

# AGENDA



## CABINET

**MONDAY, 10 MARCH 2014**

**11.00 AM**

**COUNCIL CHAMBER - COUNCIL OFFICES, ST. PETER'S HILL,  
GRANTHAM. NG31 6PZ**

Beverly Agass, Chief Executive

**MEMBERS:** Councillor Mrs. Linda Neal (Leader/Portfolio: Policy, Strategy and Strategic Partnerships), Councillor Paul Carpenter (Deputy Leader & Portfolio: Governance & Communication), Councillor Mrs Frances Cartwright (Portfolio: Grow the Economy and Economic Development), Councillor John Smith (Portfolio: Healthy Environment), Councillor Mike Taylor (Portfolio: Strategic Resources - Well Run Council), Councillor Terl Bryant (Portfolio: Good Housing) and Councillor Bob Adams (Portfolio: Arts and Leisure)

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**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 pages. Key decisions are marked \*.**

### 1. APOLOGIES

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2. **MINUTES**  

(Enclosure)
3. **DISCLOSURE OF INTERESTS (IF ANY)**
4. **\*CORPORATE ENFORCEMENT POLICY AND ADOPTION OF COUNTYWIDE ANTI-SOCIAL BEHAVIOUR POLICY**  

Report LDS121 by the Head of Legal and Democratic Services.

(Enclosure)
5. **\*BUILDING CONTROL PARTNERSHIP**  

Report PD017 by the Property Development Manager.

(Enclosure)
6. **MATTERS REFERRED TO CABINET BY THE COUNCIL, SCRUTINY COMMITTEE OR THE POLICY DEVELOPMENT GROUPS**
7. **ITEMS RAISED BY CABINET MEMBERS INCLUDING REPORTS ON KEY AND NON KEY DECISIONS TAKEN UNDER DELEGATED POWERS.**
8. **REPRESENTATIONS RECEIVED FROM NON CABINET MEMBERS**
9. **ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASON OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT**



**MEETING OF THE CABINET**  
**3 FEBRUARY 2014 - 11.02 AM – 11.38 AM**

**PRESENT:**

**Councillor Paul Carpenter**  
**Councillor Mrs Frances Cartwright**  
**Councillor John Smith**  
**Councillor Mike Taylor**  
**Councillor Teri Bryant**  
**Councillor Bob Adams**

**Councillor Mrs. Linda Neal - Chairman**

**Chief Executive (Beverly Agass)**  
**Strategic Director Corporate Focus/Section 151 Officer**  
**(Daren Turner)**  
**Strategic Director Community & Environment (Tracey**  
**Blackwell)**  
**Head of Finance (Richard Wyles)**  
**Property Development Manager (Neil Cucksey)**  
**Head of Legal & Democratic Services/Monitoring Officer**  
**(Lucy Youles)**  
**Head of Community Assets (Paul Stokes)**  
**Cabinet Support Officer (Lucy Bonshor)**

**Non-Cabinet Members : Councillor Nick Craft**

**CO37. MINUTES**

The decisions from the meeting held on 13 January 2014 were agreed as a correct record.

**CO38. DISCLOSURE OF INTERESTS (IF ANY)**

None disclosed.

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CO39. \*DETERMINATION OF BUDGET REQUIREMENT FOR 2014/15 AND INDICATIVE FOR THREE YEARS THEREAFTER

**Decision:**

**General Fund (Revenue)**

That Cabinet recommends part a. to c. to Council:

- a. to set a General Fund budget requirement of £13.170M for 2014/15 shown at Appendix A to report HOF265 (inclusive of special expenses)
- b. to approve a level of Council Tax for 2014/15 (no increase same level as 2013/14)
- c. to note the indicative base estimates for 2015/16 and 2016/17 as detailed in the summary at Appendix A to report HOF265;

**Capital Programme**

That Cabinet recommends d. to e. to Council:

- d. to approve the General Fund Capital programme for 2014/15 to 2018/19 as detailed at Appendix C page 1 to report HOF265
- e. to approve the Capital Financing statement as detailed at Appendix C page 2 to report HOF265

**Reserves and balances**

That Cabinet recommends f. to Council:

- f. To note the movements in Revenue and Capital reserves and balances as detailed in Appendix D to report HOF265.

**Treasury Management and prudential indicators**

That Cabinet recommends g. to Council:

- g. To approve the Treasury Management Strategy provided at Appendix E to report HOF265;

Considerations/reasons for decision:

- 1) Report HOF265 from the Strategic Director Corporate Focus and the Head of Finance in relation to:
  - Budget Estimates 2014/15.
  - The Districts basic amount of Council Tax for 2014/15 and the

- Government's Council Tax freeze grant enabling the Council Tax to be held at 2013/14 level.
- Provisional settlement figures for 2015/16 announced by Government which show a continuing reduction in the amount of Revenue Support Grant that will be provided by £1.2M.
  - Reserves and Balances
  - The Capital Programme 2014/15 - 2018/19
  - Treasury Management and Investment Strategy
- 2) The budget for 2014 /15 and indicative budgets for 2015/16 to 2016/17 have been drawn up to take account of the Council's various strategies, policies and the financial context, in particular:
    - The Corporate Plan – 2021 Vision
    - The Medium Term Financial Strategy (MTFS)
    - Service Strategies and Plans
    - Asset Management Strategy
    - The economic context and recent grant announcements
    - The 2013/14 forecast outturn
  - 3) The proposals have regard to accounting requirements and external factors affecting the budget including:
    - The Prudential Code for controlling Local Government capital.
    - The grant settlement from Government for future years.
    - The impact of the economic climate placing a higher demand on particular services in relation to social care and well being, specifically benefit advice and support and homelessness.
    - Investment Income and fees and charges.
  - 4) The need to keep the Medium Term Financial Strategy under review and updated following national policy announcements, in particular any further changes to funding arrangements.
  - 5) Confirmation from the Section151 Officer that the budget presented to the Cabinet for 2014/15 was robust in its formulation and the level of reserves were adequate for the organisation.
  - 6) Consultations undertaken with members of the Council's Citizens' Panel and the wider community via an on-line survey which were receptive to an increase in Council Tax going forward.
  - 7) Comments made about the clarity of descriptions within the report and the inclusion of words to add clarity.
  - 8) Comments made thanking the Officers and their team for all the hard work in putting the budget together.
  - 9) Comments made by the Strategic Director Corporate Focus and the Head of Finance.
  - 10) Comments made by the Leader thanking all those who had been involved in the budget preparation including the Resources PDG. Due to hard work and diligence a balanced budget had been produced without the necessity to increase the Council Tax. The achievement made should not be under estimated.

## **Decision:**

### **Housing Revenue Account (HRA)**

**That Cabinet recommends a. to d. to Council:**

- a. to approve dwelling rent increases in accordance with Government guideline rent providing an average rent of £78.13 (an average rental increase of 5.13%)**
- b. to approve an increase in garage rents of 3.2%**
- c. to approve an increase in service charges by 3.2%**
- d. to approve the Housing Revenue Account for the year 2014/15 (including the items at Appendix A to report HOF264) and indicative years 2015/16 and 2016/17 as shown at Appendix B to report HOF264**

### **Investment Programmes**

**That Cabinet recommends e. to f. to Council:**

- e. to approve the Housing Investment programme for 2014/15 to 2018/19 as shown at Appendix C to report HOF264**
- f. to approve the Capital Financing statement as detailed at Appendix C to report HOF264**

### **Reserves and balances**

**That Cabinet recommends g. to Council:**

- g. To approve the movements in HRA revenue and Capital reserves and balances as detailed in Appendix D to report HOF264.**

Considerations/reasons for decision:

- 1) Report HOF264 from the Strategic Director Corporate Focus and the Strategic Director Community & Environment.
- 2) The introduction of self-financing and the changes introduced by the Localism Act had meant that the Council could embark on a programme of housing related projects.
- 3) A new medium term Housing Strategy had been adopted, together with an updated Tenancy and Allocations policy and a comprehensive review of the HRA Asset Management Strategy was being undertaken.
- 4) The Council's existing policy to meet rent convergence (the process whereby the rental levels are in line with similar properties in the social sector). At the level of individual dwellings, the percentage increase depended upon each property's proximity to its target, increases varied between 4.13% and 5.57%. For most properties the rent convergence

- target would happen in 2015/16.
- 5) Changes by central government to the level of housing benefit being paid to social housing tenants.
  - 6) Consultations undertaken with tenants.
  - 7) The introduction of a number of welfare reform changes and the Local Council Tax Support scheme.
  - 8) The HRA Budget and indicative budgets for 2015/16 to 2016/17 had been drawn up to take account of the relevant Council's strategies, policies and the financial context, in particular:
    - The Corporate Plan
    - The Housing Business Plan
    - Service Strategies and Plans
    - HRA Asset management Strategy
    - The economic context and recent grant announcements
    - The 2013/14 HRA forecast outturn
  - 9) Comments from the Leader once again thanking all those involved in the preparation of the HRA budget for all their hard work and the difficult decisions that had been made.

CO40. \*CINEMA SCHEME DEVELOPMENT AT ST CATHERINE'S ROAD

**Decision:**

- 1) That Cabinet approves in principal the redevelopment of land and premises off St Catherine's Road and St Peter's Hill, Grantham as set out in report PD015 subject to securing suitable detailed Planning Permission and terms of agreement with interested parties and funding.
- 2) That Cabinet recommends to Council the allocation of up to £6.1m in the capital programme over a 3 year period for delivery of the scheme of redevelopment. The composition of the scheme will be dependent upon the validity of the detailed business case and contract build cost for the scheme, which will be subject to a Key decision by Cabinet.
- 3) That delegate authority is given to the Strategic Director- Corporate Focus in consultation with the Portfolio holder for Grow the Economy and Economic Development and the Portfolio Holder for Strategic Resources - Well Run Council to incur expenditure on professional fees, application fees, etc to conclude the detailed business case up to a maximum of £75k and negotiate and enter into the following transactions and agreements at the appropriate time and where necessary subject to the grant of planning permission for development and the necessary budget provision being agreed by Council:\*

- Heads of Terms with KRNS Properties Limited (KRNS) for Reel

#### **Cinema Limited.**

- **Apply for detailed Planning Permissions as necessary for delivery of the scheme.**
- **Agree procurement route for construction works**
- **Release of 3R's (now Reel Cinema Limited) existing ground lease. \***
- **Release of existing premises and Lease on new premises for Grantham Senior Citizens Club. \***
- **Development Agreement/Agreement for lease with (KRNS) for Reel Cinema. \***
- **Extinguish existing Car Parking orders (St Catherine's Road) and confirm rights.**
- **Contract for construction works \***
- **Lease of cinema building to KRNS.\***
- **Warrantees/ guarantees etc to ensure performance of the construction works. \***
- **Agreement for lettings on completed commercial units. \***

#### Considerations/reason for decision

- 1) Report PD015 by the Property Development Manager.
- 2) A Non Key decision ref PD 014 had been taken to enable the design solution to be developed.
- 3) The St Peter's Hill site presented an opportunity for a new leisure, entertainment and business quarter to be created in the town centre using land already in the ownership of the District Council.
- 4) The relocation of Grantham Senior Citizens Club (GSCC) into a fit for purpose accommodation allowed the club to continue and thrive whilst enabling the cinema to be extended with 4 new screens to make a 6 screen multiplex cinema offer for Grantham.
- 5) Comments made by the Leader about the size of the proposed project and what can be delivered subject to the budget allocation and planning permission. The proposal would be a significant asset to Grantham and the surrounding district and it had not been looked at routinely and she thanked those officers who had been involved in the project to date.
- 6) Comments made by a Member about the size of the GSCC.

#### **Other Options Considered**

Comparison of alternative economic related investment options, supported by general capital funding, based on spending the equivalent of £6 million on each option.

##### Business Innovation Centre

To create a standalone BIC as envisaged for station approach on a privately owned site of approximately 24,000 sq ft, built to high environmental standards to attract external funding would cost in the

region of £6m being £5.4m to build and circa £0.6m to acquire land.

Quantitative outputs (over 3 years): source, Station Approach ERDF business case.

- 93 new start up businesses
- 19 growing businesses
- 9 Spin out businesses
- 31 inward investors
- 170 New jobs created
- 56 Safeguarded jobs
- 24,000 sq ft floor space
- 1 acre of brown field land redeveloped
- 3,000 users of the centre
- 12 innovation events

#### Provide serviced employment land

To purchase and service land with the necessary infrastructure to support business development and growth, 25 acres of serviced land could be delivered (subject to availability).

Assume 50% built footprint- 12.5 acres or 5.05 ha= 50,586 sq m built (NIA)

10% office = 5058 m sq	= 420 jobs
Industrial = 45,528 m sq	= 1264 jobs

**Total jobs = 1684**

Having recently completed the purchase of 5.5 acre of land for such a purpose, following an extensive site finding exercise, officers believe the purchase of an additional 25 acres of employment land within the Grantham area is not considered achievable at this point in time.

#### DATE DECISIONS EFFECTIVE:

Decisions CO39 and CO40 stand referred to Council on Monday 3rd March 2014.

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

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## REPORT TO CABINET

**REPORT OF:** Head of Legal and Democratic Services

**REPORT NO:** LDS121

**DATE:** 10<sup>th</sup> March 2014

<b>TITLE:</b>	<b><u>Corporate Enforcement Policy and Adoption of Countywide Anti-social Behaviour Policy</u></b>	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Key decision	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> ; 01476406105 Mark Jones <a href="mailto:m.jones@southkesteven.gov.uk">m.jones@southkesteven.gov.uk</a> : 01476409297	
<b>INITIAL IMPACT ANALYSIS:</b>  Equality and Diversity	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	Current Enforcement Policy Equality Impact Assessment	

## **1. RECOMMENDATION**

- 1.1 That Cabinet approve the draft revised Corporate Enforcement Policy and associated Service Enforcement Policies and adopt the countywide Anti-Social Behaviour Policy attached as an appendix to this report.

## **2. PURPOSE OF THE REPORT**

- 2.1 The purpose of this report is to present the revised Corporate Enforcement Policy (CEP) and aligned, updated individual service enforcement policies for approval by Cabinet including the countywide Anti-social Behaviour Policy for adoption.

## **3. DETAILS OF REPORT**

- 3.1 The Council has a key role to play in establishing an environment that assists in supporting and facilitating the growth of business and supporting local economic prosperity. At the same time there is the equally important role in protecting public health and safety and promoting community health and well being and protecting the environment. Fair and effective enforcement underpins this and ensures that we protect health, safety and quality of life for all those who live, visit and work in the District and, ensures that those businesses and individuals who undertake regulated activities do so lawfully.
- 3.2 The Legislative and Regulatory Reform Act 2006, requires that the Council has regard to the Principles of Good Regulation when exercising regulatory functions. Other guidance exists that recommends that we have a documented enforcement policy in place, for example the National Planning Policy framework, Health and Safety Executive Section 18 Guidance, and Food Standards Agency Framework Agreement. Any policy must also comply with the Regulators Compliance Code.
- 3.3 The purpose of the CEP is to provide a single over-arching policy that encompasses the key factors and principles common to all aspects of enforcement undertaken by the Council. The intention is to commit the Council to good enforcement practice and establish a framework by which we will ensure a fair and consistent approach to the way that enforcement activities are undertaken. The CEP is supported with a suite of service-specific policy documents that set out the enforcement practice in relation to particular service areas. Those service specific policies cover the areas of:
  - Development Management
  - Building Control
  - Environmental Services
  - Anti-social behaviour
  - Debt and recovery
  - Waste and Recycling
- 3.4 Both the CEP and the service specific policies referred to have been reviewed and updated. The main changes to the individual service area policies relate to legislative changes and resulting changes in practice and procedure. The CEP has been revised to be more directive and instructive on how to apply an assessment of when a particular type of enforcement action may be necessary and proportionate.

- 3.5 Individual service areas have updated the service specific policies. These have been further reviewed to ensure consistency with the CEP. On approval by the Cabinet, the CEP will be published on the website with reference and links to all the individual service enforcement policies. All the individual service enforcement policies will make reference to the CEP. It is proposed that this cross reference will be further enforced with web links to all the relevant policies, regulations and procedures in each policy to ensure that each individual service policy will only be implemented in accordance with the principles set out in the CEP.
- 3.6 The Lincolnshire Anti Social Behaviour Policy (ASB) has been developed by statutory partners within the County and is intended to provide a framework to allow partners to work collaboratively to manage and resolve reports of ASB effectively, and ensure clear lines of responsibility and communication across Lincolnshire's strategic partners. It is also intended to provide guidance to all staff across the partnerships, customers and stakeholders on what action will be taken when a complaint is made. The policy reflects changes in legislation, the introduction of a revised recording mechanism, and defines the responsibilities for all partners involved in managing ASB. Partners within Lincolnshire have historically had in place their own policies and procedures to deal with anti social behaviour. Although partners were familiar with individual policies and procedures it could lead to confusion when working alongside partners who operate on a county basis (Police, Fire, Children's Services). In order to streamline processes and ensure continuity of outcome a county-wide ASB policy has been developed.
- 3.7 The CEP has been revised taking into account best practice and guidance from statutory regulators. All the policies have been reviewed by the Engagement Policy Development Group.

#### **4. OTHER OPTIONS CONSIDERED**

- 4.1 A failure to have in place an up-to-date Corporate Enforcement Policy could result in some inconsistency of approach across the Council resulting in a greater likelihood of challenge to enforcement decisions.

