

POLICY BRIEFING PAPER

Recipients' Experiences of Community Protection Notices

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Overview

Community Protection Notices (CPNs) were introduced through the Anti-Social Behaviour, Crime and Policing Act (2014). CPNs are civil notices that can be issued to an individual (aged over 16) or organisations by frontline officers from local councils, the police, and registered social landlords in England and Wales. The notice imposes a set of requirements to undertake or cease specific actions when the behaviour in question is having a detrimental effect, of a persistent and continuing nature, on the quality of life of those in the locality, and the conduct is unreasonable. This definition is vaguer and more subjective than the legal definition of anti-social behaviour (ASB), with a significantly lower standard of proof required compared to other ASB sanctions. Breach of the notice is a criminal offence that can result in a £100 fixed penalty notice or a fine of up to £2500 on conviction (£20,000 for organisations). CPN recipients can appeal their notice within 21 days of issue on a range of specified grounds. Prior to a CPN being issued, the recipient must receive a written Community Protection Warning (CPW). This

should outline the behaviour considered to be causing a problem, request its cessation, and detail the consequences for non-compliance. There is no legal basis to appeal a CPW.

This is the first research to examine how CPNs are experienced by their recipients. Our exploratory work sought to investigate the types of ASB that resulted in CPNs being issued, the process undertaken by the authorities from the recipients' perspective, how the recipients felt about their notice, and whether they complied with the notice or not.

Our Research

It is very difficult to identify CPW/CPN recipients because the notices are issued out of court. We interviewed 15 people that received a CPW or CPN; 9 of which were identified for us by the Manifesto Club, with the remainder recruited through social media. There were 9 male and 6 female participants. The average age was 53, with a range between 24 and 70 years. Three

declared a disability and the majority were White (14) with one participant from a Mixed ethnic group. All participants were from England. In addition, many participants submitted copies of their CPW/CPN (or both) to the research team for analysis. Data were collected via telephone interviews, which were thematically analysed. Ethical approval for this research was granted by the authors' institution (ref: ER14257916).

Key Findings

- **CPN requirements were not proportionate to the behaviour(s) in question nor the duration of the notice.** This was reflected by wide-ranging prohibitions and the employment of generic requirements that prohibited recipients from acting in any manner that causes or is likely to cause annoyance, nuisance, harassment, alarm, or distress in a large geographical area (e.g. local authority area). Thus, a recipient could be issued a fixed penalty notice for breaching their notice for exhibiting ASB unrelated to the initial behaviour that was sanctioned.
- **Participants felt the CPN issuing process was unjust.** The notices were perceived to be unfair, inappropriate, or disproportionate. For example, an authorising body was described as 'police, judge, jury, and prosecutor'. Without a procedurally fair encounter, trust and legitimacy cannot be established, which can have implications for compliance with the notice.
- **Communication surrounding the CPW/CPN issuing process was poor.** Most participants stated they received no information about their behaviour prior to a CPW being issued. Where informal interventions were implemented, there was no indication that escalation would involve CPN proceedings, nor was any explanation given about what a CPN entailed. Most notices were received through the post rather than face to face,

which removed the opportunity for any dialogue about the case. Furthermore, attempts to contact the issuing authority were unsatisfactory for participants who described how phone calls, emails and letters were not responded to for weeks, if at all. This lack of voice in the issuing process sometimes made the requirements difficult to abide by because they were not understood.

- **Participants' cases were often more complex than the CPW/CPN requirements suggested.** For example, most participants were in a long-standing neighbour dispute and felt individually targeted for what was a broader issue, where their neighbour was not perceived to have been given any sanction at all. Perceptions that the issuing process is biased can negatively affect trust and compliance behaviours.
- **Timeframes to comply with the CPW/CPN were not always proportionate to the extent of the potential harm caused, resulting in an over-coercive demand.** Arbitrary timescales for the behaviour to be addressed reflects officer discretion. The timescales used were generally not comparable to other offences punishable by fixed penalty notices. Consequently, the legitimacy of the CPW/CPN process was damaged, especially when the authorities could not be contacted about the notice.
- **The low evidence threshold was a key concern for participants, who did not know what evidence had been collected against them.** The lack of evidence and dialogue with the issuing authority prevented recipients from being able to counter the argument, which limited their scope to mount an appeal. Participants were particularly concerned when the evidence was generated by an issuing officer rather than a public complaint, raising questions about the subjectivity of the authorising body.

