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# **How do local councils administer Community Protection Notices?**

## **RESEARCH FINDINGS**

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in partnership with the Manifesto Club

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## **How do local councils administer Community Protection Notices?**

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This report is based on research undertaken for a final year undergraduate dissertation on the BA (Hons) Criminology degree at Sheffield Hallam University, completed by Isabela Dima and supervised by Dr Vicky Heap.

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## **Executive Summary**

Community Protection Notices (CPNs) and Community Protection Warnings (CPWs) were introduced in 2014 and are civil orders that can prohibit and/or require specific behaviours by individuals or organisations deemed to be having a detrimental impact on the community. CPWs and CPNs can be issued by frontline officers including the police, local councils, and registered social landlords without having to go to court. There is no limit on the behaviours that can be curtailed by CPWs and CPNs and there are minimal opportunities to appeal. Breaching a CPN results in a £100 fixed penalty notice or possible criminal conviction.

Since 2016 the Manifesto Club has used Freedom of Information requests to investigate how local councils are utilising CPNs; tracking the number of notices issued, the frequency of fines imposed, and the types of behaviours that have been sanctioned. Over the past five years, these data have highlighted a vast uptake in CPN usage with more local councils using these powers today than ever before with very little oversight.

The Manifesto Club has joined forces with researchers from Sheffield Hallam University to conduct an additional Freedom of Information research project in order to gain a deeper understanding of how local councils administer CPNs. This report details the findings obtained from Freedom of Information requests made to all 343 local councils in England and Wales, which posed eight questions. The topics covered include: CPN policy, primary legislation, systems of oversight, template notices, application of the 'detrimental effect', appeals, information sharing and training. The findings suggest that administering CPNs varies greatly between different councils, which potentially has negative implications in terms of fairness and due process for their recipients.

## What are Community Protection Notices?

A Community Protection Notice (CPN) is a civil preventive order that imposes requirements on an individual aged over 16, or an organisation, to undertake or stop specific actions or behaviours.

Any conduct can be sanctioned by a CPN if it is 'having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and the conduct is unreasonable' ([Section 43\(1\), Anti-Social Behaviour, Crime and Policing Act, 2014](#)). This definition is more vague and subjective than the legal definition of ASB, with a significantly lower standard of proof required than for other ASB sanctions. CPNs can be issued by any authorised person without having to go to court, with individual officers from the police, local council and registered social landlords assigned the power to do so.

Prior to a CPN being issued, the individual/organisation must receive a written Community Protection Warning (CPW) that highlights the behaviour considered to be causing a problem, requests its cessation, and details the consequences of non-compliance. The CPW should also provide a timeframe within which any action must be taken and when a CPN is likely to follow. How a CPW is discharged, as well as the timescale provided to comply with it, are at the discretion of the authorising body.

Breaching a CPN is a criminal offence. It is punishable by a £100 fixed penalty notice, or a fine of up to £2500 on conviction (£20,000 for organisations). Contravening the requirements of a CPN can also result in paying for remedial work, forfeiture, or the seizure of items. The authorising body could pursue a remedial or forfeiture order upon breach, and failure to comply with this additional sanction constitutes contempt of court and could result in a custodial sentence of up to five years.

CPN recipients have the opportunity to appeal their notice within 21 days of issue, on a range of specified grounds. These are: if they assert the behaviour did not take place, the behaviour was not unreasonable, or that any of the requirements contained in the CPN are unreasonable. There is no legal basis to appeal a CPW.

## What do we know about CPNs so far?

The Manifesto Club has used Freedom of Information (FOI) requests to investigate how local councils in England and Wales use CPNs. Reports published by the Manifesto Club in [2016](#), [2017](#), [2019](#), and [2020](#) highlight the number of councils using CPNs and how many were issued in the past 12 months. The reports demonstrate an upwards trajectory in both the utilisation of the power as well as the number of CPNs issued. For example, in 2014/15 107

councils issued a total of 3943 notices, compared to 2018/19 where 202 councils issued 8760 notices ([Manifesto Club, 2020](#)). Manifesto Club's research has also shed light on the types of behaviours which have been sanctioned by CPNs, which reflect a broad spectrum, including: untidy gardens, feeding birds, neighbour disputes, and behaviour associated with rough sleeping. We know less about how CPNs are administered, namely the issuing process, evidence thresholds and local oversight. The research presented here begins to address this gap.