#### **5. RESOURCE IMPLICATIONS**

- 5.1 The provision of the policy will be met from existing resource.

#### **6. RISK AND MITIGATION**

- 6.1 Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>
No high risks have been identified as part of the policy review.	

#### **7. ISSUES ARISING FROM IMPACT ANALYSIS**

- 7.1 Equality analysis has not identified any potential for discrimination or for negative impact and all opportunities to promote equality have been taken. The requirement to carry out enforcement action against any individual is not determined by protected characteristics.

## **8. CRIME AND DISORDER IMPLICATIONS**

8.1 The provision of a robust policy will ensure that enforcement prevents the continuation of potential criminal activity

## **9. COMMENTS OF FINANCIAL SERVICES**

9.1 There are no direct financial implications arising from this report. All enforcement policies across the Council have been reviewed to ensure there is consistency with respect to the collection and enforcement activities.

## **10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

10.1 The current review updates the Corporate Enforcement Policy so it can demonstrate compliance with obligations imposed on it by the Regulatory Reform Act 2006, and the statutory guidance including the Regulators Compliance Code.

## **11. COMMENTS OF OTHER RELEVANT SERVICES**

## **12. APPENDICES:**

1. The draft Corporate Enforcement Policy
2. Service enforcement policies.
3. Lincolnshire Anti-Social Behaviour Partner Policy

# **South Kesteven District Council**

## **Corporate Enforcement Policy**

## Contents

### Page Number

3	1.1 Introduction - Commitment to Principles of Good Enforcement
3	1.2. Enforcement Options
6	1.3. No Action
6	1.4. Informal Action and Advice
6	1.5. Forfeiture Proceedings
7	1.6. Administrative Penalties
7	1.7. Seizure
7	1.8. Injunctive Actions
7	1.9 Fixed Penalty Notices
8	1.10. Penalty Charge Notices
8.	1.11. Formal Notice
8.	1.12. Simple Caution
9	1.13. Prosecution
10	1.14. Work in Default
10	1.15. Demand for Payment
10	1.16. Prohibition /Stop Notices and Injunctions
11	2. Officers Power of Entry and Obstruction
12	3. Appointment of Officers and Identification
12	4. Liaison With Other Regulatory Bodies and Enforcement Agencies
13	5. Openness and Transparency
13	6. Complaints About Our Service
13	7. Publication
14	8. Responsibilities
14	9. Consultation

## **1.1 Commitment to Principles of Good Enforcement**

1.1.1 This policy covers the enforcement activities across all of the Council's Regulatory Services and sets out what regulated businesses and individuals can expect from the Council in terms of regulation. The policy is targeted only at cases where action is needed, and is based on the guiding principles of consistency, transparency, proportionality, accountability. Its purpose is to secure compliance with the law whilst minimising the burden on individuals, businesses and the Council itself. The policy will not affect the discretion of the Council to take legal proceedings where it is considered to be in the public interest.

1.1.2 We recognise that most individuals and businesses want to comply with the law and we will, therefore, take care to help them meet their legal obligations. Where a breach is so severe that an immediate response is required, or the circumstances of the case require it, the Council can decide to depart from all or some of the principles set out in this policy. Where such a decision is made, it will be properly reasoned, based on material evidence and documented appropriately.

1.1.3 We believe that prevention is better than cure, so our role involves working with businesses, especially small and medium sized, to help them keep to the law. We also believe in taking the same approach when dealing with people who live in and visit the district.

## **1.2 Enforcement Options**

1.2.1 We recognise the importance of achieving and maintaining consistency in our approach to enforcement. We also recognise that in many cases the decision to enforce is discretionary and that any enforcement action taken must be proportionate to the risks posed, and to the seriousness of any breach of the law.

1.2.2 All enforcement activities, including investigations and formal actions, will be conducted in accordance with:

- i. the statutory powers of the officer dealing with the matter;
- ii. all other relevant legislation including the Regulators' Compliance Code, Enforcement Concordat, Health and Safety Executive (HAS), the Food

Standards Agency (FSA), Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and the Criminal Justice and Police Act 2001;

- iii. any formal procedures and codes of practice made under the above legislation, in so far as they relate to our enforcement powers and responsibilities.

1.2.3 'Enforcement' includes any action taken by officers aimed at ensuring that individuals or businesses comply with the law. The term is not limited to formal enforcement action (such as prosecution or issue of notices) but does include the inspection of premises for the purpose of checking compliance with regulations and the provision of advice to aid compliance.

1.2.4 Officers will be properly trained in how to take enforcement action and systems are in place to ensure that they keep their skills and knowledge up to date. If we do any work outside normal office hours, the principles of this policy will still apply.

1.2.5 We will generally take a staged approach to enforcement providing individuals and businesses with the opportunity to discuss and remedy problems before we take action. However, we may however, deviate from this staged approach if immediate action is required or previous warnings have been ignored.

1.2.6 Suspected offenders may be offered the opportunity to give an explanation of the circumstances surrounding the commission of any alleged offence. Also provided for by the legislation, suspected offenders will also be given the chance to put forward any statutory defences, including any "due diligence" precautions that may have been taken to prevent such an incident occurring. Officers will record this explanation at a formal interview, which will take the form of a question and answer discussion. This interview will be conducted under the rules of the Police and Criminal Evidence Act 1984 (PACE) and will be written down or recorded as appropriate. Suspected offenders will be invited to seek legal advice prior to such an interview, and given the opportunity to be accompanied by a legal representative at the interview itself.

1.2.7 Prior to considering action, as far as the law allows, we will take account of the circumstances of the case and the attitude of those subject to regulation. We will take particular care to work with small businesses and with voluntary and

community organisations, so that they can meet their legal obligations without unnecessary expense wherever possible.

1.2.8 Where we consider that formal action is necessary each case will be considered on its own merits subject to the general over-riding principles that apply to the way each case must be approached. These principles are set out in this document and in the Regulators' Compliance Code.

1.2.9 For more information about the Regulators' Compliance Code and the Enforcement Concordat visit: [www.berr.gov.uk](http://www.berr.gov.uk);

1.2.10 When deciding whether a caution or a prosecution is the appropriate course of action, we will take in to account (among other factors) the Code for Crown Prosecutors.

1.2.11 In assessing what enforcement action is necessary and proportionate, consideration will be given to:

- \* The seriousness of compliance failure.
- \* The business's past performance and its current practice.
- \* The risks being controlled.
- \* Legal, official or professional guidance received from third parties

1.2.12 Having considered the enforcement criteria the options available to us include:

- i. No action.
- ii. Informal action and advice.
- iii. Fixed Penalty Notices.
- iv. Formal notice.
- v. Forfeiture proceedings.
- vi. Administrative penalties.
- vii. Seizure of goods/equipment.
- viii. Injunctive actions.
- ix. Refusal/revocation of a licence.
- x. Simple caution.
- xi. Prosecution.
- xii. Demand for Payment
- xiii. Work in default (We may take any action needed and recharge the costs to the offender)
- xiv. Prohibition/Stop Notices and Injunctions
- xv. Proceeds of Crime applications.

### **1.3. No Action**

1.3.1 In certain circumstances, contraventions of the law may not warrant any action. This may be because the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community.

### **1.4. Informal Action and Advice**

1.4.1 For minor breaches of the law we may give verbal or written advice. In such cases we will clearly identify any contraventions of the law and give advice on how to put them right. This advice will include a timeframe for compliance.

1.4.2 We will also advise offenders of any relevant 'good practice'. Where good practice advice is issued we will make clear what needs to be done to remedy any breach of law and what is advice only.

1.4.3 We will make offenders aware that failure to comply with any information, action or advice given could result in an escalation of enforcement action.

1.4.4 We may take informal action when;

- \* the act or omission is not serious enough to warrant formal action;
- \* from the individual's or businesses past history we can reasonably expect that informal action will achieve compliance;
- \* we have high confidence in an individual or business proprietor;
- \* the consequences of non-compliance will not pose a significant risk to public health, public safety or the environment.

### **1.5. Forfeiture Proceedings**

1.5.1 This procedure may be used in conjunction with seizure and/or prosecution. This course of action should be used where there is a need to dispose of goods in order to prevent them re-entering the market place or to avoid a further problem. In appropriate circumstances, we will make an application for forfeiture to the Magistrates Courts.

### **1.6. Administrative Penalties**

- 1.6.1 Administrative penalties may be used where an allegation of Housing/Council Tax Benefit fraud has been investigated and officers are satisfied that an offence has been committed. When considering whether this is an appropriate course of action (as opposed to prosecution), the officer will take in to account the severity of the offence and the other factors of the case.
- 1.6.2 If the offender does not accept the offer of an administrative penalty, or it is refused after its initial acceptance, the case will generally be prepared for prosecution. In all cases the Council will pursue full repayment of any benefit which has been unlawfully received by the offender, and which remains recoverable.

### **1.7. Seizure**

- 1.7.1 Certain legislation enables authorised officers to seize goods, equipment or documents for example unsafe food, sound equipment or any items that may be required as evidence for possible future court proceedings. An appropriate receipt will be given for any goods taken.

### **1.8. Injunctive Actions**

- 1.8.1 Injunctive action may be used where offenders are repeatedly found guilty of similar offences or where it is considered the most appropriate course of enforcement i.e. to deal with dangerous circumstances, significant consumer detriment or serious anti social behaviour problems.

### **1.9. Fixed Penalty Notices**

- 1.9.1 Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice (FPN), we may choose to administer an FPN on a first occasion, without issuing a warning.

### **1.10. Penalty Charge Notices**

- 1.10.1 Penalty Charge Notices (PCN) are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the enforcer in recognition of the breach. Once issued the PCN takes the form of a civil debt and failure to pay the PCN will result in the offender being pursued in

the County Court for non-payment. A PCN does not create a criminal record and we may choose to issue a PCN without first issuing a warning.

### **1.11. Formal Notice**

1.11.1 Certain legislation allows notices to be served requiring offenders to take specific actions or cease certain activities. Notices may require activities to cease immediately if they relate to health, safety, environmental damage or nuisance. In other circumstances, the time permitted to remedy the breach will be reasonable and will take into account the seriousness of the contravention and the implications of the non-compliance.

1.11.2 All notices issued will include details of any applicable appeals procedures.

### **1.12. Simple Caution**

1.12.1 Where appropriate, a caution may be issued as an alternative to prosecution.

1.12.2 A caution will be issued to:

- \* deal quickly and simply with less serious offences
- \* divert less serious offences away from the courts
- \* reduce the chance of repeat offences

1.12.3 For a Simple Caution to be issued a number of criteria must be satisfied:

- i. Sufficient evidence must be available to prove the case.
- ii. The offender must admit the offence.
- iii. It must be in the public interest to use a Simple Caution.
- iv. The offender must be 18 years or over.
- v. The offender should not have received a simple caution for a similar offence within the last 2 years.

1.12.4 A simple caution will not be considered in the case of a second or subsequent offence.

1.12.5 For details on the Home Office guidance (Circular 30/2005) visit:  
<http://www.homeoffice.gov.uk>

1.12.6 If the offender commits a further offence, the caution may influence our decision to prosecute. If during the time the caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the caution may be cited in court, and this may influence the sentence that the court imposes.

1.12.7 Simple Cautions are administered and issued by the relevant Head of Service

### **1.13. Prosecution**

1.13.1 We recognise that the decision to prosecute is significant and could have far reaching consequences for the suspected offender. In all cases, the Head of Legal and Democratic Services is responsible for making the final decision about whether to prosecute after consultation with the Head of Service and/or Strategic Director

1.13.2 The criteria for the issue of proceedings are;

- i. the alleged offence involves a deliberate breach of the law with the result that public health, safety or well being is, or has been, put at risk, or there has been irreversible damage;
- ii there has been a reckless disregard for the environment;
- iii where someone has died as a result of the law being broken;
- iv where someone has failed to pay a Fixed Penalty Notice;
- v where officers have been intentionally obstructed while carrying out their duties;
- vi the alleged offence involves deception which may or may not result in a loss or potential loss of public funds;
- vii a serious potential risk has been identified which the suspected offender has not rectified despite having been given a reasonable opportunity to comply with the law;
- viii the alleged offence involves a failure to comply in full, or in part, with the requirements of a statutory notice;
- ix there is a history of similar offences;
- x the alleged offence is considered to be anti-social behaviour or causes public alarm, and it is desirable to reassure the public and deter other potential offenders;
- xi a prosecution is in the public interest, there is realistic prospect of conviction and sufficient evidence to support proceedings.

1.13.3 We will consider all material evidence and information before deciding upon a prosecution in order to make a consistent, fair and objective decision.

### **1.14 Work in Default**

1.14.1 In place or as well as prosecutions we have certain powers to carry out work in default (we may carry out any action necessary and recharge the costs to the offender). We will only use these powers after a notice to carry out work has ended. We will claim back all our charges either through the courts or as a land charge on the property

### **1.15 Demand for Payment**

1.15.1 The Council's Fair Collection and Debt Recovery Policy sets out a method of collecting money owed to the Council in a fair and efficient manner. The Council will ensure early contact is made to minimise large debts accumulating and ensure the debtor does not suffer from unnecessary hardship

### **1.16. Prohibition/ Stop Notices and Injunctions**

1.16.1 Where an offender is required to take immediate action, it may be necessary for a statutory notice to be served. These include Prohibition Notices, Planning Enforcement Notices, Closing Orders, Stop Notices or Injunctions, and can be issued in one or more of the following circumstances;

- i. there is an imminent risk of injury to health or safety;
- ii. there is serious hazard to residential premises;
- iii. there is an imminent risk of serious environmental pollution;
- iv. the consequences of not taking immediate and decisive action, to protect the public, would be unacceptable;
- v. where an unauthorised development is unacceptable and is causing serious harm to public amenity near to the site, or where there has been breach of a condition notice;
- vi. where unauthorised development is unacceptable, and continuing work is or may cause irreversible damage, and remedial action is not a satisfactory option;
- vii. the guidance criteria on when prohibition may be appropriate are met;
- viii. we have no confidence in the integrity of an unprompted offer by a proprietor to close premises voluntarily, or stop using any equipment, process or treatment associated with the imminent risk;
- ix. a proprietor is unwilling to confirm in writing his/her unprompted offer of a voluntary prohibition;

x where it would be the most effective remedy available.

1.16.2 We will make offenders aware of any right of appeal they may have against any action we have taken. The act of serving a prohibition/stop notice or injunction does not prevent us from deciding to prosecute depending on the seriousness of the circumstances that led to the serving of that notice.

### **1.17 Licensing and Registration – Breaking Conditions**

17.1. We issue Licences and approval for a variety of activities such as hackney carriages, caravan sits, food premises, selling alcohol and providing entertainment, horse riding, animal boarding kennels and catteries, houses in multiple occupation etc. we will usually specific conditions which control how facilities at the premises are managed and provided.

17.2 If there has been a relatively minor incident where licence conditions have been broken and the duty holder is willing to take the necessary action to have things right, we will usually give a verbal or written warning first. If there are serious failures to meet the licence conditions or if the informal approach failed to make the necessary improvements we will present a formal report to the relevant Council Committee or panel and make representations as to whether or not a licence will be granted, renewed or withdrawn. The duty holder will be entitled to make a statement to support their case.

17.3 If there is a serious incident where licensing or registration conditions have been broken, we will consider it in line with the conditions relating to prosecutions and if appropriate, start legal proceedings. In some cases, we may need to suspend a licence or approval until the relevant Committee or panel can consider the matter.

17.4 There are a number of separate Policies relating to Licensing, for example, Gambling Act 2014 Statement of Principles, Statement of Licensing Policy etc.

### **1.18 Anti Social Behaviour**

1.18.1 We will only consider taking action against those who commit anti social behaviour in line with the Anti Social Behaviour Enforcement Policy and Tenancy Services Anti Social Behaviour Strategy.

## **2. Officers Powers of entry and obstruction**

- 2.1 Enforcement officers have a wide variety of duties and have to act as investigators. This is supported by strong powers of entry, seizure and inspection contained in various statutes. If individuals or businesses obstruct officers or refuse to provide information, they could be subject to criminal sanctions. Officers use these powers at their discretion with the support of the Council who will uphold them.
- 2.2 Officers will use their powers of entry only when necessary, but usually to carry out an inspection of premises or in the process of an investigation. The Council will always support officers who act in good faith. This includes prosecuting those individuals who obstruct or assault officers during investigations or inspections.
- 2.3 If the legislation allows, officers may examine premises and articles, remove articles, label samples, request information, issue enforcement notices and may in some instances be accompanied by other persons. In appropriate cases a warrant from a Magistrate may be obtained to obtain entry to premises.
- 2.4 An officer must be able to explain the legal basis for any action and justify all separate actions used.

## **3. Appointment of Officers and Identification**

- 3.1 All officers are trained and authorised to act under relevant legislation enforced or administered by the service in which they are employed. Their authorisation will follow the scheme of delegations procedure adopted by the Council.
- 3.2 All officers are issued with an identification card bearing their photograph. This identification must also be produced on request

## **4. Liaison With Other Regulatory Bodies and Enforcement Agencies**

- 4.1 Where appropriate, enforcement activities within all regulatory services will be coordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.
- 4.2 Where an enforcement matter affects a wide geographical area beyond the boundaries of the district, or involves enforcement by one or more other local authorities or organisations, the relevant authorities and organisations will be informed as soon as possible and all enforcement activity coordinated with them.
- 4.3 Regulatory Services will share information relating to wider regulatory matters with other regulatory bodies and enforcement agencies. Examples include:
  - i Government Agencies;*
  - ii Police Forces;*
  - iii Fire Authorities;*
  - iv Statutory undertakers;*
  - v Other Local Authorities.*
- 4.4 Confidentiality, data protection and information sharing are covered in detail in separate Council policies and all information shared will be in accordance with the principles of data protection and freedom of information legislation.

