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# **What is it like to be issued with a Community Protection Notice?**

## **RESEARCH FINDINGS**

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in partnership with the Manifesto Club**

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## **What is it like to be issued with a Community Protection Notice?**

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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.

The Manifesto Club has revealed the increasing use of these powers by local councils since 2016, often highlighting how they have been used to impose unreasonable restrictions upon individuals. CPWs and CPN have been employed to tackle a wide range of perceived anti-social behaviours including: untidy gardens, noise nuisance, begging, nuisance associated with dogs (barking/fouling), feeding birds, obscene language, and leaving bins out on the street.

The Manifesto Club has joined forces with researchers from Sheffield Hallam University to create an evidence base of CPN research and to explore what it is like to receive a CPW or CPN from recipients' perspectives. This report details a range of testimonies from CPW/CPN recipients who provided in-depth accounts of their cases, the issuing process and feelings towards their notices. The research demonstrates how the use of CPWs and CPNs extends the coercive power of the state, with specific reference to disproportionality, due process and accountability. The report details: the issuing process, evidence, appeals and recessions, and compliance then offers three empirically-based recommendations for reforming CPW/CPN practices. Ultimately, this research found that recipients articulated a diverse range of experiences, highlighting a need for greater scrutiny and reform.

## 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 are the main concerns about CPNs?

[Manifesto Club \(2016\)](#) highlight a range of concerns about the implementation of CPNs, specifically:

- How the issuing process takes place out of court and is procedurally light touch
- The significantly lower standard of proof compared to other similar sanctions

- The power and discretion given to council officers to issue CPNs
- The 'blank-cheque' nature of the powers to prohibit any behaviour
- How the behavioural requirements can be enforced in an individual's home
- How CPNs are being used as a 'quick-fix' to address behaviour already governed by existing powers

## How have CPN powers been used?

Manifesto Club has campaigned against the overuse of legislation contained within the Anti-Social Behaviour, Crime and Policing Act (2014) for six years. Reports by the Manifesto Club from [2016](#), [2017](#), [2019](#), and [2020](#) use data obtained through Freedom of Information requests distributed to all 338 local authorities in England and Wales to understand CPW and CPN usage. Investigations assessed the number of CPWs and CPNs issued by each local council and the types of behaviours they have been used to sanction. The findings highlight how CPNs are being increasingly used by a growing number of local councils, with the latest data showing 78% of councils issuing them ([Manifesto Club, 2020](#)).

The data also show that the behaviours being sanctioned are diverse. The previous powers which CPNs replaced were Litter Abatement Notices, Litter Clearing Notices, Street Litter Clearing Notices, and Defacement Removal Notices; measures concerned with environmental nuisance. However, Manifesto Club's work highlights that a much broader range of behaviours are being sanctioned. For example, CPNs have been issued in relation to: noise nuisance, rough sleeping, street drinking, begging, busking, escaping animals, feeding birds, untidy gardens, and dogs barking.

## Sheffield Hallam research into recipients' experiences of CPNs

### *Research approach*

The authors, in partnership with Manifesto Club, investigated CPW and CPN recipients' experiences of the CPW/CPN issuing process and their perceptions of the sanctions. This research is important because it sheds light on a relatively new practice that lacks many of the traditional safeguards associated with the criminal justice system.

Due to CPWs and CPNs not being issued at Court, it is very difficult to establish who is receiving these notices. Therefore Manifesto Club brought together CPW and CPN recipients that had contacted them for advice and researchers from Sheffield Hallam University, adhering to all data protection legislation. Additional CPW/CPN recipients were recruited through social media, which resulted in a total of fifteen participants. Each participant took part in one telephone interview that lasted approximately an hour. This approach allowed

the research to be conducted on a national scale in a cost-effective way. Of those interviewed, 9 were male and 6 female. The age range was between 24 and 70 years, with an average age of 53. Three participants declared they had a disability. The majority of participants were White (14), with one participant from a Mixed ethnic group. Every participant lived in England, with 4 from the East Midlands, 4 from the South East, 3 from the South West and 1 from London. Two participants did not provide age, disability, ethnicity, or location information.