## **Sheffield Hallam research**

The aim of this research was to find what practices and procedures local authorities in England and Wales have in place to issue CPNs, and to prompt further discussion about their implementation.

FOI requests were sent to all 343 local councils in England and Wales. The questions were created in partnership by the Manifesto Club and researchers at Sheffield Hallam, in order to supplement the data already held and to better understand the issuing process on a national level.

The following eight questions were posed:

1. Does your local authority have a policy for issuing Community Protection Warnings/Community Protection Notices? If yes, please can this be attached.
2. Do you use Community Protection Warnings/Community Protection Notices when there is other legislation in place that could be applied?
3. Do you have any systems of oversight to ensure that Community Protection Notices are being used correctly? For example: oversight by a senior officer, or a chance for recipients to appeal the Community Protection Notice within the local authority?
4. Does your local authority use pre-written Community Protection Warnings/Community Protection Notices where the issuing officer 'fills in the blanks'?
5. How do you apply the 'detrimental effect' threshold required for the issuing of Community Protection Notice? For example, do you define 'detrimental effect' as conduct that causes nuisance or harm, or conduct that others find very annoying?

6. What information about the appeal process is given to Community Protection Notice recipients?
7. Is information about Community Protection Warnings/Community Protection Notices that have been issued shared with relevant interested partners, such as housing or police? If so, how is this done?
8. What training is given to officers that issue Community Protection Warnings/Community Protection Notices, in terms of content and duration?

The majority of questions were formulated as simplistically as possible to elicit yes/no responses, with the option to provide additional information (e.g. attach a policy). However, one of the limitations of this type of research is that the respondents do not always provide yes or no answers. In a manner that reflects the subjective nature of anti-social behaviour, varying responses were provided in this research. For example, responses were often 'no, but...' in nature.

All 343 FOI requests were submitted electronically in January 2020. Seventeen requests were initially unsuccessful due to some local councils not accepting FOI requests via email. A further four requests bounced back, potentially as a result of not having access to the correct email address and two were forwarded to the right department by the customer services team. Where necessary, alternative emails were found online by accessing the website of the relevant local council or by using an online form to submit the request.

Under the Freedom of Information Act (2000) public authorities have a legal duty to respond within 20 working days. Fifty-two local councils failed to provide the information within this timeframe, however a further 24 did so after further correspondence. One council reported that it does not hold the information required to answer the FOI request. Resultantly, only 314/343 local councils responded to the FOI request, 29 did not respond. Of the 314 that did respond, 32 had never issued a CPN. When a response to an FOI request is not received, researchers can lodge an appeal with the Information Commissioner to obtain the information. However, due to the timescales associated with this dissertation research plus the number of responses already received, it was decided not to pursue an appeal.

The data were quantitatively analysed to assess the proportion of responses in each category, with further thematic analysis undertaken for any documentation provided where it would add context. Aggregated data is presented in this report to provide an indication of the picture across England and Wales, rather than focusing on the practices of individual councils.

The research received ethical approval from Sheffield Hallam University as part of the Dissertation module, as delegated by the [Sheffield Hallam Research Ethics Committee](#). All research was conducted in accordance with the [British Society of Criminology Statement of Ethics \(2015\)](#).

## FOI analysis

The results are presented in table form, per question posed.

**Table 1: Policy**

Question: Does your local authority have a policy for issuing Community Protection Warnings/Community Protection Notices? If yes, please can this be attached.

Responses	Frequency	Percent
Yes (attached)*	58	17.0
General ASB/enforcement policy	54	15.7
Statutory Home Office guidance is followed	31	9.0
Policy under review	8	2.3
In the process of being developed	6	1.7
Not aware of any policy	2	0.6
Different protocol (RIAMS - information management)	15	4.4
Joint policy with other bodies	8	2.3
No policy in place	107	31.2
No response	54	15.7
Total responses	289	84.2

\*Inaccurate representation (explained below)

The rationale for this question was to determine whether councils have a local CPW/CPN issuing policy as a means of standardising the issuing process across multiple authorised officers.