## **5. Openness and Transparency**

- 5.1 We will provide information and any advice on the legislation we enforce in plain language and will be open and transparent in our actions.
- 5.2 We believe that it is in the interests of everyone, including ourselves, to get things 'right first time'. As a result we ensure that our enforcement role involves us actively working with all those subject to regulation, especially small and medium sized businesses, to advise on and assist with compliance.
- 5.3 We will provide a courteous and efficient service. Our staff will identify themselves by name and carry proof of their identity. We will provide a contact point and telephone number for further dealings with us and we will encourage businesses and others to seek advice or information from us.
- 5.4 All requests for service, including applications for approval of establishments, licences, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

## **6. Complaints About Our Service**

- 6.1 We will provide well-publicised, effective and timely complaints procedures, which are easily accessible to businesses, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

## **7. Publication**

- 7.1 Following adoption of this policy it will be made available to all interested parties, including businesses and consumers. It will be published on the Council's website and will be made available in printed form.

## **8. Responsibilities**

- 8.1 Each manager of a regulatory service covered by this Policy will be responsible for its effective implementation throughout the enforcement activities of their team. Each officer within these teams will be responsible for applying it in relation to any enforcement activity covered by this policy.
- 8.2 The following services will apply this Policy and principals to their individual Service policy
1. Environmental Health and Private Sector Housing
  2. Planning
  3. Building Control
  4. Waste and Recycling Services
  5. Fair Rent and Debt Recovery
  6. Anti Social Behaviour

## **9. Review**

- 9.1 This Policy has been drawn up with full regard to the requirements of the Enforcement Concordat, Regulators' Compliance Code, statutory obligations, national standards and codes of practice and benchmarked against best practice elsewhere.

- 9.2 We recognise the potential burdens on business and individuals who have to comply with regulation and we will promote more efficient approaches to regulatory inspection and enforcement without compromising regulatory standards or outcomes. We will endeavour to form partnerships with local businesses, and will consult them about the contents of this policy and any significant changes that may arise from time to time.
- 9.3 We will make arrangements to monitor and review this Policy to ensure that it is used fairly and consistently.

## Building Control Enforcement Policy

1. This Policy is to determine if enforcement action is required when it is discovered that there is a breach under the Building Act 1984 and the Building Regulations 2000 (as amended) ([www.legislation.gov.uk](http://www.legislation.gov.uk)). This may be for construction works that do not show compliance with the regulations or for commencement prior to an application being made or non-submission of notices. This Policy must be read in conjunction with the Council's **Corporate Enforcement Policy**
2. If a contravention is discovered, the owner and the builder will be notified of the contravention. This may be done verbally.
3. The applicant and any other party concerned will be given an outline of the works required to be carried out to ensure compliance.
4. Agree a time scale for the works to be completed, usually within 14 days of the offending work being discovered.
5. The Building Control Officer will check the offending works when notified of compliance by carrying out a site visit, or to ensure an application has been made..
6. If the offending works have not been rectified within the 14 days, the owner and builder as applicable will be written to.
7. Where the contravention concerns the non-submission of notices or an application, a letter will be sent to the owner and to the builder (if known)
8. In respect of construction work which does not comply with the regulations, if within 21 days of the letter no response has been received a follow up letter will be sent to the applicant.
9. For non-submission of an application the Building Control Services Manager will send a requisition for information to the owner or any other person with an interest in the land, in accordance with section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
10. The Building Control Officer will make a further site visit to ascertain if the required works have been carried out to a satisfactory standard.
11. If a contravention still exists the Building Control Officer will submit a report to the Building Control Services Manager, outlining the events and extent of the contravention and detailing all site visits made and all correspondence sent.
12. Subject to agreement by the Building Control Services Manager, the relevant

December 2013

Cabinet Portfolio holder and the Head of Legal and Democratic Services appropriate prosecution proceedings will be commenced in accordance with the Council's **Corporate Enforcement Policy**.

## Environmental Services Enforcement Policy

Much modern legislation is goal setting - setting out what must be achieved, but not how it must be done. Guidance on how to achieve the goals is often set out in Codes of Practice and there is also a wide variety of advisory material describing good practice. Neither Codes nor guidance material are in terms which necessarily fit every case. In considering whether good practice has been adopted, officers will take relevant Codes and guidance into account, using sensible judgement about the extent of the risks and the effort that has been applied to counter them.

This Policy must be read in conjunction with the Council's **Corporate Enforcement Policy**

### 1.1 INTRODUCTION

Environmental Services has responsibility for enforcing a wide range of legislation that may affect individuals, organisations or businesses residing, visiting or operating within the district. Enforcement action is taken by the following services :-

- Environment Health Services
- Licensing and Community Safety – under separate policy
- Waste and Recycling - under separate policy

#### **Environmental Health Services**

Environmental Health Services is formed by the following teams

**Commercial** (deals with food safety, health and safety, infectious disease and drinking water)

**Environmental Protection** (deals with dog control, noise and other nuisances air quality, contaminated land, fly tipping, littering, etc)

**Private Sector Housing**, (deals with disrepair and housing standards, grants and caravan sites)

Depending upon the particular circumstances, Environmental Health Services may use a variety of means, including education, advice, guidance, warning letters and legal notices (including "Fixed Penalty" notices which can be issued by an authorised officer of the Council or a PCSO) to ensure that individuals, organisations or businesses meet their legal responsibilities. Where there are serious breaches of legislation or risks to health, safety or the

environment, activities may be prohibited, licences revoked, formal cautions issued, legal notices served, works done in default and prosecutions instigated. Sometimes the law is prescriptive - spelling out in detail what must be done. For example, contact with live wires must be avoided or failure to clean up after a dog has fouled in a prescribed area.

Prescriptive law limits the discretion of the duty holder and the enforcer. This document is intended to provide members of the public, organisations and businesses with information and guidance about the practical application of the enforcement policy operated by Environmental Health Services.

Whilst the document aims to provide the reader with a clear understanding of the policy due to the individual nature of many of the circumstances, it cannot be considered either exhaustive or complete. The document also incorporates and adopts the principles set out by The Food Standards Agency ([www.food.gov.uk](http://www.food.gov.uk)) and the Health and Safety Executive ([www.hse.gov.uk](http://www.hse.gov.uk)). A Booklet entitled "Your Inspection Your Business", is available which sets out how food and health and safety inspections will be carried out. This publication gives information on specific complaints and services dealt with by Environmental Health Services commercial team and the processes followed.

## **1.2 COMPLAINTS OF INJURY INVESTIGATIONS**

In selecting which complaints or reports of injury or occupational ill health to investigate and in deciding the level of resources to be used, we will take account of the following factors:

- The severity and scale of potential or actual harm
- The seriousness of any potential breach of the law
- Knowledge of the duty holder's past health and safety performance
- The enforcement priorities
- The practicality of achieving results

The wider relevance of the event, including serious public concern

## **1.3 LEAD/HOME AUTHORITY AND PRIMARY AUTHORITY PARTNERSHIP SCHEMES**

The Lead Authority Partnership Scheme and Home Authority Arrangement promote consistency of enforcement among businesses with multiple outlets in different local authority areas. These have been superseded by the Primary Authority principle. This Primary Authority partnership, is a legally binding agreement that provides assured advice, ensures consistency of regulation and reduces duplication of inspections and paperwork. If we are considering formal

action against a participating company we will except in the case of situations requiring immediate action refer the matter to the primary authority.

#### **1.4 SHARED ENFORCEMENT RESPONSIBILITY**

In circumstances where enforcement responsibility is shared between enforcement agencies, for example in relation to waste offences (where both local Councils and the Environment Agency can take enforcement action), Environmental Health Services will have regard to procedures agreed with other enforcement agencies, particularly where memoranda of understanding exist.

In some cases, enforcement powers will rest with another agency, for example the Health and Safety Executive. In these situations, Environmental Health will act to ensure that the case is transferred to the enforcing agency promptly and in accordance with any agreed procedures.

The following list is not exhaustive but will include most possible alternatives.

- Any animal health matters are to be passed to the Trading Standards Animal Welfare Service at Lincolnshire County Council. It may also be necessary to involve the RSPCA.
- The Lincolnshire Fire & Rescue Service may need to be involved in matters involving Houses in Multiple Occupation and Licensing.
- Lincolnshire County Council Trading Standards may need to get involved where there are safety concerns over appliances or furniture provided by a landlord in a privately rented house or flat.
- Local pollution incidents may fall to the Environment Agency for enforcement, but this may require detailed liaison between the two authorities to determine responsibility.
- Incidents involving Travellers may require involvement by the Lincolnshire County Council Liaison Officer.
- Infectious disease incidents, or mental health matters requiring Section.47 action under the National Assistance Act 1948 will involve liaison with the relevant medical practitioners
- In the event of a food complaint involving another Local Authority or Primary Authority they should be consulted fairly early during the investigative process.
- Any food matters that should be dealt with by Trading Standards will be passed to them.
- Any matters involving meat inspection services, licensed or unlicensed, may require the involvement of the Food Standards Agency.
- Any Health and Safety at Work incidents on premises not enforced by the Council will be passed to the Health & Safety Executive.

## **1.5 DEATH AT WORK (HEALTH AND SAFETY AT WORK ETC ACT 1974)**

Where there has been a breach of the law leading to a work-related death, we will need to consider whether the circumstances of the case might justify a charge of manslaughter.

Due consideration will be given to the “work related deaths: a protocol for liaison” .If the Police or the CPS decide not to pursue a manslaughter case, we may still prosecute or recommend prosecution of a health and safety case if that is appropriate

## **1.6 PRIVATE SECTOR HOUSING TEAM**

Depending upon the particular circumstances, The private sector housing team may use a variety of means, including education, advice, guidance, warning letters and legal notices (including: demand for payment, closure of premises, demolition, management orders and notices prohibiting overcrowding) to ensure that individuals, organisations or businesses meet their legal responsibilities.

Where there are serious breaches of legislation or risks to health, safety or the environment, activities may be prohibited, licences revoked or amended, formal cautions issued, legal notices served, works carried out in default and prosecutions instigated.

## **1.7 WORKS IN DEFAULT**

In place of, or in addition to prosecutions, certain powers exist for the council to carry out work in default. These powers will only be exercised following the expiry of a Notice to undertake works. All charges incurred will be recovered either through the courts or as a land charge on property.

## **1.8 SHARED ENFORCEMENT RESPONSIBILITY**

In some cases, enforcement powers will rest with another agency, for example the Health and Safety Executive. In these situations, the council will act to ensure that the case is transferred to the enforcing agency promptly and in accordance with any agreed procedures.

## **1.9 APPEALS**

There is usually a statutory right of appeal against the requirement of an enforcement notice or action contained in the relevant legislation. Such appeals are usually made to Magistrate's Court; in the case of a Housing Act Notice, the

County Court or residential property tribunal. Individuals, small organisations or businesses may be reluctant to spend a considerable amount of time, effort and money preparing and submitting an appeal against enforcement action. South Kesteven District Council therefore provides an informal appeal mechanism whereby the individual circumstances of the case can be taken into account and considered prior to enforcement action being commenced.

Where necessary, access will be made available to a service providing translation facilities.

#### **1.10 STATUTORY RIGHTS OF APPEAL**

Where enforcement notices are served, detailed information will be provided to the person concerned regarding their statutory rights of appeal. The information will include, where appropriate, the necessary forms and help with completion to enable an appeal to be made.



## **Development Management Enforcement Policy**



*your council working for you*

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<b>INTRODUCTION</b> .....	<b>3</b>
<b>AIMS AND OBJECTIVES</b> .....	<b>3</b>
<b>BREACHES OF PLANNING CONTROL</b> .....	<b>4</b>
<b>REPORTING ALLEGED BREACHES OF PLANNING CONTROL</b> .....	<b>6</b>
<b>RESPONDING TO ENQUIRIES</b> .....	<b>7</b>
<b>PROCEDURES FOR DEALING WITH BREACHES OF PLANNING CONTROL</b> .....	<b>8</b>
THE HARM SYSTEM.....	8
PLANNING PERMISSION LIKELY TO BE GRANTED WITHOUT CONDITIONS .....	8
PLANNING PERMISSION UNLIKELY TO BE GRANTED/CONDITIONS REQUIRED .....	9
<b>ENFORCEMENT ACTION</b> .....	<b>9</b>
REQUISITIONS FOR INFORMATION .....	10
ENFORCEMENT NOTICE.....	10
BREACH OF CONDITION NOTICE.....	10
LISTED BUILDING ENFORCEMENT NOTICE .....	11
STOP NOTICE .....	11
TEMPORARY STOP NOTICE .....	11
INJUNCTION.....	12
SECTION 215 NOTICE.....	12
FORMAL CAUTION .....	13
DEFAULT POWERS .....	13
<b>OTHER POWERS</b> .....	<b>13</b>
UNAUTHORISED ADVERTISEMENTS.....	13
FLY-POSTING.....	14
WORKS TO PROTECTED TREES.....	14
REMOVAL OF HEDGEROWS .....	14
MONITORING OF PLANNING OBLIGATIONS .....	15
HIGH HEDGE DISPUTES.....	15
<b>CONTACTS AND FURTHER INFORMATION</b> .....	<b>16</b>

## Introduction

The Development Management section is responsible for the discharge of duties under the Planning Acts, including:

- the implementation of forward plans
- Regulating and use of land in the public interest
- Determining planning applications
- Formal enforcement of breaches of planning control

Effective enforcement of planning controls is necessary to deliver high quality, sustainable development and to protect the integrity of the planning system. Ensuring that development proceeds in accordance with approved plans or permitted development rights is necessary to maintain this integrity.

An effective system of control requires strong powers of sanction against those who transgress regulatory provisions. The Town & Country Planning Act 1990 ([www.legislation.gov.uk](http://www.legislation.gov.uk)) contains extensive enforcement powers. However, enforcement action is a discretionary activity and will be invoked only where it is expedient to do so having regard to national and local policy and other material considerations and proves absolutely necessary after all other avenues have been explored. Any action considered must also be in accordance with the Council's Corporate Enforcement Policy.

## Aims and Objectives

The aim of the Council's Development Management Enforcement Policy is to ensure effective compliance with planning and other associated legislation, which itself is aimed at regulating the development and use of land in the public interest. Development should conform to the provisions of the South Kesteven Local Plan<sup>1</sup> and the National Planning Policy Framework (NPPF). The Council shall seek to ensure by education, promotion, monitoring, negotiation, formal action and, where expedient, necessary and appropriate, legal measures, that the quality, character and appearance of the built and natural environment is protected and enhanced.

In the exercise of its enforcement powers, the Council's objectives are to (and as set out in the [Council's Corporate Enforcement Policy](#)):

- Strike an appropriate balance between the planning and development needs and the demands of the population, and the need, through

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<sup>1</sup> The Local Plan is comprised of the Core Strategy and other development plan documents (DPD) such as the emerging Grantham Area Action Plan and the district-wide Sites and Allocations Policies DPD.

regulatory control, to protect and enhance the environment and regulate the development and use of land in the public interest.

- Apply appropriate and proportionate remedies and wherever possible, without recourse to formal legal action wherever breaches of planning control do occur.
- Promote the need to protect and enhance the built and natural environment and the need to conform to regulatory controls.
- Allow acceptable development to take place.

## **Development Management Enforcement Policy**

This policy document sets out the basic approach and principles to be followed by the Council in the discharge of its enforcement functions. In its preparation, account has been taken of procedural and policy advice as contained in the **National Planning Policy Framework**-

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf).

This policy is intended to provide clear guidance to users of the planning system: members of the public, local businesses, elected members and service providers, about enforcement controls. It explains the powers available to the Council to remedy breaches of planning control, and the steps involved in seeking to secure a satisfactory outcome to complaints lodged.

Allied to the policy, and observing the key principles of the policy, working procedures have been developed relating to the most frequently occurring areas of enforcement activity. By the nature of the work involved however, these procedures cannot cover every eventuality. In the absence of a defined procedure, the Council will discharge its enforcement activities in accordance with the general principles of this policy.

This policy shall be monitored and evaluated periodically to ensure that it is relevant and applicable to the needs of the organisation and its customers, and to ensure it is implemented in a fair and consistent manner.

## **Breaches of Planning Control**

A breach of planning control may include the following:

- Building works that do not have planning permission
- Failing to comply with any condition or limitation, such as Section 106 Agreement, subject to which planning permission has been granted.
- Unauthorised changes of use
- Unauthorised works to Listed Buildings
- Demolition work within conservation areas
- Works to a protected tree or tree in a conservation area
- Displaying adverts without consent

- Neglecting land or property to the extent that it causes harm to local amenity
- High hedge disputes
- Removal of hedgerows

In the vast majority of cases, it is not an offence to carry out development without first obtaining planning permission or other consents. Only certain works constitute an immediate offence, carrying the risk of criminal sanctions. These include:

- Works to a Listed Building
- Works to protected trees or trees within a conservation area
- Removal of most hedgerows other than those in urban areas or on or within residential curtilages
- The display of adverts

There are certain issues that the Council cannot take into account when assessing an alleged breach because they are not planning matters. These may include:

- Loss of value to property
- Competition with other business
- Trespass or boundary disputes
- Private disputes
- Breaches of a covenant
- Party Wall disputes

The list of above matters is not exhaustive. However, those mentioned are likely to be private civil matters in which the Council has no legal right of intervention.