Fifteen participants, whilst not a large number for this type of research, have provided an incredibly useful starting point for our understanding of the CPW/CPN powers. The participants' experiences proved similar enough for a range of relevant themes to be generated. It is also important to note that the results presented here are based on the *perceptions* of the recipients only and that authorising bodies may have a different view of the cases presented. Further research is currently being undertaken by the authors to explore practitioners' accounts of the CPN issuing process.

The research received ethical approval from [Sheffield Hallam University Research Ethics Committee](#) and was conducted in accordance with the [British Society of Criminology Statement of Ethics \(2015\)](#). To maintain anonymity, all names presented in this report are pseudonyms.

#### *Participants' cases*

The participants' experiences were based upon a range of CPW/CPN cases, as follows:

- 8 participants had received a CPW
- 7 participants had received a CPW *and* CPN, of which
- 1 participant had received a CPW and a CPN, followed by two separate CPWs

Most recipients' CPWs/CPNs were issued by local councils and 6 were issued by the police. A total of 6 recipients eventually either successfully appealed or had their notices rescinded by the relevant authorising body.

As well as discussing recipients' cases with them during the interview, many participants also submitted copies of their CPW/CPN documentation to the research team. Combining both participants' accounts and the documentation enabled a range of behaviours to be identified that were sanctioned by the CPWs/CPNs. Although some CPWs/CPNs captured more than one type of behaviour, the recipients' notices can be broadly categorised as follows:

- 7 neighbour disputes (e.g. land use or noise nuisance)
- 4 related to animals (e.g. dog walking or escaping pets)
- 3 untidy gardens
- 1 harassment

Furthermore, a third of participants' CPWs/CPNs contained a 'catch-all' condition that required them to 'not act in any manner or engage in any activity which causes or is likely to cause annoyance, nuisance, alarm, harassment and/or distress to any person not of your household within [an area]'. This means that an individual could receive a fixed penalty notice fine for engaging in any behaviour that is perceived to be annoying, despite it not being related to the original ASB identified to be causing a problem. These generic ASB requirements move beyond the specific behaviour being sanctioned and are therefore disproportionately coercive towards the recipient. The ability to create such punitive conditions also reflects the large amount of discretion afforded to issuing officers and their power to assess the level of risk posed to the community.

## Being issued a CPW/CPN

Participants outlined their experiences of the CPW/CPN issuing process. Statutory [Home Office guidance \(2021\)](#) details how informal interventions should be utilised prior to formal sanctions, for example mediation. However, for the vast majority of participants, the first time that they realised there was a problem was when the CPW was issued. Where there had been contact with officials prior to a CPW being issued, which occurred in 3 out of 15 cases, participants recalled how these conversations did not include any suggestion that a failure to act would result in a CPW.

In total, 9 out of 15 participants were issued with their notice through the post and they came as a surprise to the recipient. Consequently, the CPWs and CPNs were generally perceived unfavourably by the participants, fuelled by the surprise of receiving one. Furthermore, as Olivia's story highlights, there was the feeling that if an officer had spoken to them about the problem in the first instance, the situation could have been remedied without the need for a CPW to be issued. Home Office guidance (2021) suggests that officers can post the notice when there are concerns about safety, but this research revealed it to be common practice. The problem with this approach, from the participants' perspective, was that this issuing method did not give them the chance to challenge the notice as it was served, which often resulted in confusion and worry.

