMENT**

### **SOUTH KESTEVEN PRIVATE SECTOR ACCREDITATION SCHEME (SKPAS)** **(continued)**

#### **Management Standards**

##### **Full explanation of the use of the Security Alarm and Procedure**

The member should go through the setting and working of any security alarm with his/her Tenant. A copy of the instructions to set and disarm the alarm should be provided for each unit.

##### **No evidence of Landlord harassment or unlawful eviction within the last 2 years**

A member should only have evicted a Tenant by legal means (e.g. after correctly issuing Notice). No harassment of a Tenant or Tenants should have taken place over the period of the last 2 years before an application can be made to join SKPAS.

# Agenda Item 8

## REPORT TO CABINET

REPORT OF: SCRUTINY OFFICER

REPORT NO: DLS 33

DATE: 4<sup>th</sup> APRIL 2005

<b>TITLE:</b>	LOCAL AREA ASSEMBLIES
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<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	Councillor Linda Neal Leader
<b>CORPORATE PRIORITY:</b>	Access
<b>CRIME AND DISORDER IMPLICATIONS:</b>	There are none arising directly out of this report
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	LAA Agendas and minutes are subject to Freedom of Information Act provisions
<b>BACKGROUND PAPERS:</b>	Minutes of Local Area Assembly Meetings – January/February 2005

1. The second round of Local Area Assemblies has now been completed. The first round of meetings took place in August September 2004, the second in January/February 2005. As there have now been two rounds of meetings, the time is considered to be right to review their operation in the light of this experience, in order to improve their effectiveness.
2. In order to get the Assemblies up and running, a standard agenda was devised for all six of the Assemblies (Bourne, Grantham, Rural North, Rural South, Stamford and The Deepings). Common to each was that written questions were to be submitted to the LAA Chairman at the start of each meeting, these were to be dealt with after the main agenda items and presentations had been completed. This has proved frustrating to some members of the Public who are then forced to sit through a number of agenda items (in which they may have no interest) before their questions are answered, in some cases the person concerned had left the meeting before the question had been addressed.

3. It is therefore suggested that there should be a time limited Open Question and Answer session for one hour at the start of each LAA meeting, which would commence at 7.00pm and not 7.30pm. If this session lasts less than an hour, the Assembly would move on to its main business after perhaps a quick tea/coffee break. Two of the Assemblies (Bourne and Rural North) have been charging customers for tea/coffee and biscuits and donating the proceeds to a local charitable cause, a practice that could perhaps be adopted elsewhere.
4. The session needs to be time limited because, for example, at a recent meeting of The Deepings Assembly, the Question and Answer session was brought forward to the start of the meeting and lasted until nearly 10.00pm, leaving very little time for the rest of the Agenda, indeed some items were deferred or cancelled altogether.
5. A further issue at The Deepings was who should Chair the meeting, the Deepings Assembly wished to elect its own Chairman, however members may feel that the meetings should continue to be chaired by a District Council Cabinet Member as at present, or at the very least an SKDC member.
6. Following the Deepings Assembly meeting a letter was received from Councillor Waterhouse which can be summarised as follows:-
  - At both Deepings meetings the Agendas were far too ambitious in terms of the number of topics covered. One can only digest a certain number of topics in the evening, especially after a long days work.
  - The public forum should be at the start of the meeting and be time limited to one hour.
  - The Agendas do not give the impression of the meetings being consultative as intended, but of being an opportunity for SKDC to present its case with minimum consultation.
  - Neither LAA Agenda was received enthusiastically by the parish councils that Councillor Waterhouse is involved in.

### **Comments from the Communications & Engagement DSP**

The Communications & Engagement DSP considered report DLS28 on Local Area Assemblies at its meeting on 10<sup>th</sup> March 2005. The DSP agreed to endorse the four conclusions made by Councillor Waterhouse as stated above but to recommend that the public forum be time limited for a maximum of two hours.

### **Recommendation**

The Cabinet's views are requested on all of the points outlined above. These, together with this report, will form the basis of a report to the Full Council on 28<sup>th</sup> April 2005.

**P Morrison**  
**Scrutiny Officer, Democratic and Legal Services**