### **Expediency**

The carrying out of works or development without the prior approval of the Council may be unauthorised and action may be taken against the person causing the breach and persons having an interest in the land. However, such action will only be considered when it is expedient to do so.

The expediency of enforcement action is a key concept to the application of this policy and the work of the officers in Development Management. It will not normally be expedient to take enforcement action where a breach of planning control occurs but where there is;

- (i) no significant conflict with national or local policy; or
- (ii) a reasonable prospect that planning permission might be granted, subject to conditions; or
- (iii) no significant or immediate harm to the amenity or safety of residents or to the environment or other interests of acknowledge importance.

In considering any enforcement action, the decisive issue for the Council is if the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. Enforcement action should always be commensurate with the breach of planning control to which it relates.

Council Officers will consider whether it is expedient to take formal enforcement action on a case by case basis, by considering the merits of the specific development against current planning policy and guidance, having regard to any other material planning considerations and the Council's Corporate Enforcement Policy.

### **Reporting Alleged Breaches of Planning Control**

Enforcement enquiries are received in relation to suspected breaches of planning legislation.

The majority of enquiries received are made by members of the public where they believe planning controls are being breached.

Other matters may be identified by Council officers during the course of their normal operations. These matters will be treated in the same way as if they had been made by a member of the public.

The Council may also monitor conditions imposed on permissions for some large or contentious development sites to ensure that relevant conditions are discharged at the appropriate times.

Planning Obligations such as Agreements made under Section 106 of the Town and Country Planning Act 1990 will be monitored to ensure the timely payment of developer contributions and accurate allocation of funds to relevant schemes.

Enquiries about an alleged breach of planning control can be submitted to The Council in person, by telephone, letter, e-mail, fax or using the enquiry forms on our website ([www.southkesteven.gov.uk](http://www.southkesteven.gov.uk)).

The Council will not normally act upon anonymous enquiries other than in circumstances where there may be an immediate criminal offence, a threat to public safety or a clear, credible threat to the proper planning of the area. Any investigations into anonymous enquiries in these circumstances will be at the discretion of The Council. This is to protect against malicious and vexatious complaints.

The Council will not reveal the identity of an informant to an alleged offender. We may be asked to reveal the identity of an informant, but we will always apply the rights of the individual in accordance with The Data Protection Act 1998 and any other appropriate legislation.

Anybody who has a legitimate concern but wishes to keep their identity confidential to Council Officers may enlist the services of their local councillor to make a complaint on their behalf.

The Council also requires some contact details from a complainant so that they may be kept informed of the progress of the investigation and approached for further information should this prove necessary.

### **Responding to Enquiries**

When an enquiry is received, details of the alleged breach will be registered.

This registered information will contain full details of the allegation and the particulars of the complainant and defendant. It will also be used to keep up to date records of investigations on an ongoing basis. Throughout the course of an enforcement investigation detailed records of the complaint, and any investigations, actions and outcomes will be maintained.

The Council will provide an acknowledgement of an enquiry providing contact details of the investigating officer.

Investigations will begin straight away and the site will be inspected having regard to the nature of the alleged breach and its potential impact and/or harm.

Priority will be given to urgent alleged breaches in order to minimise any immediate harm, such as where:

- Irreparable damage is being caused to a Listed Building
- Work is being carried out to a protected tree
- Demolition works within Conservation Areas

In such cases, an initial site inspection will be carried out at the earliest available opportunity.

We will seek to keep enquirers informed of the outcome of these initial investigations and the on-going progress of cases at appropriate intervals. If the initial inspection reveals that there is no breach of planning control, the case will be closed and the complainant informed of the reason why.

In investigating any alleged breach of planning control, the Enforcement team may consult other Council departments and Agencies where it is felt they may have an interest in the allegation. Such departments may include:

- Building Control
- Environmental Health
- Housing Services
- Lincolnshire County Council ([www.lincolnshire.gov.uk](http://www.lincolnshire.gov.uk))
- Highway's Agency ([www.highways.gov.uk](http://www.highways.gov.uk))
- Environment Agency ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk))

These departments/agencies may have powers to deal with the matter which may prove more effectively deal with the harm than planning controls. In such cases, the Enforcement team will liaise with these departments/agencies to agree the most suitable course of action.

### **Procedures for dealing with Breaches of Planning Control**

If a breach of planning control is identified as a result of the initial investigations, the most appropriate course of action to achieve a satisfactory outcome will depend on the severity and seriousness of the breach.

The Planning Acts grant rights of entry onto land to authorised planning personnel, for the purposes of investigating an alleged breach of planning control. Wilful obstruction of this right of entry is an offence and we can seek a warrant may be sought authorising entry.

After the first site visit, an initial assessment will be conducted to prioritise cases. This assessment will be carried out using the Harm System.

### **The Harm System**

This system is based on an assessment of the harm to the built and natural environment arising from an alleged breach of planning control and allows for a score to be given which indicates the severity of any breach.

The scoring system is based on appropriate government guidance and gives due consideration to all relevant legislation. Each case will be scored following a set format in order to provide an equitable and consistent result.

An example of the Harm System Assessment Form Can be found on our website

All cases relating to refusals of retrospective planning applications, works to listed buildings, hedge removals and works to protected trees will automatically receive a full investigation and will not be subjected to this scoring system.

Where a Breach of Planning Control scores 5 points or less, the complainant will be informed of the reasons for the decision and the case closed.

Where a Breach of Planning Control scores more than 5 points, the matter will be fully investigated and appropriate action taken where expedient to do so, in accordance with the considerations set out in this document and guidance contained in the NPPF.

### **Planning Permission likely to be granted**

Following a full investigation of the case, where it is felt that the breach of planning control might reasonably be granted planning permission subject to conditions, the person causing the breach will be invited to submit a retrospective planning application for determination.

Upon receipt of any application, it will be published in accordance with the Council's Code of Practice, and third parties invited to comment.

The application will be decided in line with the Council's normal procedures for dealing with planning applications.

If the person causing the breach fails to submit a valid planning application, the matter will be carefully assessed on the basis of national and local planning policies and against any other material considerations with a view to decide whether any further formal action is expedient. This decision will be made in line with the Council's scheme of delegated authority, which is part of the Council's Constitution.

It is usually not appropriate to take formal enforcement action against trivial or technical breaches of control which cause no harm to amenity in the locality of the site.

### **Planning Permission unlikely to be granted**

Where the works or development are unacceptable in planning terms, and unlikely to be capable of being rendered acceptable through a grant of planning permission with conditions or limitations, the person causing the breach will be advised of the unacceptability of the works carried out and advised to cease operations, and to restore the buildings or land to their pre-existing state.

Whilst the person causing the breach usually has the right to submit a retrospective planning application, they will be advised that any such application would not be likely to be supported by Council officers.

The person causing such a breach will be advised that continuing to build/operate is at their own risk, subject to any future formal enforcement action and in cases of severe harm, may be asked to cease operations immediately. They will be advised that failure to respond within a defined time period (which will reflect the nature of the breach), may result in authority being sought to take formal enforcement action.

The decision on the form and type of enforcement action will be taken in accordance with the scheme of delegated authority as set out in the Council's Constitution.

### **Enforcement Action**

Where it becomes apparent that a person causing a breach of planning control is unwilling to comply, either with Officer's suggestions of a voluntary solution or with the terms of an existing permission, the Council will consider the initiation of formal measures to secure compliance.

The Council has a number of formal options available to assist in resolving a breach of planning control. Not all options will be suitable in each case, and any option used will be dependent on the facts on the case.

Any Formal Notice issued which appears on the Land Charges Register will be available to members of the public to view, either at the Council's Offices, or on the Council's website.

Summary of some key powers available to officers:

### **Requisitions for information**

Officers may require certain pieces of information from owners/developers in order to issue formal notices or further an investigation. Notices to request such information may be issued in the form of:

- Planning Contravention Notice
- Notice under Section 330 of the Town and Country Planning Act 1990
- Notice under Section 16 of the Local Government (Miscellaneous Provisions Act 1976 (as amended)

It is an offence not to respond to any such notice within a prescribed timescale and offenders may be prosecuted for failure to do so.

### **Enforcement Notice**

The Enforcement Notice is the main device available to the Council and sets out the nature of the alleged breach, the steps required for compliance and the timescale allowed to comply. Such a notice may be served when the Council are satisfied that there has been a breach of planning control and that it is expedient to take action.

The recipient(s) of an Enforcement Notice have a right of appeal against the notice on a number of grounds. Any appeal is determined by the Planning Inspectorate. Any appeal suspends the effect of a notice until the appeal is determined. If the recipient(s) lodge an appeal, we will communicate with all appropriate third parties and neighbours of the appeal and how they can make representations to the Planning Inspectorate.

Ultimately the failure to comply with the steps required by an effective Enforcement Notice is a criminal offence.

### **Breach of Condition Notice**

A Breach of Condition Notice (BCN) can be served on a developer or occupier when they do not comply with planning conditions imposed on a planning permission.

There is no right of appeal to the Secretary of State against a BCN.

It is a criminal offence to fail to comply with a BCN within the period for compliance specified.

### **Listed Building and Conservation Area Enforcement Notice**

This is similar to an Enforcement Notice in terms of procedures to be followed. It may be issued where works affecting the character of a listed building are being, or have been, carried out in the absence of listed building consent.

The notice can specify steps to be taken to restore the building to its former state, to alleviate the effect of the unauthorised work, or to bring the building to the state that it would have been in had any listed building consent been fully complied with.

An appeal against a Listed Building Enforcement Notice suspends the notice until the outcome of the appeal.

A Conservation Area Notice can be served against unauthorised demolition in a conservation area.

Again, failure to comply with the steps of a notice is a criminal offence. It should be noted that unauthorised works to a listed building are themselves a criminal offence.

### **Stop Notice**

A Stop Notice is served either with or after an Enforcement Notice if it is considered that continuing with unauthorised operations will cause irreparable and immediate significant harm. The scale of harm must be significant to warrant recourse to such a notice.

The Stop Notice continues to take effect even if an appeal is lodged against the Enforcement Notice.

There is no right of appeal and failure to comply with the notice is a criminal offence.

### **Temporary Stop Notice**

This notice can be served if we consider it is necessary to restrict unauthorised activity or development immediately to safeguard the amenity of the area and prevent further irreparable harm. However, the harm caused by the unauthorised development must be severe, to warrant recourse to service of such a notice.

This Temporary Stop Notice differs from the normal Stop Notice powers as it is immediate and does not have to be accompanied by an Enforcement Notice. The notice has effect for up to 28 days while considering whether further enforcement action is necessary.

There is no right of appeal to the Secretary of State but a judicial review can challenge the validity and propriety of the decision.

### **Injunction**

The Council can apply to the County Court or High Court for an injunction to cease an actual or imminent breach of planning control.

Clear and robust evidence of the potential significant harm arising from the actual or imminent use must be provided when seeking an injunction for an imminent breach. An injunction will normally need to demonstrate harm to a key policy consideration.

Injunctions may be considered as a supplement to other statutory powers, particularly where an immediate response is required.

Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment.

### **Section 215 Notice**

This notice can be served on the owner and occupier of the land if the Council considers that harm to the amenity of part of its administrative area is adversely affected by the condition of the land.

The notice specifies steps to remedy the condition of the land but it cannot take effect until 28 days after it is issued.

Then the notice must give a compliance period for when the works specified in the notice should be complied with.

### **Prosecution**

Action to prosecute offenders may be taken where it is in the public interest to do so and other powers cannot resolve the matter more effectively. Examples of where this course of action may be considered are when:

- a notice is not complied with in the given timescales
- irreparable damage is caused to a listed building or protected tree
- repeated breaches of advertisement regulations or fly-posting

All investigations into alleged breaches of legislation where prosecution is to be considered will follow best professional practice as set out in the Council's overarching policy.

### **Formal Caution**

The Local Planning Authority may consider Formal Cautions as an alternative to prosecution. Examples of where they may be appropriate are:

- To deal quickly and simply with less serious offences;
- To divert less serious cases away from the court process;
- To deter repeat offences.

Before a caution is administered the officer will ensure:

- There is evidence of the offender's guilt sufficient to sustain a prosecution;
- The offender admits the offence;
- The offender understands the nature of the formal caution and agrees to be cautioned for the offence.

### **Default Powers**

In the event of a defendant not complying with the terms of a formal notice, the Council has 'default' powers to enter land and carry out the necessary works.

The Council may also recover their reasonable expenses from the then owner of the Enforcement Notice Land.

Expenses incurred become a legal charge on the land until such time as the expenses are recovered. This charge is binding on successive owners of the notice land.

### **Other Powers**

The Council has various other powers at its disposal to deal with breaches of planning control that are not covered by the provisions of the notices or actions detailed above. Some of these powers are detailed below.

### **Unauthorised Advertisements**

The display of advertisements is controlled under The Town and Country Planning (Control of Advertisements) Regulations 2007.

Advertising rules are complex and seek to control amongst other things: the height, size and illumination of the advertisements. However, the content of an advert that does have consent (either granted by the Council, or with Deemed Consent under the Advertisement Regulations) is not something that Planning Controls can be used to take action over.

It is an offence to display an advertisement without the consent required.

### **Fly-posting**

Fly-posting is the display of any advertisement or other promotional material without permission, on buildings, posts, poles, litter bins and elsewhere in public places.

Fly-posting without a permit is illegal under the Highways Act 1980, the Town and Country Planning Act 1990, the Anti-Social Behaviour Act 2003 and the Clean Neighbourhoods and Environment Act 2005.

Offenders may be pursued under the provisions for unauthorised advertising in The Town and Country Planning (Control of Advertisements) Regulations 2007 (Please see **Advertisements** above), or referred to other agencies.

Officers will maintain a database of Fly-Posting incidences that are reported. Warnings, highlighting the relevant legislation, will be sent to the person/persons responsible for the display of the advert and further action escalated against repeat offenders as appropriate.

### **Works to Protected Trees**

Under the Town and Country Planning legislation the local planning authority may protect important trees in the district by making Tree Preservation Orders.

Any unauthorised works to such protected trees is a criminal offence. Trees in Conservation Areas are also afforded a degree of protection under the planning legislation.

Unauthorised work to and/or removal of trees in a conservation area also constitutes a criminal offence.

The Council has powers to prosecute offenders and/or require replacement trees to be provided.

### **Removal of Hedgerows**

Certain hedgerows, usually those outside of built up areas and not forming residential boundaries are afforded protection under the Hedgerow Regulations (1997).

Removal of protected hedgerows without consent is an offence

## Monitoring of Planning Obligations

Planning Agreements provided under Section 106 of the Town and Country Planning Act 1990 are agreements made between the Local Planning Authority and a developer. Unilateral undertakings are made by the developer.

Both aim to make proposed development acceptable and accord with planning policies. Such obligations may restrict development or use of land, may require certain operations to be carried out, or may require payments to be made to the Authority.

The Council monitors these planning obligations to ensure that operations are carried out and payments made in accordance with the terms of each agreement.

Requirements to comply with planning obligations run with the land so if the terms of an obligation are not complied with any enforcement action may be taken against persons acquiring an interest in the land.

Should there be a breach of a formal obligation there are three methods of enforcement open to the Council. The Council may:

- Apply to the County Court or High Court for an Injunction. The Council must prepare a high level of evidence to convince a judge that an injunction is necessary. Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment.
- Enter the land to complete works and may recover costs where certain operations or works have not been carried out, but must give at least 21 days notice of our intention.
- Place a charge on the land in order to assist the Council in proceedings to recover costs incurred.

## High Hedge Disputes

The Council has powers under Part 8 of the Anti-social Behaviour Act 2003 to deal with complaints about high hedges. The legislation enables the owner or occupier of a domestic property affected by a high hedge to make a complaint to the Council provided that:

- the hedge concerned is a line of two or more predominantly evergreen or semi-evergreen trees or shrubs
- the hedge is 2 metres or more high
- the hedge is forming a barrier to light or access to their home or garden
- attempts have been made to amicably resolve the problem with the owner of the hedge.

The Council's role is not to mediate or negotiate between the complainant and the hedge owner, but to adjudicate on whether the hedge is adversely affecting the complainant's reasonable enjoyment of his property.

If the circumstances justify it, the Council will issue a remedial notice to the hedge owner setting out what the hedge owner must do to remedy the problem. The notice may specify future work on the hedge to ensure that it is maintained at a reasonable height.

The Act allows for an appeal to the Secretary of State against the issue or withdrawal of a remedial notice.

The Council will charge a non-returnable fee of £360 for this service, payable on submission of a complaint.

### **Contacts and Further Information**

#### **Planning Enforcement Team**

South Kesteven District Council

Development Management

St Peters Hill

Grantham

Lincolnshire

NG31 6PZ

Phone: 01476 406306

Fax No: 01476 406009

E-mail: [planningenforcement@southkesteven.gov.uk](mailto:planningenforcement@southkesteven.gov.uk)

Website: [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk)

#### **Department for Communities and Local Government**

(The Government Department with overall responsibility for planning)

Eland House

Bressenden Place

London, SW1E 5DU

[www.dclg.gov.uk](http://www.dclg.gov.uk)

#### **National Planning Aid Unit (Royal Town Planning Institute)**

Unit 419, The Custard Factory,

Gibb Street,

Birmingham

B9 4AA

[www.planningaid.rtpi.org.uk](http://www.planningaid.rtpi.org.uk)

#### **Planning Inspectorate**

Room 301,

Kite Wing,

Temple Quay House,

2 The Square,  
Temple Quay,  
Bristol, BS1 6PN.

[www.planning-inspectorate.gov.uk/pins/index.htm](http://www.planning-inspectorate.gov.uk/pins/index.htm)

**Planning Portal**

(The Government's online planning resource where you can learn about the planning system and research the latest government policy).