### *Olivia's Story*

*Olivia received a CPW from the local council for an overgrown hedge at her student house. She explained how the hedge bordered an alleyway, with her hedge on one*



*side and her neighbours hedge on the other. Whilst the foliage was overgrown it was not blocking access to the path, which led to a dead-end. Olivia stated that she received no indication before receiving the CPW that the hedge was a problem and detailed how she felt about receiving the warning:*

*“I think it was quite unreasonable for them to just issue a warning without maybe actually speaking to us first. ... so there was a note that came with it [the CPW] that said the officer had knocked on the door but nobody was in. But obviously if it’s a working day then nobody is going to be in.”*

In addition to feeling surprised and shocked to receive a CPW/CPN, participants also felt the notice was disproportionate and unjust, epitomised by Steve’s comments. It was clear that participants did not consider their behaviour to be ‘unreasonable’ and having a ‘detrimental effect’ on the community. For instance, in both Olivia and Steve’s cases, they did not believe their unkempt hedges were causing a significant enough problem to others to warrant the threat of a fixed penalty notice.

#### *Steve’s Story*

*Steve was issued with a CPW as a result of an untidy front garden, which had overgrown bushes and a lawn that needed cutting. Steve received the CPW letter through the door without any prior indication that there was an issue. He describes how it made him feel:*

*“You know I haven’t been brought up to expect council officials [to] threaten you with court for having an untidy garden. I mean the garden was untidy and if a neighbour had complained then I would have preferred that the complaint had come to me directly from the neighbour ... I don’t believe that councils should take on these powers to sort of persecute people for minor things. I mean that’s my belief. I mean I believe it was an interference and I resented it at the time and I still do.”*

The timescales that recipients were given to address the behaviour in question was also raised as an issue by participants, who felt they were not given enough time to take the necessary action. The amount of time allocated to recipients is at the discretion of the issuing officer and through our research we found the timescales ranged from ‘immediately’ to up to 14 days. The amount of time allocated was particularly problematic for recipients who had to undertake actions that required financial investment, for example repairing or installing fencing to keep animals under control. This was true in Monica’s case.

#### *Monica’s Story*

*Monica was issued with a CPW by the local council, which required her to stop her chickens from escaping her land and roaming on the road and nearby properties. The*

*chickens were kept free-range and were leaving the property through a hedge, requiring Monica to address the issue by installing fencing. She explained how she felt when she received the CPW and discovered that she had to take this action within a specific time period:*

*“When I saw it I thought oh my god, it says unless you take – I mean she issued it 3rd April and she gave until 17th April to sort it all out to make sure that your poultry are confined to your land at all times so that's two weeks to sort it out, not a lot of people can sort it out in two so what if they get out on 18th? Then you're automatically going to be issuing me with a fixed penalty notice. You get 30 days with a parking notice so why should they be able to put two weeks for you to remedy it? That's a ridiculously short timescale.”*

*Monica compared the timeframe to take action for the CPW to the longer period of time allowed to pay a parking fine. This incongruence was frustrating, particularly for Monica where the CPW was issued a month after the initial complaint.*

Two thirds of participants detailed difficulties when attempting to communicate with the issuing authority to discuss the contents of the notice after it had been issued. For example, there were accounts of phone calls, emails and letters left unanswered, as well as reports of feeling that they were being pushed from one authority to another. The negative experiences of trying to communicate with the authorities contributed to participants' feelings that the CPW/CPN issuing process was unfair.

## **Evidence**

Participants were concerned about the evidence used in their case, particularly the nature of the evidence collated and the low evidential threshold. Many participants were unaware of the evidence presented against them and explained how none was provided to them when they were issued with their CPW/CPN. The absence of evidence and the subsequent lack of transparency within the issuing process made recipients question the legitimacy of the notice. It also added to their feelings of injustice, specifically how the punishment was disproportionate to the behaviour in question. When challenged about the evidence held, participants recounted how there was no opportunity for dialogue with the issuing authority to suggest an alternative version of events. Richard's story exemplifies this.