This question had the highest response rate 84.2% (289). Overall, 17% (58) of councils said they have a CPW/CPN issuing policy and attached the documentation. However, upon closer inspection, only 7.9% (27), just less than half of the original number, actually have a policy in place that specifically deals with CPWs and CPNs. The other policies attached were not CPN specific. A large number of councils reported different policy approaches, for example 15.7% (54) said they had a generic ASB policy in place, whilst 9% (31) reported that they followed the Home Office statutory guidance. In other areas, policies were a work in progress with 2.3% (8) of councils having a policy under review, and 1.7% (6) being in the policy development process. The majority of local councils, 31.2% (107), stated that they did not have a policy in place for issuing CPWs and CPNs. We know that 32 respondents have never issued CPNs, which leaves 75 councils of those that responded (21.8%) currently issuing CPNs without a policy.

Question 1 contained a wide range of different responses, which highlights the variability of how issuing CPWs and CPNs is approached by local councils. The powers in the ASB, Crime and Policing Act (2014) were designed to be flexible and responsive to local needs (Home Office, 2021). However, too much variability in the issuing process, both between different councils and within individual councils, can negatively impact on fairness and due process - as found in research by Heap et al. (2021).

#### Table 2: Legislation

Question 2. Do you use Community Protection Warnings/Community Protection Notices when there is other legislation in place that could be applied?

<b>Responses</b>	<b>Frequency</b>	<b>Percent</b>
Yes, not specified	54	15.0
Yes, in tandem with other legislation	20	5.9
Yes, where appropriate/necessary	18	5.3
Yes, when other options did not work	13	3.8
Each case is considered individually	51	14.9
Forms part of a tiered escalation process	11	3.2
The most appropriate legislation is applied first	62	18.0
No	44	12.8
No response	70	20.4

Total responses	273	79.6
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The Manifesto Club has consistently highlighted how powers from the ASB, Crime and Policing Act (2014), including CPNs, are used when other primary legislation and procedures are available (Manifesto Club, 2016); hence the reason for posing this question.

The response rate for table 2 was 79.6% (273). Again, despite being a simply worded question to prompt yes/no answer, a range of responses were received. In terms of using CPNs when other legislation is in place, 30.6% (105) of councils said yes, but half of these responses came with caveats such as ‘only where necessary’ or ‘where other options did not work’. Other responses did not fully answer the question, stating that each case is considered individually (14.9%/51) or that the legislation used is part of a tiered escalation process (3.2%/11). In contrast, 12.8% (44) councils said no it was not used where other legislation could be applied.

This question reflects a divergent approach towards the application of CPN legislation across England and Wales. This could lead to a ‘postcode lottery’ approach to justice, where behaviours are sanctioned differently depending on the locality. The problem with this approach is that enforcement is unlikely to be fairly applied, meaning that two people committing the same ASB could be punished very differently.

Table 3: System of oversight

Question 3. Do you have any systems of oversight to ensure that Community Protection Notices are being used correctly? For example: oversight by a senior officer, or a chance for recipients to appeal the Community Protection Notice within the local authority?

Responses	Frequency	Percent
Yes, not specified	30	8.7
Reviewed/authorised by manager/head of services	71	20.7
Reviewed/authorised by senior officer	76	22.1
Checked and approved by the legal team	29	8.5
Peer reviewed	5	1.5
Internal ASB conference/meetings	9	2.6
Multi-agency meetings	5	1.5

Signed by police	10	2.9
Authorised officers can issue CPNs	8	2.3
Enquiries can be made to the enforcement council	11	3.2
No	15	4.4
No response	70	20.4
Total responses	273	79.6

The purpose of this question was to explore the extent to which individual officers' power and discretion is scrutinised to ensure that CPNs are issued correctly. The response rate for table 3 was 79.6% (273). Encouragingly, Table 3 shows that 243 councils (70.8%) indicated yes there is some system of oversight in place, with a variety of systems in operation. The most common forms of scrutiny mentioned were the CPN being reviewed/authorised by a senior officer (22.1%/76) or a manager or head of services (20.7%/71). In some cases (2.9%/10) the CPN was signed off by the police, which demonstrates partnership working; an area that requires further research. The anomalous answers to this question refer to the appeals part of the question; 3.2% (11) stated that enquiries could be made with the council. In contrast, 4.4% (15) indicated that there was no oversight in place to ensure that the CPN was being issued correctly. Although this was a small minority of respondents, the level of discretion afforded to individual officers is concerning in relation to fairness and due process.

**Table 4: Pre-written templates**

Question 4. Does your local authority use pre-written Community Protection Warnings/Community Protection Notices where the issuing officer 'fills in the blanks'?