[www.planningportal.gov.uk](http://www.planningportal.gov.uk)

**National Guidelines ([www.legislation.gov.uk](http://www.legislation.gov.uk))**

- The Town & Country Planning Act 1990
- The Town and Country Planning (General Permitted Development Order) 1995 (As Amended)
- The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
- The Town and Country Planning (Control of Advertisements) Regulations 2007
- National Planning Policy Framework
- DoE Circular 10/97 Enforcing Planning Control
- Enforcing Planning Control: Good Practice Guide for Local Authorities
- The Enforcement Concordat published by the Cabinet Office 1998
- The Regulators' Code of Compliance published by the Department for Business Enterprise and Regulatory Reform 2008
- The Regulation of Investigatory Powers Act 2000
- The Anti Social Behaviour Act 2003
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- The Human Rights Act 1998
- The Hedgerow Regulations 1997

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# Lincolnshire Anti-Social Behaviour Partnership Policy

July | 2013



# Contents

- 1 Policy Identification Page
- 2 Legislative Compliance
- 3 Policy Statements/Intentions
  - 3:1 Principles and scope of the policy
  - 3:2 Aim of the policy
- 4 Introduction/Legal Basis
  - 4:1 Origins/background information
    - › Definition of Anti Social Behaviour
  - 4:2 Motivators/Driving Forces
  - 4:3 General Principles of the Policy
    - › Statement of Purpose
    - › Taking a Partnership Approach
    - › Understanding the Needs of Our Communities
    - › Vulnerable and Repeat Victims
    - › Repeat Victimisation
    - › Repeat and 'hot spot' locations
    - › Making a Difference
    - › Complainant Perception of ASB
    - › Focus on Victims and in Particular Repeat and / or Vulnerable Victims
    - › Recognising Needs of the Offender
    - › Restorative Solutions and Community Justice Panels
    - › Integrated Offender Management
    - › Focus on Offenders
    - › Remedies for ASB
    - › Intervention
    - › Anti-Social Behaviour Risk Assessment Conference (ASBRAC)
    - › Closure of cases
    - › Overall processing of cases
    - › Record keeping and the Management of Sensitive/Disclosed Information
  - › Quarterly Case Audit Targets
  - › Ensure Accountability through Performance Management
- 4:4 Legal Basis
- 4:5 Human Rights Considerations/Articles Engaged
- 5 Implications of the Policy
  - 5:1 Financial Implications/Best Value
  - 5:2 Human Resources/Training
  - 5:3 Strategic/Business Plan
  - 5:4 Risk Management
  - 5:5 Diversity
  - 5:6 Children and Young People
  - 5:7 Crime and Disorder Act 1998
  - 5:8 Internal Policy/Strategy Links
  - 5:9 Consultation
  - 5:10 Publication
- 6 Promotion/Distribution
- 7 Monitoring/Review



# I Policy Identification Page

## **Lincolnshire Anti-Social Behaviour Policy**

**Senior Owner:** Phil Vickers, Lincolnshire Police Superintendant – Lead for the Anti Social Behaviour Strategic Management Board.

Links or overlaps with other policies/strategies include:

Lincolnshire Police Hate Crime Strategy  
Data Protection Policy  
Information Sharing  
Restorative Justice Policy  
Lincolnshire Health and Wellbeing Strategy

## **The Lincolnshire Anti-Social-Behaviour Partnership comprises of:**

Lincolnshire County Council  
Lincolnshire Police  
Youth Offending Service  
West Lindsey District Council  
East Lindsey District Council  
City of Lincoln Council  
North Kesteven District Council  
Boston Borough Council  
South Holland District Council  
South Kesteven District Council  
Longhurst  
NewLinx Housing  
Boston Mayflower  
Acis  
Lincolnshire Fire and Rescue

**Policy Effective Date:** July 2013

**Policy Review Date:** July 2014



## 2 Legislative Compliance

This document has been drafted to comply with principles of the;

Human Rights Act 1998  
Crime and Disorder Act 1998  
Equality Act 2010  
Data Protection Act 1996  
Anti-Social Behaviour Act 2003  
Police Reform Act 2002

This Policy is not protectively marked and is a publicity available document.

Adherence to this policy will ensure compliance with all relevant legislation and internal policies.

## 3 Policy Statements/Intentions

### 3.1 The principles and scope of the policy

Lincolnshire partners are committed to providing every member of the community with the highest possible standard of service irrespective of age, gender, race, sexual orientation, disability, religion and belief. Our equality and diversity aims are central to how we deal with anti-social behaviour (ASB).

The purpose of this policy to provide a framework to allow Lincolnshire partners to work collaboratively to manage and resolve reports of ASB effectively and ensure clear lines of responsibility and communication across Lincolnshire's strategic and third sector partner organisation.

Tackling ASB is a key priority for all partners. We collectively understand the impact ASB has on community cohesion and crime, and are committed to investing resources to develop procedures to deal with it effectively.

Our focus is on the victim through protection, prevention and support. We intend to focus more on the victim's perspective, to better assess the harm and risks caused and encourage those experiencing ASB to come forward.

As a partnership we recognise the complexity of ASB and the challenging nature of some victims, offenders and locations. This policy promotes and supports a Problem Solving methodology, developing an approach that seeks to tackle the cause rather than attending



## 4 Introduction/Legal Basis

to the symptoms time after time.

In addition it is intended to provide a framework to all staff across the partnership, customers and other stakeholders on what action we will take when a complaint of ASB is made. As a partnership we recognise that every ASB case is unique and we have written this policy with a view to providing staff with a “best practice” approach to managing reports of ASB.

### 3.2 The aim of the policy

#### Aims

To ensure the communities of Lincolnshire receive the best, consistent service and support from all partners in respect of preventing, reducing and managing ASB, irrespective of location or service provider.

#### Objectives

- Manage incidents of ASB more effectively and efficiently across all partners within Lincolnshire;
- Provide improved service and protection to the public;
- Increase public confidence through improved engagement and understanding;
- Identify repeat and vulnerable victims and respond more efficiently;
- Identify repeat offenders and explore opportunities to implement interventions to reduce their negative impact on communities
- Improve information sharing across all partners extending into the third sector and charities such as victim support

### 4.1 The origins/background information

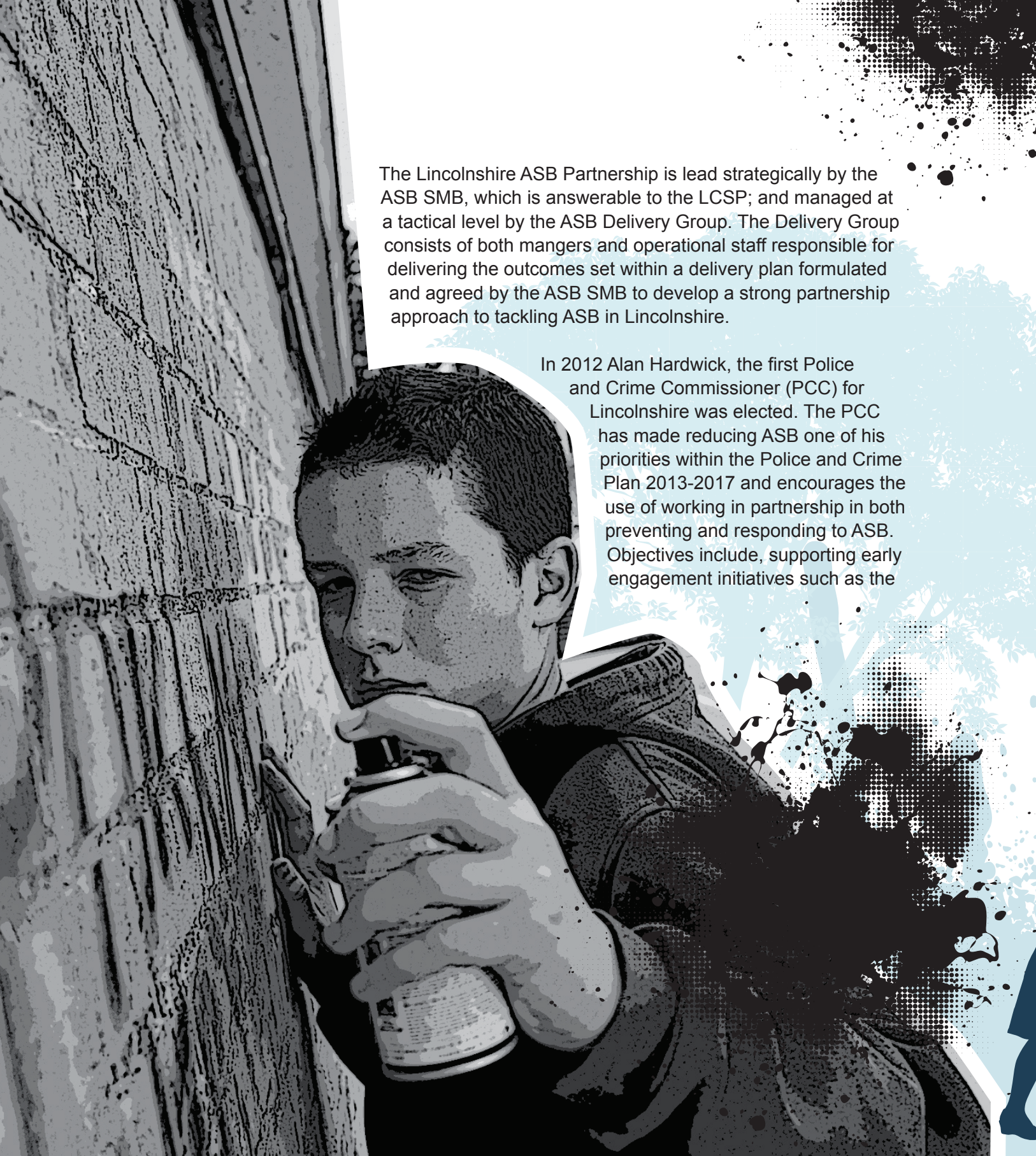
This document should be regarded as an “umbrella” policy document intended to cover all types of ASB including hate crime.

In 2012 the Lincolnshire Police alone received in excess of 26,000 calls to service. In the first full year of operating the Sentinel case management model the ASB Partnership have identified and managed in the region of 3,000 repeat and vulnerable victims.

In 2012 the County Community Safety Board (CCSB), now named Lincolnshire Community Safety Partnership (LCSP) was restructured with a view to improving the connection between themselves and local Community Safety Partnerships (CSP’s), aligning strategic objectives through tactical and operational activity managed by both Strategic Management Boards (SMB’s) and CSP’s. The LCSP has agreed five strategic priorities for the period 2013/14,


- Drugs Harm
- Alcohol Harm,
- Anti-Social Behaviour
- Domestic Abuse
- Road Safety.

These priorities have been ratified and also adopted by some local Community Safety Partnership statutory partners.



The Lincolnshire ASB Partnership is lead strategically by the ASB SMB, which is answerable to the LCSP; and managed at a tactical level by the ASB Delivery Group. The Delivery Group consists of both managers and operational staff responsible for delivering the outcomes set within a delivery plan formulated and agreed by the ASB SMB to develop a strong partnership approach to tackling ASB in Lincolnshire.

In 2012 Alan Hardwick, the first Police and Crime Commissioner (PCC) for Lincolnshire was elected. The PCC has made reducing ASB one of his priorities within the Police and Crime Plan 2013-2017 and encourages the use of working in partnership in both preventing and responding to ASB. Objectives include, supporting early engagement initiatives such as the



'Families Working Together' and educational programmes such as 'It's that Easy'; and collaborating with partners to better co-ordinate the response against ASB through specialist officers to identify trouble spots and respond quickly to prevent repetition.

This Policy underpins Lincolnshire's multi-agency approach to tackle ASB. It marks steps to improve work between organisations and communities across Lincolnshire working together to challenge ASB.

### **Anti-Social Behaviour**

The term 'anti-social behaviour' was formalised in the late 1990's to describe a wide range of nuisance, disorder and crime that affect people's daily lives. Including:

- Noise nuisance
- Intimidation and threatening behaviour
- Rubbish or litter lying around
- Vandalism, graffiti and other deliberate damage to property or vehicles
- People using or dealing drugs
- People being drunk or rowdy in public places
- Abandoned or burnt out cars
- Neighbour disputes

ASB therefore includes many different types of behaviour. Such acts are sometimes dismissed as trivial, however ASB can have a huge impact on the quality of life of a particular individual, group or community and it is the public's number one concern when it comes to local crime issues.

Following a period of consultation with the community and all partner agencies in Lincolnshire the three definitions were identified;

The Crime and Disorder Act 1998 defines ASB as:

'Acting in a manner that has caused, or is likely to cause harassment, alarm or distress to one or more persons not of the same household as (the defendant).'

Alternatively, the Housing Act (1996) states ASB is:

'Engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to persons engaged in lawful activities'

Furthermore, The Chartered Institute of Housing (1995) describes it as:

'Behaviour that unreasonably interferes with other people's rights to the use and enjoyment of their home and community'

On the 16th November 2010, giving due consideration to the 3 utilised definitions, the ASB SMB agreed that the overarching definition for ASB is:

Behaviour by an individual or group that



results in:

- Another party feeling personally threatened
- Creates a public nuisance, or
- Has a detrimental impact upon the environment and thereby has a detrimental effect upon the quality of life of an individual or the community as a whole

The Partnership acknowledge that such behaviour does not exclude criminal offences, and recognise that if ASB escalates to crime it will continue to be dealt with as ASB, incorporating required criminal sanctions into the intervention process.

#### 4.2 Motivators/Driving Forces

It is the one issue that survey after survey, both local and national, identifies that our communities consider ASB to be the key issue for Police and Partners to tackle. It is recognised that our communities do not differentiate between crime and ASB, nor do they care who tackles the problem so long as someone does something.

This is clearly highlighted in the case of Fiona Pilkington who killed herself and her daughter, Francesca Hardwick, after suffering years of ASB and hate crime. Fiona made numerous reports to various agencies asking for help, to no avail. The 2011 Equality and Human Rights Commission (EHRC) inquiry titled 'Hidden in Plain Sight', published following this tragic case found that there were

"...systemic failings by public authorities to;

recognise the extent and impact of harassment and abuse of disabled people, take action to prevent it happening in the first place and intervene effectively when it does"

Not only does this emphasises the importance of working in partnership, but also highlights how those members of the community who are least able to protect themselves can be targeted. In recognition that those most vulnerable in our society, or those from diverse backgrounds are proportionally more likely to become victims of ASB, this policy has been integrated with the Lincolnshire Hate Crime Strategy and the priorities set within it. This policy also incorporates the findings of the Bradley Report (2009) which found an overwhelming need for partner agencies to identify and support victims, or offenders with mental health problems or learning disabilities; and also recognise their vulnerability. ASB Partnership is the ideal forum for liaison between statutory and voluntary sector agencies to raise awareness and develop early intervention initiatives and referral pathways.

The publication of Her Majesty's Inspectorate of Constabulary (HMIC) report titled 'Stop the Rot' in 2010 and Professor Innes's inquiry in 2013 titled 'Rethinking the policing of anti-social behaviour' have also provided a driving force for change in the way Lincolnshire Police best tackle ASB. Lincolnshire Police's performance was rated by the HMIC as "in line with the national average" and lower levels of ASB per head of population. However, they did identify key areas of development in order for the force

to provide victims of ASB with a good service, resulting in Lincolnshire Police exploring how they can make improvements and also promote partnership working.

Partners in Lincolnshire recognise the need to tackle ASB and its perception within our communities. As a result, we have developed a multi-agency ASB Policy, which reflects the recommendations outlined in these reports.

### **4.3 General Principles of the Policy**

#### **Statement of Purpose**

This policy outlines a framework of activity aimed at developing greater public confidence in local policing and partners, recognising that this cannot be achieved without the support and commitment of our staff, officers and partners across the county.

We do not underestimate the impact ASB can have on people's lives or ignore the fact it is one of the communities top concerns when it comes to local crime and disorder. In order to address the negative impact ASB has in our communities we have developed a multi-agency approach to effectively and consistently tackle ASB in Lincolnshire.

We are not only committed to reducing ASB but also to providing a high quality service which meets the needs of individuals and communities and provides a service that people value.

The policy challenges the way partners respond to reports of ASB and recognises the need for a consistent approach in the case management of vulnerable and repeat victims, and area 'hot spots' of ASB across the county. All partners have now purchased a web based I.T system named Sentinel to carry out this function (some partners have also adopted the system as their incident logging database for all reports of ASB). An Information Sharing Agreement has been signed by all partners to allow authorised persons to be able to view the collective information that has been input by the different sources and for it to be progressed appropriately.

All Sentinel users are allocated user groups and assigned privileges according to their role. There are geographic security measures for viewing cases but at least one person from each partner will have 'global access' to see all cases.

This system not only allows us to deliver a uniformed case management process across partners but by the nature of the shared technology enforces managed and risk assessed information sharing.

