

REPORT TO CONSTITUTION COMMITTEE

REPORT OF: David Price Environmental Health Services Manager

REPORT NO: ENV 595

DATE: 16 December 2013

TITLE:	Authorisation of PCSOs to issue fixed penalty notices (FPN)	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Cllr John Smith - Portfolio Holder for Healthy Environment	
CONTACT OFFICER:	David Price e-mail- d.price@southkesteven.gov.uk telephone: 01476 406328	
INITIAL IMPACT ANALYSIS: Equality and Diversity	Carried out and Referred to in paragraph (7) below N/A	Full impact assessment Required: N/A
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	DEFRA guidance on service of FPNs https://www.gov.uk/government/publications/fixed-penalty-notice-provisions-guidance	

1. RECOMMENDATIONS

That the Constitution Committee recommend to Council that the scheme of delegation to officers is amended to include the delegation to Police Community Support Officers (PCSOs) to serve fixed penalty notices.

2. PURPOSE OF THE REPORT

To enable the authorisation of PCSOs to serve Fixed Penalty Notices (FP Ns) on behalf of the Council.

3. DETAILS OF REPORT

The Council has recently received a letter on behalf of the chief constable asking if the PCSOs can be authorised by the Council to carry out various fixed penalty enforcement, as shown below. This request has been made county wide to the constituent district councils.

1. Power to issue fixed penalty notices for littering:

Power of an authorised officer of a litter authority to give a notice under section 88 of the Environmental Protection Act 1990 (fixed penalty notices in respect of litter).

2. Power to issue fixed penalty notices in respect of offences under dog control orders:

Power of an authorised officer of a primary or secondary authority, within the meaning of section 59 of the Clean Neighbourhoods and Environment Act 2005, to give a notice under that section (fixed penalty notices in respect of offences under dog control orders).

3. Power to issue fixed penalty notices for dog fouling:

Power of an authorised officer of a local authority to give a notice under section 4 of the Dogs (fouling of Land) Act 1996 (fixed penalty notices in respect of dog fouling). This power (and the 1996 Act) has now been repealed in relation to England and Wales by section 107 and Schedule 5 Part 5 of the Clean Neighbourhoods and Environment Act 2005. However the power continues to have effect in respect of any land which remains designated land under the 1996 Act.

4. Power to issue fixed penalty notices for graffiti and fly-posting:

Power of an authorised officer of a local authority to give a notice under section 34 (1) of the Anti-social Behaviour Act 2003 (penalty notices in respect of graffiti or fly-posting).

Additional capability to carry out this enforcement will supplement existing capacity within the Council, will be beneficial to the amenity of the district and will contribute to the Council's clean green and healthy priority. Some details will need clarification such as suitable training for the PCSOs and it is likely that this will be carried out centrally for the county.

The Council has existing arrangements in place for staff to issue fixed penalty notices (£75.00 fine) and processes to collect payments, which are to the benefit of the Council. This may need some amendment to incorporate any changes, but the payments will continue to be to the benefit of the Council.

The Constitution empowers the Head of Environmental Services (now Operations Director) to authorise officers (of the council) to carry out these functions. Legal services have advised that to ensure a robust process of delegation the PCSOs should be clearly identified as so delegated within the Constitution. It is therefore proposed that the amendment to the Constitution is recommended to Council for approval to enable the authorisation of PCSOs to discharge the functions listed.

4. OTHER OPTIONS CONSIDERED

DEFRA guidance confirms that PCSOs can be authorised by Local authorities for the service of FPNs

5. RESOURCE IMPLICATIONS

These are seen as minimal but with the potential for additional income for the council from FPNs

6. RISK AND MITIGATION

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

Category Risk	Action / Controls

7. ISSUES ARISING FROM IMPACT ANALYSIS

N/A

8. CRIME AND DISORDER IMPLICATIONS

Additional capacity to serve FPNs will contribute to the council's Clean Green and Healthy priorities

9. COMMENTS OF FINANCIAL SERVICES

Currently the Council receives income of approximately £225 per annum from penalty notices which should increase if PCSOs are also authorised to issue notices.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

PCSOs already have the power to issue fixed penalty notices in respect of the offences detailed above by virtue of the Police Reform Act 2002. If this power is to be exercised, the Council must continue to process those fixed penalty notices issued including prosecution where necessary. The PCSOs should be fully trained to deal with the offences covered and comply fully with the Council policies relating to enforcement.

The proposed delegation should be included in the Constitution to mitigate the risk of challenge to the issue of any notice. The Chief Police Officer must confer the appropriate power on the PCSOs in accordance with the provisions of the Police Reform Act

11. COMMENTS OF OTHER RELEVANT SERVICES

None

12. APPENDICES: None