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Victims' experiences of Community Protection Notices: The need for an underpinning restorative approach to protecting victims of anti-social behaviour

Zoe Rodgers

Introduction

This article presents key findings from an independently led qualitative master's dissertation published recently in the International Review of Victimology, which examined victims' experiences of Community Protection Notices (CPNs) (Rodgers, 2022). The project took place between June and August 2020 during the COVID-19 pandemic as part of the MSc Criminology and Criminal Justice Practice course at Sheffield Hallam University. The rationale for undertaking the project centred around raising awareness and knowledge about CPNs amongst victims and practitioners alike, with the research conducted in collaboration with the victims' charity ASB Help.

This research is one of the first pieces to address the new power introduced by the Anti-Social Behaviour, Crime and Policing Act (2014), besides the work of Heap *et al.* (2021; Forthcoming), which looks at the experiences of recipients and practitioners. In contrast, this project provides the victims' perspective of the CPN process. The research highlights concerns around transparency, accountability, the correctability of requirements imposed, and victim involvement in the CPN process. In response, three empirically grounded recommendations and a model outline anti-social behaviour (ASB) victims' needs and vulnerabilities. Finally, the accounts highlight the need for an authentically restorative approach underpinning the CPN process.

Response to anti-social behaviour in England and Wales

Introduced in England and Wales by the ASB, Crime and Policing Act (2014), the CPN seeks to protect victims of ASB by addressing unreasonable and persistent conduct, which has 'a detrimental effect on the quality of life of those in the locality'. Per the broad legal definition provided by the act, ASB is 'acting in a manner that caused or was likely to cause harassment, alarm, or distress to one or more persons, not of the same household as the defendant.' The CPN can subsequently be issued to individuals aged 16 or over or to a business committing ASB by the police, local authority, social housing provider, or any other authorised persons with delegated power from the local authority.

However, a Community Protection Warning (CPW) must first be issued outlining the unreasonable behaviour and steps to be taken by the recipient before attempting to implement a CPN. Once a CPN is in place, a breach of any of the requirements included is considered a criminal offence. The requirements can include prohibitions (e.g., exclusion zone) and positive requirements (e.g., anger management course). Punishment for a breach includes a fixed penalty notice (up to £100). In addition, on conviction, punishment may include a fine of up to

£2,500 for individuals or £20,000 for businesses. Alternatively, a recipient could be required to comply with a court order such as remedial action, forfeiture or seizure order, with non-compliance constituting contempt of court with a maximum five-year custodial sentence attached.

In expanding the range of authorised persons able to issue the CPN, the Conservative-Liberal Democrat coalition hoped the new approach underpinned by the 'putting victims first' agenda would address the limitations of the CPN's predecessor, the Anti-Social Behaviour Order (ASBO). For example, 58per cent of ASBOs issued between 2000-2012 were breached at least once, with an average breach rate of 4.9 times (Ministry of Justice, 2012). As a result, the coalition reduced the previous nineteen powers created by Labour to six. These powers include the CPN, discussed in this article, the Civil Injunction, Criminal Behaviour Order, Public Spaces Protection Order, Closure Notice/Order, and Dispersal Power. This approach is bottom-up in nature and designed to be a quick, practical, easy-to-use deterrent to perpetrators. The introduction of the Community Trigger alongside the new powers supports this vision by enabling victims and communities to initiate a review of their ASB case upon meeting their local threshold if there is perceived to be an insufficient response (Heap, 2016).

Consequently, the fact that the CPN seeks to address the underlying problems leading to anti-social behaviour, including positive requirements, is crucial as the ASBO only imposed prohibitions upon recipients. In addition, the flexibility of the CPN's purpose allows practitioners to 'deal with particular ongoing problems or nuisance[s] which negatively affect the community's quality of life' by targeting those responsible (Home Office, 2021). Increasingly the CPN is being used by practitioners; the most recent freedom of information request by the Manifesto Club in 2018-2019 indicated that 8,760 CPNs were issued (Manifesto Club, 2019). However, recent cases within the media raise concerns about whether this new approach addresses ASB appropriately.

For example, Stephen and Jennifer Chapple were fatally attacked in their home on 21st November 2021 after an alleged neighbourhood parking dispute (BBC, 2021). The Chapples had repeatedly contacted the authorities; however, they were unable to gain a solution to the problems encountered. This approach means there is still a postcode lottery about what priority to give ASB, thus failing to protect socially disadvantaged and marginalised victims. When reviewing and comparing literature regarding the Crime and Disorder Act (1998) and the ASBO, many of the problems raised by victims' accounts in this research remain consistent.