### **Taking a Partnership Approach**

We take all reported cases of ASB seriously, recording, investigating and keeping victims informed of actions in conjunction with other key agencies. No one agency is responsible for ASB and by working at all levels we will

- Share appropriate data using joint tasking and co-ordination arrangements with partners, in order to proactively identify and reduce ASB.
- Improve co-ordination across the county and across partners to intervene and protect the public and Lincolnshire communities, particularly the most vulnerable.
- Have an Information Sharing Agreement in place, working within current legislation on data sharing.
- Undertake effective multi-agency case management, linking incidents and victims where appropriate
- Promote a “problem solving” approach to reducing ASB.
- Train staff from all partners to effectively deal with reports of ASB effectively using all tools available to them.

### **Understanding the Needs of Our Communities**

We are committed to providing services which are visible, accessible and responsive and particularly aim to assist those who are at increased risk or are vulnerable no matter of age, gender, race, sexual orientation, disability, religion and belief. The introduction of agreed definitions, procedure and case management will ensure partners across the county have an improved and real understanding of ASB. This will be further supported by analytical evidence, through monthly analysis and generating reports to allow partners to consistently assess and maintain performance levels.

The importance of community involvement is stressed in government policy and has been widely advocated with regard to crime prevention initiatives, an issue raised in December 2012 by PCC.

Firstly, there is the desirability of residents to participate in decisions, which affect their lives (Crawford 1998, Fitzpatrick et al 2000). Secondly, there is an assumption that local residents, being closer to experiences of crime in the area, have the best understanding of what their needs are and how those needs might be met (Cairns 1996, McArthur et al 1996, Crawford 1998). Certainly, public consultation can generate data to fill gaps in information



concerning local crime problems, for example by providing data on victimisation to supplement recorded crime figures and on perceptions of crime. Public consultation can also help to generate ownership of crime prevention work and thus enhance public participation, encourage residents to take responsibility for their own problems and improve their capacity for self-help. This results in making schemes more self sustaining and durable (Liddle & Gelsthorpe 1994; Thomas 1999). Local people need to feel that they are stakeholders in the crime prevention process and that they have something to contribute as well as receive.

### **Vulnerable and Repeat Victims**

We will take a victim led approach by addressing the needs of victims and assess their needs through a partnership approved Risk Assessment.

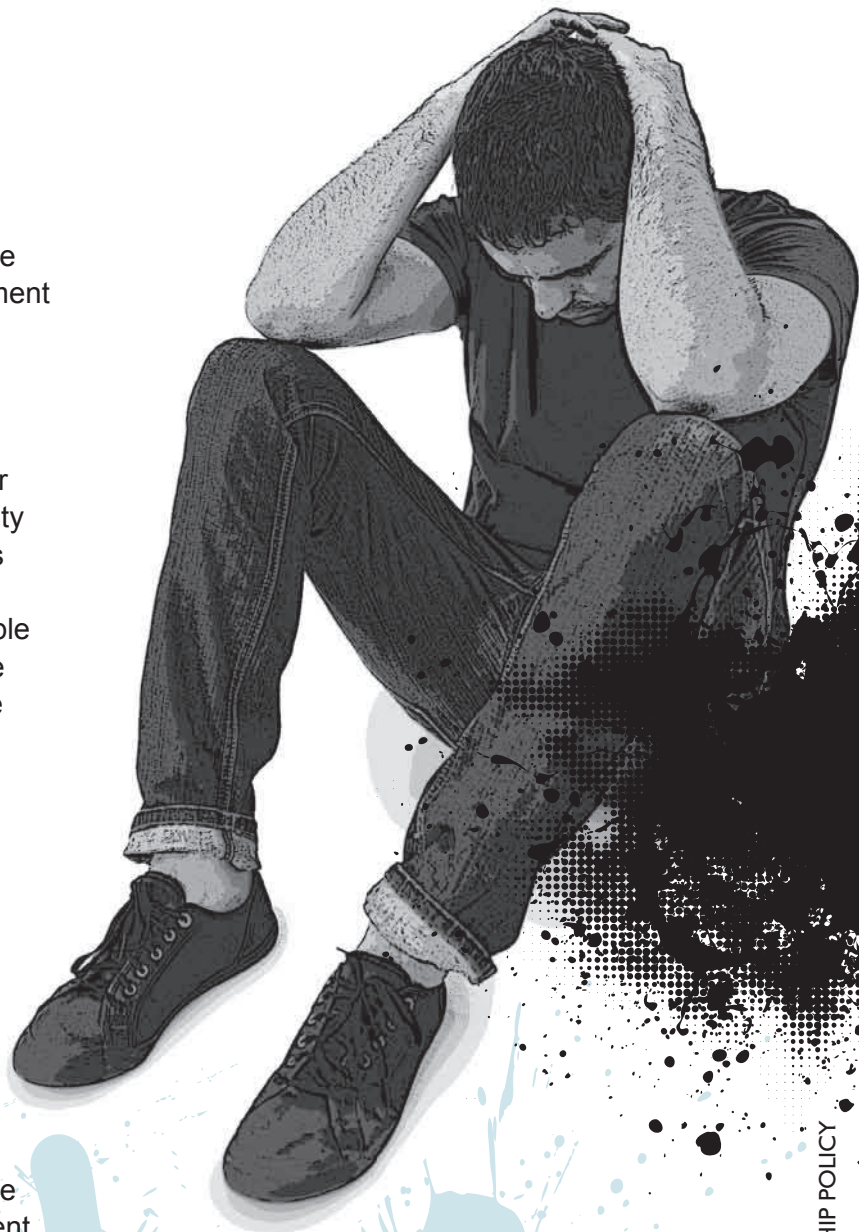
The definition of a vulnerable victim for the county as agreed by all partners is:

A vulnerable person is one whose experience and/or effect of harm as a result of the incident is likely to be more significant because of their individual personal circumstances.

#### **Who is “vulnerable” to ASB?**

A victim of ASB is vulnerable:

If the conduct in question causes an adverse impact on their quality of life; or they believe they are vulnerable; or they have suffered ASB or something similar before.



### What does “adverse impact” include?

- Risk of harm,
- Deterioration of their health, mental and/or emotional well being, or an
- Inability to carry out normal day to day routine through fear and intimidation

This definition of “vulnerable” puts emphasis on how the complainant feels about the problem and how they perceive the level of intimidation. Every victim’s opinion is important when the partners are determining the risk to them. This policy recognises that we need to consider vulnerability in respect of age, gender, race, sexual orientation, disability, religion or belief, however, it is the impact ASB has on the individual or community that is imperative when identifying vulnerable victims of ASB, taking into account personal/social isolation, location, repeat victimisation and the type of ASB being reported.

All calls to service will be risked assessed, enabling partners to establish the needs of the victim and inform the appropriate response.



## Repeat Victimisation

Repeat victimisation occurs when the same person or address is subjected to a third incident of ASB within a rolling 12 month period.

It is widely recognised that victims rarely report their first experiences of ASB, often waiting until such behaviour begins to impact upon their life. Therefore this definition includes both reported and unreported incidents of ASB within the 12 month time frame.

A growing body of evidence shows that certain people and places suffer repeated incidents of crime.

- Analyses of the British Crime Survey 2000, for example, have estimated that 4% of victims account for between 38% and 44% of all crime reported to the survey.
- The evidence is that high crime areas have such high crime levels, not because they have more victims but because they have more heavily victimised victims.

Past victimisation is often a predictor of future victimisation and is, therefore, preventable;

- Through the use of improved skills and knowledge for the potential victims, empowering children and young people to protect themselves.
- Improved awareness among professionals and services of children and young people's vulnerability and previous experiences.
- The targeting of resources to help reduce risks and increase safety more effectively.

## Tackling Repeat Victimisation has a number of benefits

- It helps protect those who are vulnerable and safeguard them from crime or abuse.
- It helps to reduce crime and disorder.
- It makes better use of limited resources by targeting them where they can be most effective.
- It can help the police to target prolific offenders.
- By reflecting the true nature of victimisation, it addresses people's fear of crime and can stimulate improvements in the quality of services to victims.

## Repeat and 'hot spot' locations

This policy also acknowledges the need to identify ASB 'repeat locations or 'hot-spots', and respond accordingly.

Repeat locations or 'hot spots' tend to be those areas most accessible to the public, for example a shopping precinct, children's play park, or public car park, and can even expand to cover entire housing estates. They often involve multiple offenders and more than one complainant, resulting in a wider impact on the community.

Taking this into consideration the Partnership defines a repeat location as an area where:

3 or more incidents of ASB have occurred in the same location within a one month period, reported by more than one person.

By clearly defining such 'hot spot' areas partners can implement a multi-agency response tailored to the needs of a specific location, considering both short and long term measures of intervention.

The ASB Partnership will identify such areas by reviewing analytical products and sharing information. A multi-agency problem solving approach will be applied and case managed on Sentinel.

### **Making a Difference**

When we receive a complaint of anti social-behaviour:

We will:

- Record the complaint
- Treat the complaint seriously and act professionally
- Conduct an initial risk assessment, to establish the required response based on threat, risk and harm. This involves the partner asking the victim a set questions including;
  - › Is the offender still in the area?
  - › Are they known to you?
  - › Have you reported this type of incident before? If yes who to?
  - › Do you know of any reasons why this has happened or maybe happening e.g. disability, ethnicity, live alone, age etc?



- Issue the complainant with a reference number and agree a preferred means of contact
- Ensure all complainants identified as being vulnerable and repeat, related to a repeat location, or deemed as high risk are properly recorded, risk assessed and case managed via Sentinel, enabling us to ensure victims receive a response and service appropriate to their needs.
- Agree an action plan with the complainant outlining how we aim to investigate and resolve their complaint
- Ensure that victims are kept up to date with the progress of their case and given regular feedback.

Staff and Officers should be aware that there might be considerations present in terms of disability, language, religion and cultural/ lifestyle backgrounds and should do their utmost to meet the diverse needs of each victim. Consideration should be given to utilising the service of a translation provider for victims whose first language is not English.

All calls for service in respect of ASB will be risk assessed with the agreed partner Aide Memoir to ensure consistency of service and victims receive the appropriate response. It is important to recognise that some victims

are more vulnerable and/or suffer to a larger extent than others. For this reason if victims are identified as high risk they will also be referred an Anti Social Behaviour Risk Assessment Conference (ASBRAC) for multi agency assistance.

### **Complainant perception of ASB**

It is important to record ASB based on the perception of the complainant. If the complainant believes their report is ASB then it should be recorded and investigated as ASB. The investigation may conclude that in reality it is not ASB but the complainant's initial perception is paramount.

### **Communicate Effectively**

Communicate effectively – keeping residents up to date on what action is being taken to effectively tackle ASB.

We will do this by:

- Implementing a multi agency ASB incident recording and case management system for the use of all partners, which will promote effective, collaborative working to protect residents.
- Listening to what our communities and victims tell us about how they want to see us tackle ASB.
- Developing a communications strategy (internal and external) to promote the service standards and wider information about ASB.
- Working closely with partner agencies to

jointly publicise information and activities relating to tackling ASB.

- Ensuring that all reports of dissatisfaction with service are responded to within 24 hours, within the capabilities of that service.

### **Focus on Victims and in Particular Repeat and / or Vulnerable Victims**

Proactively identify through research those who are most likely to become victims of ASB and work together to develop initiatives to safeguard them.

To achieve this we will:

- Establish robust and accurate recording procedures for initial receipt of calls for service.
- Implement rigorous procedures for undertaking initial dynamic risk assessment of calls for service.
- Professionally assess each incident and select the most appropriate and effective initial response.
- Cross reference previous calls for service relating to the location/victim/offender and use this information to tailor a quality response.
- Agree a plan for effectively tackling ASB incidents.
- Provide a named point of contact within the appropriate organisation.
- Support victims and witnesses of ASB and protect communities in partnership with Victim Support Services.
- Where appropriate, apply for special

measures to protect vulnerable victims and witnesses in ASB cases that are referred to the Criminal Justice System.

- Train our staff to recognise and deal effectively with ASB by understanding the emotional impact it creates, identify vulnerability and intimidation factors and respond accordingly.
- Ensure action to tackle ASB respects the diverse nature of our communities.
- All victims identified as high risk will be referred to the Anti Social Behaviour Risk Assessment Conference (ASBRAC) for multi agency intervention/support.

### **ASB and Case Management**

This policy cannot be prescriptive in respect of partner response and how each individual practitioner should deliver a service to victims. It is recognised within this policy that practitioners and partners will apply professional judgement in the management of ASB. This policy lays out the appropriate initial response in respect of recording, risk assessing, and basic case management including the adoption of an early problem-solving plan.

The partners agree that they will respond to calls of ASB based on their initial risk assessment. The Police will ALWAYS tackle issues of crime that might be a symptom of ASB; however, it will be for local practitioners and leaders to establish appropriate case worker or point of contact for a victim.



## **Recognising Needs of the Offender**

This policy stresses a 'Victim' based approach to tackling ASB. However, it is imperative that the policy also recognises the needs of offenders and adopts the positive principles of Restorative Justice (RJ), Community Justice Panels and Families Working Together and considers their success in respect of reducing re-offending using options not routed within the Criminal Justice System.

It is recognised that many offenders have complex needs and are from troubled families. To ensure that the partnership are able to deliver long term sustainable solutions, that will impact on both ASB and volume crime, the ASB Partnership will work hand in hand with the County 'Families Working Together' project; a multi-agency approach to addressing family problems, which may be the root cause of offending behaviour. The scheme offers incentives to reward positive behaviour as well as sanctions to discourage deviation. This will extend across all partnership products and include developing areas within Restorative Justice and Community Justice Panels.

## **Restorative Solutions and Community Justice Panels**

The 2012 Anti-Social Behaviour Draft Bill captures the positive benefits of Restorative Justice and Community Justice Panels by proposing that all policing areas will deliver a structured approach that allows the community to consider the disposal of ASB and some crime outside of the Criminal Justice System.

Restorative Justice is a process that brings those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward. This method has also been incorporated into Community Justice Panels, which provide a structured process of intervention to help victims and offenders to understand each other, find resolution to conflict and repair the harm done.

## **Integrated Offender Management**

The Partnership will also develop links with Integrated Offender Management (IOM). IOM provides a framework for partner agencies to collaborate to ensure that the offenders whose crimes cause most damage and harm locally are managed in a co-ordinated way. Offenders on the scheme may also be involved in ASB therefore it is imperative this information is shared with ASB partners in order to have a clear understanding of the intervention methods in place and the impact they are having on offending behaviour. Feedback in relation to the impact of IOM will be made through the performance monitoring of funding provided by Lincolnshire County Council (LCC) and the PCC. This information will be then be shared at the quarterly ASB SMB meetings, or when appropriate, by LCC.

The ASB Partnership will continually work towards innovative and creative solutions that include appropriate solutions for victims and communities that might be outside the court

system. We will work to identify offending behaviour with a view to earlier interventions to reduce the impact on local communities and enhance the opportunity of the offender to migrate towards a positive contribution within their neighbourhood, as opposed to a life of crime and a lack of community cohesion.

### **Focus on Offenders**

We will ensure we take action that is aimed at long-term solutions by using the intervention methods available to us, but also considering the use of Criminal Justice and ASB legislation when appropriate.

To achieve this we will:

- Consider all aggravating and mitigating factors. This will include consideration of the views of victims.
- In each case, determine the most appropriate action against offenders, which may include Restorative Resolution and other non-court outcomes.
- Support Criminal Justice System resolutions for those ASB offenders for whom this is the most appropriate option available.
- Enable perpetrators of ASB to recognise the consequences of their behaviour and in doing so aim to change that behaviour.
- Work closely with parents and appropriate services, including Youth Offending Services to ensure young people committing ASB receive appropriate interventions and support.
- Work closely with the Families Working

Together and the IOM project to reduce duplication and increase efficiency through the realisation of economies of scale; shared skills & ability; shared resources and shared legislation.

- Use the full range of legislative powers where appropriate to resolve the most serious cases of ASB.
- Use education through schools as a primary method of preventing young people from committing or becoming victims of ASB.

### **Remedies for ASB**

There are several forms of action available to partners that can be used incrementally or at an appropriate entry level for an incident of ASB.

In some serious cases Lincolnshire partners may go straight to enforcement action whilst in other less serious cases a lower level warning action may suffice. Wherever possible we will aim to resolve any problems amicably through the promotion of positive communication, such as mediation and/or consider alternative means of intervention from other agencies and utilise Multi Agency Meetings.

Partners will also take into consideration any possible mental health or learning disability when responding to incidents of ASB. Any victim or offender believed to have any mental health or learning disability will be checked on the Lincolnshire Partnership Foundation Trust (LPFT) database via the Single Point of Access. This service will identify if the person is known to the LPFT and if a current care

plan is in place. A referral can then be made to provide the person with help and support. Furthermore, this can work alongside any other remedy chosen for that particular incident and also include a referral to the voluntary sector organisations, such as SHINE, MIND or MENCAP.

## Intervention

The different stages of intervention employed within the Lincolnshire ASB Partnership are: -

- Stage One: Verbal Warning
- Stage Two: Advice Letter
- Stage Three: Unacceptable Behaviour Warning
- Stage Four: Acceptable Behaviour Contract (ABC)
- Stage Five: Enforcement Action.

This process is not fixed providing officers with the means to use the full range of tools at any stage of the intervention process

## Stage One: Verbal Warning

This can be given by a Police Officer/Police Community Support Officer (PCSO) or Local Authority/Registered Social Landlord.