### *Richard's Story*

*Richard was issued with a CPW and CPN by the police in relation to walking dogs off the lead within a specific area. An initial allegation was made which resulted in the CPW, which was followed up around a month later with the issuing of a CPN. Richard*

*explained how the notices did not detail any evidence of behaviour that was of a persistent nature:*

*“The [CPW] references just one alleged incident and does not evidence a persistent pattern of behaviour required under ASB CPA [the Act] ... The CPN is evidence as failing to meet the requirements of ASB CPA section 43.1, namely, A, the conduct of the individual or body is having a detrimental effect of a persistent or continuing nature, on the quality of life of those in the locality and B, the conduct is unreasonable. There is no evidence or claim within the CPN that satisfied 11a above and walking of dogs off lead as neither unreasonable nor unlawful.”*

*Furthermore, Richard detailed how the police would not assess evidence he could produce that proved he was not the perpetrator in question:*

*“Had my dogs been running around attacking other people’s dogs or worse, other people, then I could understand it but there was no evidence of that. It didn’t happen in fact. ...The police have refused to review my GPS tracking data that evidences that I was not anywhere near the claimed locations on the times and dates stated in both the [CPW] and the CPN.”*

Previous anti-social behaviour powers similar to CPWs and CPNS, such as ASBOs, required the evidence to be heard in court, which provided a procedural safety net for recipients to articulate their own account of events. Where recipients were not presented with any evidence, participants explained how this prevented them from examining the claims made against them, leaving them without an argument to counter. Participants explained how this led them to feel frustrated and angry with the situation because they believed that it was the issuing officer’s word against theirs.

## **Appeals and Rescissions**

Participants detailed very different experiences of the appeals process. There was a clear frustration about not being able to formally appeal a CPW, especially when the recipient contested it and was not presented with any evidence. There was a sense that the lack of appeal process acted as confirmation that the behaviour took place, when they disputed the claims made. Some participants did challenge their CPW, but through informal measures such as telephoning or engaging in written correspondence with the issuing authority (when they could get a response). In some cases, this tactic was successful and the CPW was rescinded. However, there appeared to be no standardised procedure for this and local variations were apparent. This lack of consistency highlights the extent of discretion afforded to issuing officers and the individual power they hold to shape the recipients’

outcomes, as well as the lack of governmental scrutiny of these powers to ensure the fairness of their application.

In a number of cases, participants engaged in acts of resistance to demonstrate their dissatisfaction with being issued the notice. For example, many recipients refused to sign the CPW/CPN when it was delivered to them. There was the belief that signing the notice would accept responsibility for the behaviour in question and refusing to sign was a statement of innocence. One CPW recipient even considered getting a CPN just so they could challenge it in court, a proposal that further reflected the frustration felt with the issuing process.

Where a CPN had been issued, five participants attempted to appeal the notice formally through the courts. The outcomes of this process provided a mixed picture. Some participants initiated the appeal, but failed to make it to court because the notice was rescinded in advance of the court date. Others did make it to court and were successful, like in Trudy's case. However, victory came at a personal cost with Trudy explaining the significant emotional, mental and physical labour involved in the process.

#### *Trudy's Story*

*Trudy received a CPW and then a CPN related to a neighbour dispute. Trudy was one of the few participants who appealed their CPN at court, which she did successfully. Trudy explains what it was like to embark upon the appeals process:*

*"It's just incredible. The experience of trying to fight this by myself. I mean I've got two masters degrees, one's an MBA and for each of those, for the MA and the MBA and during my work with the [professional organisation] I had to prepare 20,000 word documents, obviously dissertations and do a lot of research but I've had to do as much for this appeal which I've won as I did for one or two of those dissertations. That hard work is exhausting, it's made me ill and it's almost destroyed my life."*