<b>Responses</b>	<b>Frequency</b>	<b>Percent</b>
Yes, not specified	98	28.6
Yes, general templates for each case	75	21.9
Yes, for CPWs	1	0.3
Yes, for waste issues only	2	0.6
Yes, used as examples to draft notices	3	0.9
Combination of both	4	1.1

Pro-forma used	7	2.0
On occasions/if appropriate	7	2.0
No, new documents are generated	82	23.9
No response	57	16.6
Total responses	286	83.4

The use of pre-written templates for issuing CPWs and CPNs requires further exploration. It could be a useful way of maintaining consistency, but equally allow notices to be issued in haste. Thus, the purpose of this question was to determine how widespread the practice of using pre-written templates is.

The response rate for table 4 was 83.4% (286). Table 4 indicates that 57.3% (197) of councils are using pre-written templates to some extent. This can be just in certain circumstances, for example for waste issues or only for CPWs. Conversely, 23.9% (82) councils said no they did not use pre-written templates, reflecting a ratio of 2:1 in favour of using the pre-populated documentation. Some responses included additional information about the nature of the templates, stating that they were drafted in partnership with the police or by a legal team and they are primarily used to maintain consistency. This practice needs to be better understood through further research, but the variation in responses further underlines the divergent approach to administering CPNs.

Table 5: Threshold

Question 5: How do you apply the 'detrimental effect' threshold required for the issuing of Community Protection Notice? For example, do you define 'detrimental effect' as conduct that causes nuisance or harm, or conduct that others find very annoying?

Responses	Frequency	Percent
Causes 'alarm, harassment and distress'	67	19.5
With reference to the statutory guidance	51	14.9
Determined on a case by case basis	48	14.0
Assessed on evidence and circumstances	40	11.6
Assessed by experienced officers and acted upon	25	7.2
Negative impact on the area	13	3.8

Harmful/damaging effects on someone's life	8	2.3
Determined by a legal team	4	1.1
Could encompass annoyance and inconvenience	9	2.6
No answer provided for that question	6	1.7
No response provided	72	21
Total responses	271	79.0

One of the concerns about CPNs is the evidential threshold because it is lower than previous powers (Heap et al., 2021). The behaviour has to have 'a detrimental effect on the quality of life of those in the locality, be of a persistent or continuing nature; and, be unreasonable' (Home Office, 2021: 48). The purpose of this question was to explore how the definition has been used in practice by different local councils.

The response rate for table 5 was 79% (271). Due to the subjective nature of the definition we expected a range of responses. Councils indicated that officers are responsible for determining the severity of the behaviour which is likely to have a detrimental effect on the community. The most common response, 19.5% (67), was that the behaviour causes 'harassment, alarm, or distress' which is the classic definition of ASB first used in the Crime and Disorder Act (1998) and the one that features in the definition for the Civil Injunction in the Anti-Social Behaviour, Crime and Policing Act (2014). Arguably, this is a higher threshold than required for issuing a CPN. Other common responses included following the statutory guidance issued by the Home Office and determining the behaviour on a case by case basis. At the other end of the spectrum were responses including: having a 'negative impact' on the area or causing 'annoyance and inconvenience'. This suggests that 'detrimental effect' means very different things to different issuing officers and demonstrates how the threshold for issuing a CPN is not equal across the citizenry. The divergent approaches further underline how people undertaking the same behaviours have the potential to be sanctioned differently based on where they live.

#### Table 6: Appeal information

Question 6. What information about the appeal process is given to Community Protection Notice recipients?

Responses	Frequency	Percent
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Section 46 of the Anti-social Behaviour, Crime and Policing Act 2014 attached	126	36.7
Standard appeal information on the back of the notice	143	41.7
Council's complaints system	2	0.6
'Stannard v The Crown Prosecution Service'	2	0.6
No appeal process	1	0.3
The contact of the senior officer is given to recipients	1	0.3
Information provided in follow up letter	1	0.3
No recorded information found	1	0.3
No response	66	19.2
Total responses	277	81.0

The Manifesto Club (2019) has cautioned about the cost and practicalities associated with appealing a CPN through the Magistrates' Court. Therefore question 6 was posed to assess what information about the appeals process was given to CPN recipients at the outset. As stated in section 43(7)(b) of the Anti-Social Behaviour, Crime and Policing Act (2014), the appeal process must be explained to the recipient.