This is initial contact with the perpetrator to inform them of the affect and consequences of their behaviour. It is often used as an immediate response to an incident of ASB when the perpetrator is found to have no previous involvement in ASB.

This face to face contact with the perpetrator also provides the opportunity for the partner to identify any contributing factors, such as mental health or learning disability, and provide early intervention by means of a referral to the required agency to provide support and prevent further involvement in ASB.

## Stage Two: Advice letters

These can be sent by the Police or Local Authority/Registered Social Landlords, in most cases the Local Authority has taken the lead to ensure a consistent approach.

It is an exercise used to educate and raise awareness to parents/guardians by informing them that their child has been identified as being involved in ASB and details the circumstances surrounding the incident.

It makes a request for parents/guardian to discuss the issues being raised with their child.



### **Stage Three: Unacceptable Behaviour Warning**

The Local Authority, Registered Social Landlords or Police can issue this warning.

An unacceptable behaviour warning outlines the complaint received about a person's anti-social behaviour and requests that it stops. It also stresses the seriousness of the matter and details what further action will be taken should the person continue to behave in this manner. Best practice has found that when a warning is issued in person by either a Local Authority ASB Officer or Police Officer, the impact on the offender is more significant, than a letter via the post. Furthermore, it allows for discussion with the offenders parent/guardian, when applicable. However, due to resources and time constraints this is not always possible. Therefore partners will be able to use their own discretion when issuing such warnings.

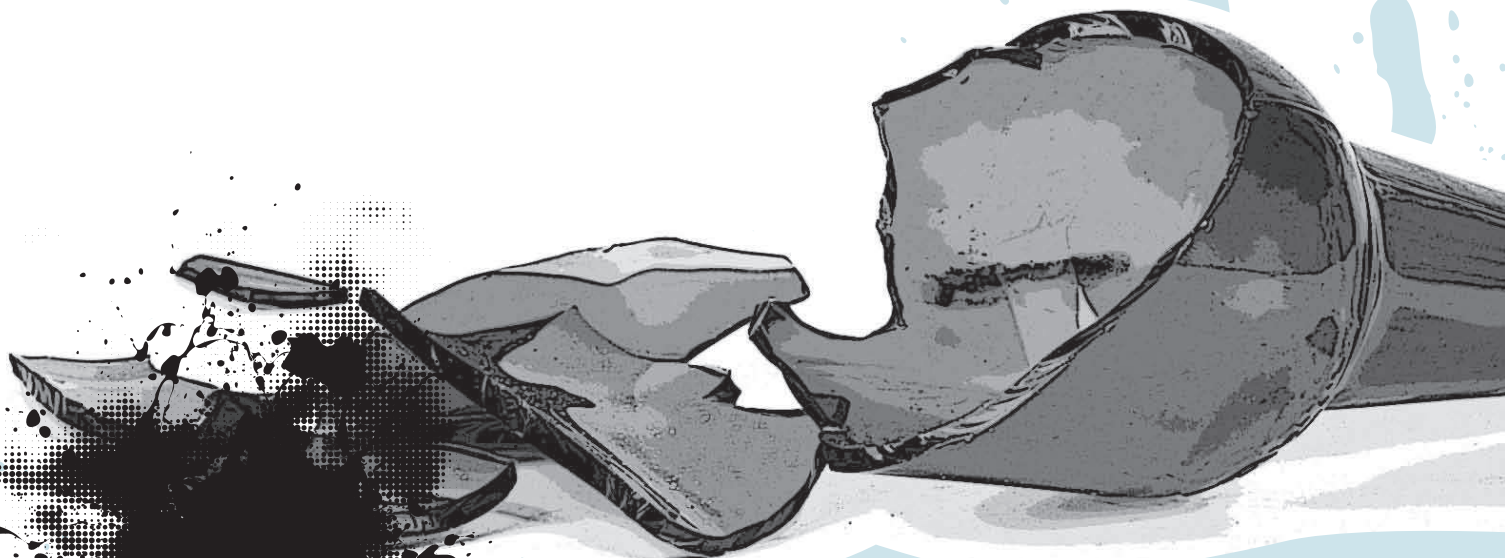
### **Stage Four: Acceptable Behaviour Contracts (ABC)**

This a voluntary contract between the adult or young person, their parents if applicable and the Local Authority/Registered Social Landlords and/or the Police.

A Local Authority or Registered Social Landlord (often in company with a local Police Officer or PCSO) will visit the subject in person to negotiate and agree the content of the contract. It will contain a list of anti-social acts that they will agree not to continue to do.

The contract may also contain offers of support to address any underlying causes of the ASB.

All contracts can be reviewed and altered at the discretion and agreement of all the agencies involved.



The Youth Offending Service, Families Working Together, ASB team or the Community Safety Team may offer support to young people made subject to an ABC to enable them to stick to the requirements of the contract.

### **Stage Five: Enforcement Action- Anti Social Behaviour Order (ASBO)**

If the ABC continues to be unsuccessful, only then will we use that as evidence for the next stage; applying for an ASBO.

We would expect all other appropriate measures to have been applied before progressing onto this stage.

Applications for ASBOs are made to either the County Court or Magistrates' Court by 'relevant authorities' which include local authorities, chief officers of police, and registered social landlords as a means to prevent further ASB by an individual prohibiting the offender from carrying out specific anti-social acts or from entering defined areas. Breach of an order is a criminal offence; criminal procedures and penalties apply.

On stage 5 it's important to note that organisations and agencies still need to be involved once enforcement action is taken to protect individuals or communities who may still feel vulnerable in order to give them the confidence to report any breach of conditions.

### **Criminal Anti Social Behaviour Order (CRASBO)**

The powers to impose ASBO's were strengthened and extended by the Police Reform Act 2002, which introduced orders made on conviction in criminal proceedings, recognising the links between crime and ASB.

A CRASBO is applied for by the Police through the Crown Prosecution Service, in conjunction with evidence from Local Authorities/ Registered Social landlords, as another means of enforcement to; prevent ASB, protect the public and encourage local communities to become actively involved in reporting crime and ASB. Like an ASBO the individual subject of the CRASBO will have a set of prohibitions unique to the case and any breach is a criminal offence.



## Further intervention Methods

This Policy Document also recognises the alternative enforcement measures used by Local Authority Housing Departments and Registered Social Landlords as a means to tackle ASB; such as Injunctions, Demotion Orders, Possession Orders and Eviction.

## Anti-Social Behaviour Risk Assessment Conference (ASBRAC)

An ASBRAC tackles cases within areas that are deemed of such a risk that it is appropriate that partners, at a structured meeting, consider and decide on the required actions to reduce the risk to victims and communities with a view to delivering a partnership solution.

Each district in Lincolnshire has an ASBRAC in operation. Each ASBRAC has clear terms of reference and reports to the relevant CSP and ASB SMB.

Each district has a 4 weekly ASBRAC and consists of tier 1 and 2 partner representatives.

Tier 1 includes Community Safety Officers/  
Police Inspectors/Mangers  
Tier 2 includes ASB Officer/ASB Co-ordinators/  
Supervisors

The Conference is chaired by either the local Neighbourhood Policing Inspector or Tier 1 Manager.

### ASBRAC Process:

The level of risk is identified by the practitioner

through the ASB risk assessment matrix and case details updated onto Sentinel. A high range score will automatically require a referral to a line manager or Police ASB Co-ordinator for inclusion in next ASBRAC referencing the Sentinel case number. However, consideration will also be taken to those victims identified as requiring partnership intervention, but do not fall into the high risk bracket.

An ASBRAC will be diarised in each month. Seven days before the ASBRAC a list of cases for discussion will be sent to all members of the ASBRAC. In some cases partners who would not normally attend the ASBRAC will be invited to assist in specific case issues.

At the conclusion of the ASBRAC an action plan will have been produced. This, along with any other key information should be put on Sentinel to ensure appropriate exchange of information and create a clear audit trail of partnership action.

## Virtual ASBRACS

In cases that requiring an urgent response, so deemed by the practitioner, it might be appropriate for a virtual ASBRAC to be conducted via a conference call or video link with the required partners, providing this is a viable option.

## Closure of cases

At the closure of each case the lead agency will write to the complainant with an explanation of the closure action enclosing a partnership satisfaction survey for the complainant to complete and return. The information gained

from these questionnaires will be used to review policy, procedure and improve responses by the partnership to ASB in Lincolnshire.

### **Overall processing of cases**

All cases should be investigated to the point where officers are clear that they can be closed, resolved through mediation or require further staff action or require enforcement action.

### **Record keeping and the Management of Sensitive/Disclosed Information**

When a member of staff is notified of ASB or informed of any action relating to an ongoing case they must record the details on the same working day.

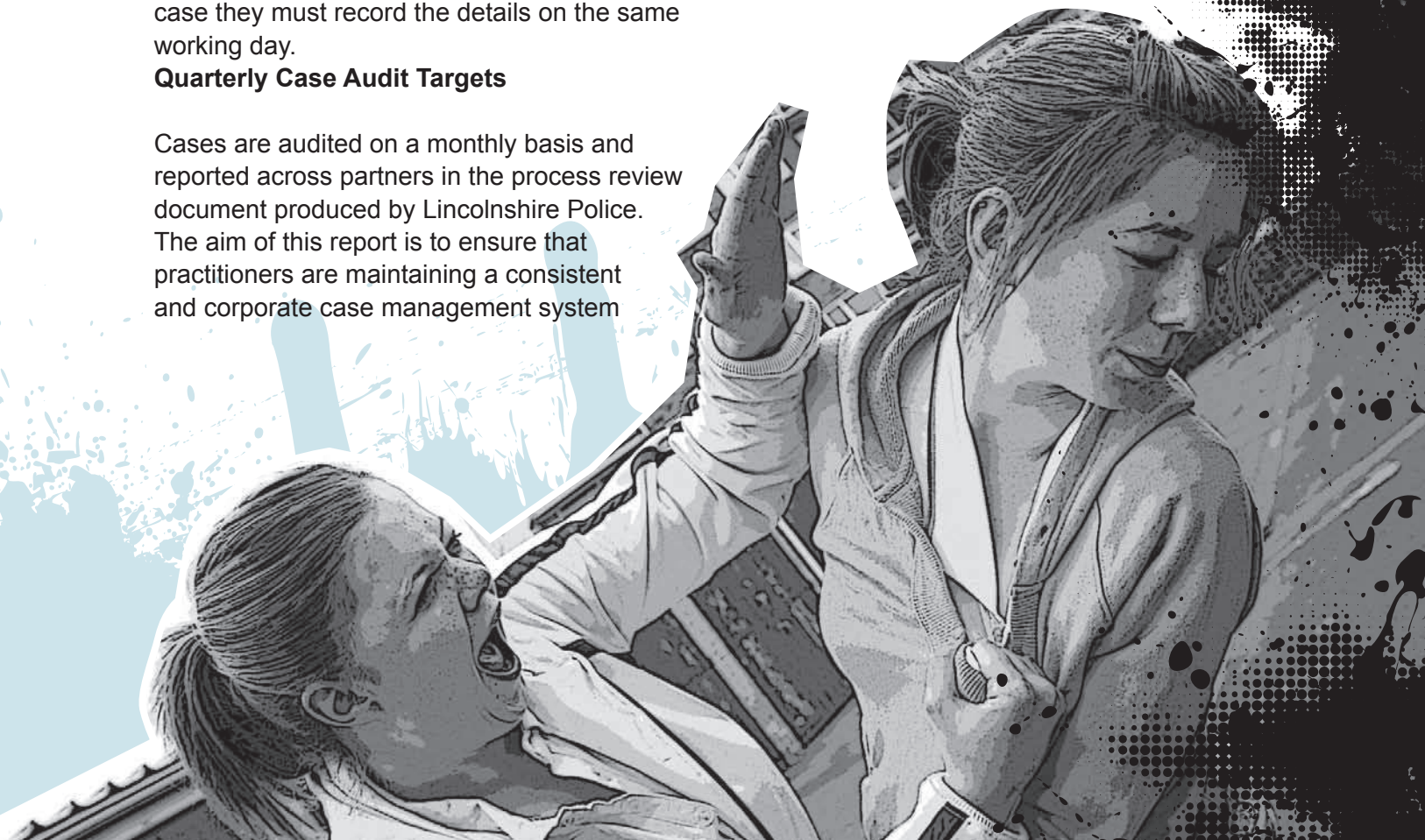
### **Quarterly Case Audit Targets**

Cases are audited on a monthly basis and reported across partners in the process review document produced by Lincolnshire Police. The aim of this report is to ensure that practitioners are maintaining a consistent and corporate case management system

and managing the exchange of information proportionately.

### **Ensure Accountability through Performance Management**

We will ensure we establish clear performance goals and will seek to increase confidence and satisfaction in how we deal with ASB and reduce the number of repeat and vulnerable victims. We are developing a performance measurement process that will reliably demonstrate how successful our efforts have been, which will be monitored by the ASB SMB.



We will deliver timely analysis of ASB across the county, including analysis of activity employed to achieve outcomes. Thus enabling partners to re-visit local tactics and improve service delivery by the adoption of best practice.

#### 4.4 Legal Basis

The following legislation is of relevance for implantation of this policy:

- Domestic Law (such as The Police and Criminal Evidence Act 1984, and the Criminal Justice and Public Order Act 1994)
- Common Law (such as the protection of life and property and preventing breaches of the peace)
- The European Convention of Human Rights (ECHR) which has been given legal effect by virtue of the Human Rights Act 1998
- The Health and Safety at Work Act 1974, the Police (Health and Safety) Act 1997 and legislation enabled by these Acts.
- The Equality Act 2010
- The Crime and Disorder Act 1998
- The Criminal Justice Act 2003

#### 4.5 Human Rights Considerations/Articles Engaged

The following articles within the Human Rights Act may be relevant when dealing with hate crimes/incidents:

- Article 2: Right to Life
- Article 3: Prohibition of torture
- Article 5: Right to Liberty and Security of the person

- Article 6: Right to a Fair Trial
- Article 8: Right to Privacy
- Article 9: Freedom of Thought, Conscience and Religion
- Article 10: Freedom of Expression
- Article 11: Freedom of Assembly and Association
- Article 14: Right to Prohibition of Discrimination

One of the fundamental provisions in the European Convention on Human Rights is Article 2 that states that everyone has a right to life. It also places on public authorities a positive duty to protect life. Similarly Article 3 imposes a positive duty to prevent “inhuman or degrading treatment”. Public authorities must do all that can be reasonably expected to avoid a real and immediate risk to life (*Osman v UK* 1999 EHRR 228).

Each and every decision to act or not must be taken bearing these obligations in mind. Protecting these rights may render proportional the interference of another’s right to, for example privacy and/or family life (Article 8). In any of their actions all members of the partnership must be aware they must not discriminate against any persons regardless of age, gender, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under Article 14 ECHR.

## 5 Implications of the Policy

It is recognised that the guidance contained under this heading may not be directly applicable to all policies. Where it is relevant however, the following areas should be considered:

### 5.1 Financial Implications/Best Value

Improve partnership working and collaboration may facilitate savings across partners due to a decrease in duplication or effort in case management, marketing and publicity.

There are financial implications for all partners with respect to software interfaces and maintenance contracts.

### 5.2 Human Resources/Training

The key areas identified for training will comprise of Vulnerability and Sentinel. Vulnerability is an essential part of the training in order to be able to fulfil the set criteria.

### 5.3 Strategic/Business Plan

The Crime and Disorder Act 1998 was introduced in response to growing public concern about ASB. Section 17 places a statutory duty on Local Authorities and partner agencies to do all they reasonably can to reduce crime and disorderly behaviour locally, and improve people's quality of life as a result. Each individual partner within the ASB Partnership recognise their responsibility in respect of managing ASB and community cohesion, which is reflected throughout

this policy. By doing so our strategic aim to build trust and confidence through safer neighbourhoods, protecting the public and service improvement is achievable.

### 5.4 Risk Management

The two identified risks within this policy include:

- Inconsistency in service delivery across all partners
- Inconsistency of resources.

Failure to manage such risks will compromise efforts to reduce ASB and may therefore increase the level of risk and vulnerability to individuals and communities within Lincolnshire. This could, in turn, impact on levels of confidence and customer satisfaction. Furthermore, it will undermine efforts to achieve our objectives and will also cause the wasteful deployment of resources and bring into doubt the integrity and reliability of performance data.

In order to ensure such risks do not jeopardise our intended outcomes they will be managed through the ASB SMB Delivery Plan. The plan consists of a number of actions to be accomplished over the next 12 months as a means to develop our objectives, monitor progress and evaluate our success.

## 5.5 Diversity

We are committed to meeting needs and providing improved services to all victims of ASB in Lincolnshire regardless of race, ethnicity, age, gender or gender status, etc

The Equality Act established a new Single Equality Duty on public authorities. This consolidates the three existing public duties on race, disability and gender. Additionally, it covers age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment.

The new duty, like the three duties before it, requires public authorities to 'have due regard' to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Public Bodies must also show:
  - Evidence of analysis
  - Details of the information considered
  - Details of any engagement

These are sometimes referred to as the three aims or arms of the general equality duty.

The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics (age, disability, gender reassignment, race, religion or belief, gender, sexual orientation, marriage or civil partnership and pregnancy and maternity)
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

An important part of the general duty in the Equality Act (2010) is the duty to analyse the effect of their policies and practices on equality.

The needs of those covered by the protected characteristics and those not covered have been considered throughout the development of this policy and its associated procedures and strategy.