*"The difficulty was in actually doing it because it takes the most enormous amount of time and effort. It's also like a physical labour as well and when I was putting in my evidence that took me about ten days of work but also, you know, I mean I would be doing it from seven in the morning until two in the afternoon most days. There's my witness statement which is 12 pages I think long but it has 36 appendices with it so I had to get all those documents together, plus also I think the most arduous thing and I found very uncomfortable and scary even is getting my witness statements because I felt very bad about approaching people and it's kind of nerve-racking thinking what if they say no, they won't do it? I'm completely on my own then but they didn't say no and they gave really good and honest witness statements."*

Others made it to court and were ultimately unsuccessful, but not necessarily based on the merits of their case. Bernard explained how the financial risk was too much if he lost the case so therefore decided to withdraw the appeal. Again, the process was perceived as being unjust and without any recourse to claim innocence. The financial element is particularly concerning; CPNs do not feature in [Schedule 1 of the Legal Aid, Sentencing and Punishment of Offenders Act \(2012\)](#), therefore the Legal Aid Agency does not provide funding to support such appeals. Consequently, this demonstrates how financial security is required to pursue an appeal, which excludes some people from accessing justice.

#### *Bernard's Story*

*Bernard was issued with a CPW and CPN as a result of a dispute with his neighbour, with specific requirements that related to harassment and the placement of objects outside of his property. Bernard was unhappy about being issued with a CPN and having secured a solicitor to work on his case pro bono he engaged with the appeal process, as he explains:*

*"He [the solicitor] took his time and collated all the evidence and how it started and we basically went to court to put our point across and our demands and I was very excited about putting my side of the story across but unfortunately when it happened we basically had it adjourned for a later time in the new year. ... All I done was I was able to state my name, stand up say my name, my address and if I understood what's going on and I sort of shook my head and I said, well not really. I didn't understand. But the judge sort of said, well, you will have time with your solicitor to talk about it. So it was adjourned and basically it boils down to my solicitor asked when it was adjourned for everyone to come up with their defences and evidences and the council chap, what I've learnt, they've got very expensive lawyers that work for the council and because of this they would come up with such a good defence it would be impossible to sort of argue because they make it very – They've also got so many character references from other people who work [redacted] about me and complaining about the [redacted] right, which I didn't know. If I knew then I would have been able to get character witnesses because everyone didn't like the [complainant]. You know that was too late."*

*"... it got to the stage where the solicitor found that he didn't want me to go any further in case I had to pay costs and the council, they put up a £10,000 thing where if lost I'd have to pay the fees. My lawyer was very much aware that he didn't want me to go down that route ... I just felt it was really sad that I'm too poor to be innocent, do you know what I mean? No one told me in this process when they issued you with a CPN, and it does say you can appeal, it doesn't mention anywhere that if you appeal it's going to cost a lot of money."*

The lack of opportunity to appeal a CPW or CPN highlights how there is a lack of accountability for the decisions made by both the issuing officer and the authorising body.

## Compliance

The research also investigated whether participants complied with the conditions set out in their order, or not. Previous work suggests that the fairness of the issuing process impacts on compliance, with people more likely to comply if they perceive the process to be fair ([Crawford et al., 2017](#)). Given that the findings outlined above demonstrate how participants' thought their CPWs and CPNs were not issued fairly, the matter of compliance is important. It is also an indication as to whether CPWs and CPNs are a useful tool for prohibiting specified types of ASB.

The issue of compliance was polarised within the sample of participants. A third expressed how they did not comply with the notice, with a range of reasons provided. Some, like Agnes, felt the conditions imposed were impossible to comply with.