- **The low evidence threshold and its subjective application brought a wide range of behaviours into question, which resulted in recipients rejecting the anti-social label because they felt their behaviour was not morally wrong.** Participants compared their behaviour (e.g. a messy garden) to typical understandings of ASB (e.g. noisy neighbours). They distinguished themselves from stigmatised anti-social identities. Many participants defined themselves as ‘upstanding members of society’ and demonstrated a strong moral self. Consequently, distancing themselves from the issuing authority weakened trust and delegitimised the authorities’ role as moral representatives.
- **Participants were frustrated by the lack of opportunity to formally appeal a CPW.** They felt the inability to challenge the warning was confirmation that they had committed the behaviour, something that many denied. This led some participants to feel trapped by the CPW, with little recourse to justice. One participant seriously contemplated breaching the CPW to receive a CPN which could be challenged in court.
- **Some participants were excluded from accessing the appeals process due to a lack of economic and social capital.** Many participants described how the legal process to appeal a CPN through the magistrates’ court required significant emotional, mental, and physical labour, which made some people ill. Furthermore, others were advised not to proceed with their appeal because of the financial costs involved if they were unsuccessful. One participant epitomised this by saying ‘I just felt it was really sad that I’m too poor to be innocent’.
- **Participants that complied felt trapped into doing so.** Where participants complied with the notice, they felt *compelled* to do so because they feared financial hardship from

the fine and/or because of the negative consequences of the anti-social label (e.g. denied future employment opportunities). Participants were therefore compelled to comply with the notice, despite being morally unaligned with and resistant to the authorising body. Resultantly, participants lost trust in the authorities.

Policy Recommendations

1. **Thorough casework should be undertaken to consider the possibility of victimisation being experienced by the intended recipient.** The complexity of the cases detailed in our research showed that a more nuanced understanding of the situation could have resulted in a more appropriate, and consequently less punitive, early intervention being employed, for example, mediation or restorative justice. The CPN process is designed to be swift but should not be employed simply as a ‘quick fix’.
2. **A more effective communication strategy should be created to provide a more transparent issuing process that meets the needs of both parties.** For example, the issuing officer should communicate with the potential recipient, preferably verbally and in person, before a CPW is issued. This initial contact should provide details about: the alleged ASB and supporting evidence, the potential for escalation should the behaviour continue, and the consequences of non-compliance with any sanctions. Recipients should also be able to contact the issuing officer to discuss their case and the authorities should ensure there is appropriate infrastructure in place to support this.
3. **The timescales allocated to recipients to address the ASB in question should be more flexible** to account for the practicalities of making any changes (such as employing someone to conduct remedial work and the

associated costs) and be proportionate to the risk of harm.

- 4. The comments from Stannard v CPS [2019] EWHC 84 (Admin) judgement should be heeded and implemented immediately.** The court stated that CPN requirements should be no more than necessary to address the behaviour in question; and there should be no generic requirements that prohibit the recipient from causing any harassment, alarm, distress, nuisance, or annoyance. Also, that authorising bodies should have a review and adjudication system in place to afford the opportunity for CPWs and CPNs to be discharged.

References

Stannard v CPS (2019) EWHC 84 (Admin), [2019] WLR 3229, [2019] 1 WLR 3229, [2019] WLR(D) 70
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<https://www.bailii.org/ew/cases/EWHC/Admin/2019/84.html>

About the Research

Funding

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Full References for the Published Research

Black, A. and Heap, V. (2021). Procedural justice, compliance and the 'upstanding citizen': a study of Community Protection Notices. *British Journal of Criminology* [Online First]
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