Men are more often victims of crime in all age groups, except at age 75 and above, where more women are victims – 8.4% of women compared to 6.4% of men.

## 5.6 Children and Young People

Children Act 2004

Section 10 – Co-operation to improve well being

Section 11 – Arrangements to safeguard and promote welfare

## **5.7 Crime and Disorder Act 1998**

Section 115 of the Crime and Disorder Act provides that any person can lawfully disclose information, where necessary or expedient for the purposes of any provision of the act, to a Chief Officer of Police, a Police Authority, Local Authorities, Probation Service or Health Authorities. This power also covers disclosure to people acting on behalf of any of these named bodies.

Section 17 of the Crime and Disorder Act places a statutory duty on every Local Authority to do all that it reasonably can to prevent crime and disorder in its area.

## **5.8 Internal Policy/Strategy Links Hate Crime (PD 96)**

### **5.9 Consultation**

All Partners, Heads of Departments, Chief Officer Group, District Commanders, PCC, and staff associations have been consulted on this policy and its revision.

### **5.10 Publication**

This policy will be published on each partner's intranet and external internet site.

## **6 Promotion/Distribution**

The policy will be owned and promoted by all partners and will be available on the internet.

## **7 Monitoring/Review**

This policy will be monitored through a delivery plan, which has been produced by members of the ASB SMB. It clearly outlines our objectives for the next 12 month, along with measurable aims and performance indicators to review the partnerships progress and success. There is a lead practitioner for each action within the delivery plan and times scales for completion of each activity, which are discussed at the quarterly ASB SMB meeting.

Satisfaction surveys of victims of ASB will be conducted, monitored and shared by all partners in order to establish an overall picture of our developments, which can be consistently and easily evaluated.

The policy will be reviewed annually.

**Partners:**

Lincolnshire County Council Safer Communities  
Lincolnshire County Council Children's Services (Families  
Working Together)  
Lincolnshire Police  
Youth Offending Services  
West Lindsey District Council  
East Lindsey District Council  
City of Lincoln Council  
North Kesteven District Council  
Boston Borough Council  
South Holland District Council  
South Kesteven District Council  
Longhurst  
NewLinx Housing  
Boston Mayflower  
Acis  
Lincolnshire Fire and Rescue



## REPORT TO CABINET

**REPORT OF:** Property Development Manager

**REPORT NO:** PD017

**DATE:** 10 March 2014

<b>TITLE:</b>	<b>Building Control Partnership</b>	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Key Decision	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Cllr M Taylor. Portfolio: Strategic Resources- Well Run Council	
<b>CONTACT OFFICER:</b>	Neil Cucksey Property Development Manager <a href="mailto:n.cucksey@southkesteven.gov.uk">n.cucksey@southkesteven.gov.uk</a> 01476 40 62 24	
<b>INITIAL IMPACT ANALYSIS:</b>  <b>Equality and Diversity</b>	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a> <span style="color: red;">The appendices to the report contain information which is exempt from publication in accordance with paragraph 3 of schedule 12A of the Local Government Act 1972(as amended) because it relates to the business affairs of the Council and the public interest in maintaining the exemption outweighs the public interest in disclosing the interest</span>	
<b>BACKGROUND PAPERS</b>	None	

## **1. RECOMMENDATIONS**

1.1 It is Recommended that Cabinet accept South Kesteven District Council being the lead authority for the delivery of Building Control services for the joint authorities in partnership with Rushcliffe Borough Council (RBC) in accordance with the terms set out in this report and;

1.2 That Cabinet delegate authority to the Director- Corporate Focus in consultation with the portfolio holder for Strategic Resources - Well Run Council to enter into the legal Agreement setting out the terms of the partnership shared service with RBC prior to the commencement of the partnership arrangement.

## **2. PURPOSE OF THE REPORT**

2.1 This report presents the basis of the detailed business case for a shared Building Control service with RBC. The service will be based at South Kesteven District Council in terms of the management and support services as SKDC will be the host authority.

2.2 The business case aims to deliver a joint Building Control service hosted by a lead Authority (SKDC) in order to provide a more resilient service for each Council, a better service for customers, a reduced burden on each Authority's general fund and to provide a platform for a different delivery vehicle going forward. Given current circumstances and the need for a stable position and the availability of efficiencies in year one the delegated service approach through partnership is the favoured option.

2.3 The business case has looked at the opportunity to transform the service through a full partnership delivery approach with RBC. This approach has benefits, particularly in the resilience of the service delivery, use of shared processes and provides additional potential for further savings which would be shared between the two councils as set out in the report.

2.4 This report therefore presents a recommendation for the future delivery of this service with a phased approach to providing a joint building control service initially with RBC but with the aim of inviting other partners to join later.

2.5 Cabinet is requested to consider and approve this approach based on the business case presented.

## **3. DETAILS OF REPORT**

### **3.1 Background**

The service already shares a manager with RBC and the two councils entered into a Joint Reciprocal Working Agreement from 01 July 2013. The development of the business case has therefore been undertaken in partnership with RBC.

3.2 Income levels have declined in the SK district over the last few years (see exempt appendix A). Firstly the recession and down turn in the construction industry restricted demand for the service and more latterly Approved

Inspectors have been working harder in their efforts to secure work previously of little interest to them, which has also taken its toll on fee income.

- 3.3 Regulations require the BC account (fee earning) to be balanced over a three year period, with a declining market the only option available to facilitate this is increasing charging (hourly rates.) Whilst this tool has been used to some degree demand is elastic and therefore the pricing model adopted can constrict market share even further.
- 3.4 It should also be noted that the non chargeable element of the service has “grown” which has resulted in extra cost being borne by the General Fund. In times of reducing government grants and cuts to Council services this is a trend that must be controlled and ultimately reversed.

*The Building Control service is essentially split into three service delivery channels.*

- a) Building Regulations “chargeable activities” for which customers can be charged a fee (Note: the current powers to make charges are very prescriptive, and only empower Councils to set charges at a level to cover actual costs. (Councils cannot budget to generate a surplus)
- b) Building Regulations “non chargeable activities”, which need to be funded through Council Tax as the legislation specifically states they can’t be charged for e.g. dealing with applications relating to works for disabled facilities, advice generally to the public, inspections to identify unauthorised building work, etc.
- c) Other Building Control services – dealing with dangerous buildings, street naming and numbering etc. (Unless directly related to the building regulations service, in which case these will be treated as non-chargeable activities)

### **3.5 Advantages of a service delivered in partnership with RBC**

The business case explains how working in partnership with RBC to provide a single Building Control service will deliver the following advantages:

- Reducing costs through economies of scale.
- Providing a consistent level of service delivery to improve customer satisfaction;
- Provides a more attractive prospect for recruitment and retention of professional staff, and areas of expertise and excellence can be shared;
- Improves the ability of the service to compete with 'Approved Inspectors'; over a larger geographical area.
- Enhances the flexibility of the service to cope with future pressures better;
- Provides the opportunity of extending the shared service across the East Midlands as opportunities arise.

### **3.6 Legal/Governance**

- 3.6.1 The business case and legal agreement identify that a Partnership Board would be set up consisting of Officers from each Council. The Board will oversee the

operations of the Service and to ensure that the interests of each individual Council are upheld. The Council's Building Control Manager will report to the board regularly on all matters, including financial, operational and performance. All decisions will be subject to South Kesteven District Council's procedures as lead authority.

3.6.2 The Legal agreement is currently being drafted and, subject to Cabinet's of the joint Council's agreeing to the Building Control partnership, will be completed for signing as stated in the recommendation.

3.6.3 RBC will present a similar report to their Cabinet shortly after the SKDC Cabinet meeting. This is likely to be on 11/03/2014, that report will see RBC contract their service to SKDC.

### **3.7 Financial Appraisal.**

3.7.1 The Partnership Board will oversee the financial plan and would be responsible for relevant financial decisions such as fee setting, service investment and potential cost/ surplus distribution between the Councils. However, all decisions would be subject to SKDC's Financial Procedures, Standing orders and delegations.

3.7.2 Although both partners objectives are slightly different, RBC wish to improve the customer offer and make the service resilient going forward to ensure that all of the services statutory responsibilities continue to be managed appropriately. Sharing of BC officer and manager resource would enable RBC to achieve this. Whilst SKDC are looking for improvements in these areas a major focus is to balance the trading account in the short term and to reduce the impact on the council's general fund. Again sharing of resources and reduce overheads will be key to achieving this objective.

3.7.3 The detailed financial analysis for year one of the partnership is shown in exempt appendix B.

3.7.4 Subsequent year's financial performance of the partnership will be expressed as stated objectives in relative performance against the year 1 forecast against which the Partnership board will make decisions on financial management. The overriding objective will be a continuation in reduction of the impact of the service on the joint council's general fund. [Initial 3 year projections have been done, however the income generation element of the service is volatile and such projections are difficult.]

3.7.5 Different options around the split of the costs for the non fee earning element of the work have been considered; population, existing split, future split if the two teams remained stand alone etc. However the more complex the initial arrangements are may well be a barrier for others to join the partnership. It is suggested that a straight forward 50:50 split would be the best initial way forward. This should be supplemented by a management fee, which will cover extra admin costs etc, payable by RBC (and any other joining partner) to SKDC. Current modelling leads both Councils to believe that this will still release a saving for both parties at the outset. *The exact amount of that management fee will determined once the final business case financials have been agreed.*

3.7.6 There will also need to be a one-off payment from RBC to the new partnership estimated at circa £80k (to be confirmed by RBC) to cover building control fees already received in 2013/14 in advance of work being completed in 2014/15 which will be met from Rushcliffe's anticipated year-end under spend.

### **3.8 Human Resource implications**

3.8.1 It was initially proposed that from 1 April 2014 RBC staff's employment will transfer to South Kesteven District Council under TUPE and they will continue to work as part of the Building Control joint service partnership.

3.8.2 The rationale for the transfer to SKDC was based on the outcomes of the joint service review in that Grantham was perceived to be a better geographical location to develop a wider partnership over time and the cost of operating the service with SKDC as the host authority were lower than RBC.

3.8.3 An interim Building Control Business Manager (BCM) would take responsibility for the strategic management of the combined service with particular attention being paid to providing and maintaining resources against demand for the service, eg. Finance, IT systems, human resources, Marketing and business development. The BCM will report to the Partnership Board on a regular basis.

3.8.4 However, due to key staff leaving the SK service, the current manager retiring and an initially unsuccessful recruitment process it is now considered that the 1<sup>st</sup> April date is not achievable. In order for the future management arrangements to be concluded it is now believed that the staff transfer process should happen at the end of 2014/15 quarter one being 30<sup>th</sup> June 2014.

3.8.5 Under the TUPE regulations we are required to consult with RBC staff on any changes we wish to make to their working arrangements at the point of transfer, these are known as measures. Details of these are contained at Appendix C.

3.8.6 Consultation with RBC staff commenced on 10 February 2014 and concluded on 28 February 2014 Under TUPE regulations the current RBC staff will transfer on their existing terms and conditions.

3.8.7 The combined staff cohort will consist of the structure set out in the exempt Appendix D.

### **3.9 ICT**

3.9.1 The two Councils operate different IT systems and it is recognised that it would be more efficient for one computer system be used by the partnership service. However, until this is achieved two separate systems will operate. RBC Building Regulations applications will be registered on their Uniform system and SKDC applications on the APAS system. Both systems will be updated separately with inspection records, certificates, etc. This will allow SKDC full access to relevant Building Control records. RBC will maintain the Uniform system and SKDC will maintain the link. Any problems will be reported through the SKDC 'help desk'.

3.9.2 ICT will be hosted and maintained by SKDC as lead authority once migration to a single platform has taken place.

Because of the issues highlighted above we have looked at what will be in place on day one of the partnership and a vision for the first 6 to 12 months of the partnership.

### 3.9.3 Day 1

Administration officers at RBC will be provided with remote access to SKDC software application (APAS).

Joined up telephony. RBC admin staff and officers will be provided with SKDC configured phones. This will work from a broadband line installed by BT at RBC's main office at West Bridgford, NG2 5FE.

All RBC Building Control officers will be provided with a SKDC configured mobile phone.

Staff using RBC equipment and accessing their IDOX document management system will be locally supported by RBC.

RBC admin and BC Officers will have an SKDC email address and access to this remotely and at RBC Office. There will be a link from SKDC to RBC for access to the IDOX system for reporting Partnership issues around the location and management of data by RBC on behalf of partnership.

### 3.9.4 Vision for 6/12 months;

All the BC Officers and admin team operating from one system with reduction in licence fees. To achieve this an option analysis will be carried out to consider potential models including;

- A RBC hosted system on behalf of the partnership with a 'cost of service'
- A SKDC hosted system (one of Idox, Swift or a new system)
- An externally hosted system in the cloud
- ICT support being delivered by SKDC and all staff operating on SKDC based equipment.
- Agile working for all staff with appropriate devices to access information from flexible locations whilst in the office and remotely whilst on site.

## 3.10 Property/ location implications

3.10.1 The space occupied by SKDC existing service will be consolidated to a single office as part of our move to agile working. The administration team will be located in the same office as the Building Control Officers to enable closer team working and resilience around call answering etc.

3.10.2 Initially the RBC administration team and technical officer will remain at RBC's offices. However this will be kept under regular review and at the earliest opportunity they will be relocated to SKDC's Grantham office to realise the efficiencies of a centralised administration function.

3.10.4 At RBC's main office there will be 2 permanent desks for the BC Officers once the administration function has been centralised to Grantham at RBC.

3.10.5 BC officers will be required to operate more flexibly from the start of the partnership at RBC and SKDC enabled office locations and in the field.

#### **4. OTHER OPTIONS CONSIDERED**

A recent service review looked at a number of potential future "model" options that could be used to take the service forward.

- a. Remain in house but with an agreed service improvement plan
- b. Form a working partnership with another Local Authority (most likely each other)
- c. Form a partnership/joint venture with a private organisation (Acivico was identified as an example for initial appraisal purposes)
- d. Outsource the fee earning part of the service and keep only those functions where a statutory responsibility exists - mixed delivery model
- e. Form a new organisation - Mutual (or similar legal entity) to deliver the service
- f. Total outsource to a private sector provider

#### **5. RESOURCE IMPLICATIONS**

The current joint Service Manager will retire from RBC on 31 March 2014. A recruitment process has been undertaken to appoint an interim Building Control Business Manager for a six month period to oversee the transition of the service to a joint delivery arrangement. It is intended the post will be recruited to on a permanent basis once the initial transitional arrangements have been embedded. The focus of the manager's job role is on the commercial, marketing and business development aspects of the service rather than the more traditional approach of technical expertise focused management of recent years.

SKDC numbers at SK have reduced by one senior Building Control Officer in May 2013, one Building Control Officer in December 2013 and a Senior Building Control Officer in January 2014. This is as a result of individuals resigning from the service.

The service is currently staffed with two Principal BCO's, one Senior BCO and a BCO together with 2.3 FTE admin support staff. RBC currently has 5 BCO's at various grades and 2.4 FTE admin support staff and a BC Technician. Please see section under staff for details of the proposed TUPE transfer of RBC's staff to SKDC.

#### **6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>
Partnership operates at loss as income falls below target	Accounts kept under review by Board. Business case is based on a realistic income forecasting. Increase income from higher fees.
Insufficient allowance made for running costs	Current estimate is based on existing budgets and the Managers experience. Monthly budget monitoring and reports.
Late start to shared partnership service delivery	Project management. Each Council absorbs any deficits arising prior to partnership service launch, with income targets reflecting seasonal profiles.
Recruitment of an Interim Manager from within the service fails and TUPE transfer and changes to contracts cause de-motivated staff.	Run process before current manager retires. Have alternate plan in place for management arrangements if recruitment not successful. Early and open TUPE consultation. Listening and flexibility. Trade Union and HR involvement.

## **7. ISSUES ARISING FROM IMPACT ANALYSIS**

None arising from this report

## **8. CRIME AND DISORDER IMPLICATIONS**

None arising from this report.

## **9. COMMENTS OF FINANCIAL SERVICES**

A business case has been prepared which demonstrates that the Building Control Partnership should deliver savings and efficiencies to both authorities over a period of time. The model at Appendix B shows that both Councils General Fund expenditure should reduce in 2014/15 if the expenditure and income incurred is in accordance with the modelling predictions. There will also be a management fee for South Kesteven District Council that reflects the operational costs of hosting the service. These fees should reflect both direct and support costs the Council will incur. Any surpluses obtained from the trading activity of the service will need to be offset against the trading deficit that is currently forecast to be £100K.

## **10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

S.101 of the Local Government Act 1972 permits a local authority to discharge the functions of any other local authority. This legislation also permits two local authorities to discharge their functions jointly. This can be done by officers of one of those authorities. The proposals in this report anticipate a partnership arrangement between two authorities whereby the building control service is provided by this Council for this authority and for Rushcliffe Borough Council.

The Partnership agreement must establish the process for delivery of the service. It will set out the rights and obligations of the authority delivering the

service and the authority receiving the service. Funding arrangements will be established and provision will be made for the arrangement to be terminated.

**11. COMMENTS OF OTHER RELEVANT SERVICES**

None received.

**12. APPENDIX:**

The appendices to this report contain information which is exempt from publication in accordance with paragraph 3 of schedule 12A of the Local Government Act 1972(as amended) because it relates to the business affairs of the Council and the public interest in maintaining the exemption outweighs the public interest in disclosing the interest.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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