### *Agnes' Story*

*Agnes received a CPW from the local council requiring her not to feed birds in her garden, garage roof or vicinity of the property. Here, Agnes explains how she feels that she cannot comply with the conditions imposed:*

*"I'm going to be criminalised if I fail to comply, but how can you comply with something like this, it's not possible ... The birds live in the trees in the wood next to me. I get all sorts of birds, so as they've said to me you have to comply not to feed any birds at all anywhere in the vicinity of my property, which could mean 5 metres on each side of my fence. You know, I can't comply because the birds are everywhere. You know, mice. Whatever. Squirrels. Owls. Pheasants. Everything. So I can't comply with it because it's unrealistic."*

Others simply did not agree with the conditions imposed because they felt the behaviour in question was not 'unreasonable', so refused to comply. It appears that the lack of perceived legitimacy of the powers facilitate their non-compliance. In contrast, two thirds of participants complied, but only because they felt trapped into doing so, for two reasons. First, because they feared financial hardship if they were issued with a fine and second because they were worried about negative consequences for their career if they received a criminal conviction. A number of participants explained how their work required them to undergo criminal records checks and were worried a CPW/CPN breach would show up. Despite being a civil order, one participant explained how through a subject access request, he found that his CPN had been recorded on the Police National Computer.

## Conclusion

In the first study of its type, our exploratory research has highlighted how recipients are experiencing the coercive power of CPWs and CPNs. Our findings have demonstrated the amount of power and discretion available to individual issuing officers and how this can result in issues of disproportionality, the absence of due process and a lack of accountability. These results are concerning because they suggest that individuals could be unnecessarily brought into the criminal justice system. Further research into CPWs and CPNs is required to better understand how they are being used and the impact they have upon people's lives, including both recipients and victims. Further investigation is required to understand the perspectives of CPW/CPN recipients from a broader range of people, with a greater range of different conditions specified on their notices. Furthermore, to better understand the issuing process, research is required with the issuing authorities to explore their issuing rationale, evidence thresholds and procedural safeguards.

## Recommendations

Manifesto Club has long advocated for a 'fundamental review' of CPW and CPN powers. The evidence presented here adds support to this call on the grounds that there appears to be little accountability for the coercive decisions made by individual officers. Based on this research we recommend that:

- More thorough investigations are required to better understand the circumstances of the ASB cases where CPWs and CPNs are used. The complexity of the issues detailed by recipients suggests that the situation could have been resolved using informal, less punitive measures.
- A more effective communication strategy should be developed to provide a more transparent issuing process that meets the needs of both parties. For example, the issuing officer should speak to the potential recipient prior to issuing a CPW. There should also be a clear channel of communication for recipients to contact the issuing officer about their case, with the authorising body responsible for ensuring the infrastructure is in place to support this.
- The timescales allocated to CPW and CPN recipients to address the behaviour in question should be proportionate to the risk of harm and thus be more flexible, especially when practical changes are required. For example, employing someone to conduct remedial work when there is a financial cost involved.



Our research also suggests that the training provided to individual officers issuing CPWs and CPNs needs to be explored because of the varying issuing practices being undertaken, particularly in relation to the process of discretionary decision-making. Further research is required to assess the extent of training provided to all issuing authorities (police, local councils and registered social landlords); the authors are currently undertaking this research.

The findings also support the comments made in the [Stannard v CPS \[2019\] EWHC 84 \(Admin\) judgement](#), and we suggest they are embraced by the issuing authorities. The comments come from a case where an individual unsuccessfully appealed a CPN at the High Court. They detail that CPN requirements should be no more than necessary to address the ASB in question. Furthermore, the comments also highlight that generic requirements prohibiting any harassment, alarm, distress, nuisance or annoyance should not be used, which we found in a third of our participants' documentation. Ultimately, the prohibitions and requirements should be proportionate to the risk of harm posed by the recipient.

## Next Steps

Our research has highlighted the need for CPW and CPN powers to be scrutinised further. The authors are currently engaged in two further research projects to better understand how CPNs are being utilised by the authorities and how they impact upon recipients.

Project one is 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](#)'. It is due to be completed in spring 2021.

Project two is funded by Oak Foundation and is entitled: '[Understanding the impact of anti-social behaviour tools and powers on street sleeping homeless people](#)'. It is due to be completed in autumn 2022 and is being conducted with Chris Devany.



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*What is it like to be issued with a Community Protection Notice?*

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