The response rate for table 6 was 81% (277). From the responses obtained, the vast majority of councils, 78.4% (269), include the standard appeal information on the back of the notice, with 36.7% attaching section 46 of the Anti-Social Behaviour, Crime and Policing Act (2014). However, there were some anomalies, with information provided about the council's complaints system or an example of case law. Overall it is promising that so many councils provide this information, although it should be 100%.

Table 7: Information-sharing

Question 7. Is information about Community Protection Warnings/Community Protection Notices that have been issued shared with relevant interested partners, such as housing or police? If so, how is this done?

Responses	Frequency	Percent
If relevant and appropriate	22	6.4

With partners who have a legitimate interest	7	2.0
With departments/ agencies involved in the case	21	6
Multi Agency Information Sharing Agreement	70	20.4
With relevant partner agencies ahead of issue	7	2.0
Via secure email/case management system	29	8.4
Via panels/multi-agency meetings	70	20.4
ECINS Secure National Database	23	3.2
No, unless requested and lawfully	22	6.4
Depending on the case	8	2.3
No	10	2.9
Information not held	1	0.2
No response	53	15.5
Total responses	290	84.5

Question 7 was posed to better understand the CPN issuing process and how data is shared with other community safety partners.

The response rate for table 7 was 84.5% (290). Again, the responses were varied, and practices differ across councils and partners. In combination, Table 7 shows that information is shared with partner agencies by 74.6% (256) of councils. In the majority of cases, 20.4% (70) this is done through a multi-agency information sharing agreement. Other common methods include: multi-agency meetings 20.4% (70), secure emails 8.4% (29), and via the ECINS Secure National Database 3.2% (23). The nature of the sharing processes differs. Some councils will automatically share information with relevant bodies prior to a CPN being issued 2% (7), some will only do so if requested 6.4% (22). In contrast, 2.9% (10) are not sharing information.

#### Table 8: Training

Question 8. What training is given to officers that issue Community Protection Warnings /Community Protection Notices, in terms of content and duration?

Responses	Frequency	Percent
Internal and external training	47	13.7
Mallard Consultancy	28	8.0
Multi-agency training	8	2.3
On the job training	12	3.5
Legal training	25	7.2
In house training, briefing and support	34	9.9
Information ASB course/event	11	3.2
BTEC level 3 of investigative practice	4	1.0
Training offered at the commencement of the legislation	8	2.4
Training for new officer in the starting pack	4	1.0
Via continuing professional development	3	0.9
No specific training, legislation is followed	22	6.4
No response	94	27.4
Total responses	249	72.0

The Manifesto Club (2019) has highlighted how local councils have given CPN issuing powers to officers with limited training. Consequently, this question was posed to better understand what training is undertaken.

The response rate for table 8 was 72% (240), which was lowest out of all the questions asked. However, this question saw the greatest diversity of answers. When combining the responses, 66% (227) councils reported that officers have received *some* CPN-related training. However, the extent of training varied immensely from a BTEC Level 3 qualification to 'on the job' training. The most common response was a rather vague 'internal and external' training, reported by 13.7% (47) councils. Worryingly, 6.4% (22) of councils reported that no specific training is provided and that 'legislation is followed', which leaves the interpretation of the legislation to the individual officer. Plus, due to the low response rate for this question there is no data available for 27.4% (94) of councils. The results from this question further highlight the divergent approaches taken by councils concerning CPNs.



## Conclusion

This research has provided an initial exploration into how local councils administer CPNs through obtaining FOI data from 314 local councils in England and Wales. For the first time, FOI data about CPNs has moved beyond counting the numbers issued to assess the issuing process more deeply. The analysis undertaken here demonstrates the divergent approaches taken by local councils when administering CPNs, ranging from local policies and officer oversight, to information sharing and training. Although the powers contained in the Anti-Social Behaviour, Crime and Policing Act (2014) were created with the flexibility to tackle local issues (Home Office, 2021), this should not be at the expense of standardised processes to ensure these sanctions are being applied fairly across England and Wales. This research appears to show that there is a 'postcode lottery' of CPN practices currently being undertaken. The findings from this work have reinforced that more in-depth research into the CPN process is required to better understand how the legislation is operationalised in practice. This work is currently being undertaken by one of the authors through a project funded by the British Academy/Leverhulme Trust and supported by the Department for Business, Energy and Industrial Strategy and is entitled: '[Understanding how Community Protection Notices are used to regulate anti-social behaviour](#)', which is due to be completed in spring 2021.

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# Sheffield Hallam University

*How Do Local Councils Administer Community Protection Notices?*

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