The impact of anti-social behaviour and the perceived effectiveness of responses

Our limited current understanding of anti-ASB powers is due to several factors, including the focus on now-repealed solutions, a lack of evaluative research into the six new powers, and the methodological approach to the issue which prioritises numerical outcomes over the lived experiences of victims. Nevertheless, supporting the cases discussed above, recent qualitative research exploring the long-term impact of ASB on victims (Heap, 2021), found such conduct to be significant in terms of the change in behavioural routines, fear, stress, anxiety and upset caused. While this research provides a general insight into the experiences of victims, there is still more work to be done to explore the

protection offered and victims' experiences of each of the new powers.

The long-term impact of ASB is associated with the perceived unsatisfactory response from authorities with delegated responsibility (Heap, 2021). This finding reflects previous qualitative and quantitative research, highlighting the 'merry-go-round' of referrals victims experienced through responses legislated by the Crime and Disorder Act (1998). According to the quantitative findings from Brown and Evans (2014) and Case *et al.* (2011), these referrals negatively impacted victims' satisfaction levels and how well-informed victims felt about their cases.

Casey and Flint (2007) and Farrow and Prior (2006) support these findings concerning the previous powers using the mixed methods approach. However, they found that the duration of cases spanned several years, and many were without a positive resolution, which led to victims feeling desperate for help to address the impact of ASB on their lives. This research took these limitations into account, applying a qualitative approach and an aligning critical victimological theoretical framework proposed by Mawby and Walklate (1994) to gain the 'lived experiences of victims'. In addition, this research addressed the research gap and highlighted the potential secondary victimisation experienced by victims.

Researching victims' experiences of CPNs

This primary research used five semi-structured telephone interviews with victims across England and Wales: one from the Yorkshire and the Humber region, three from the East Midlands, and one from the South East. An invite sent to victim support services, social media, and contacts from previous researcher roles led to the recruitment of these five individuals. All victims had experience with both the CPW and CPN. In addition, two individuals within the sample also had experience of court proceedings following repeated CPN breaches. The sample consisted of men (one) and women (four) aged between 47 to 61 years.

The interview schedule addressed victims' ASB case and impact, authorities' responses, and the perceived effectiveness of CPWs and CPNs. Participants were supported during the interviews with sensitivity, provided a right to withdraw and signposted to support services; ethical approval was granted through the authors' institution. The data collected was analysed following the six-phase framework Braun and Clarke (2006) proposed, producing three key themes associated with the victims' constructions around the impact of the ASB, authorities' response, and experience with the CPN process.

Findings

Impact of the ASB

The impact of ASB on participants' lives was significant. In Sophie's case, it affected her psychological, emotional and physical well-being, her employment, and her day-to-day family life[1]:

"Stress, anxiety, and at one point, my marriage nearly broke down as my husband moved out. My son has ADHD and Asperger's; he has ended up missing no end of school because he cannot cope with the emotion of being so overtired and then having to face school. I was a teacher—a nursery teacher in school, and you know it got to the point where I couldn't go into school when I

[1] Participant names used throughout are pseudonyms.

had so little sleep the night before. You know, when you are responsible for 3–4-year-olds, you literally have to have eyes in the back of your head, and I couldn't keep my eyes open. So, you know I didn't feel comfortable sort of carrying on, so I had to literally quit my job." (Sophie)

The lack of response by authorities highlighted the failure to protect vulnerable victims, such as individuals with disabilities. Two participants discussed how the ASB affected their own or a loved one's disabilities and made the ASB increasingly intolerable to bare on a day-to-day basis. As Georgia explained:

Basically, it has turned us just into a nervous wreck really. The whole family is affected in one way or another. Because I have an elder son who is 24 with anxiety issues—he won't leave the house… They put him on CBT and part of that was to try and get out and do things—go for a walk each day and whatever. Because he can't go out of the house as he is fearful of this bloke… then they just threw him off counselling. So, he has had no support now for about 3-4 years..." (Georgia)

Participants either altered their behaviour completely around the perpetrator, accepting their reality, or adjusted to their behaviour while expressing resentment towards the perpetrator and persevering with contacting the authorities about their situation. In comparison, other victims tried not to be adversely affected and instead determined to continue as normally as possible, showing resistance to the perpetrators' conduct.

Authorities' Response

From victims' accounts, there was a shared consensus around the continued presence of the 'merry-go-round' of referrals (Brown and Evans, 2014; Case *et al.,* 2011). The victims interviewed suggested that this distorted the authorities' perceptions of the rate of ASB victimisation in their areas as Sophie summarised:

"Well, half of the time you ring the police; it is an absolute nightmare because I get told it is not a police matter—you need to ring the council. All the time; in fact, last night, this family down the road, an Asian family… well for, the first time ever, it had gotten so bad next to him that he rung 101. The woman was so abrupt with him she said I don't know why you are ringing us; you need to ring the council about that; it is not a problem we can deal with; is it? So, you know, the chances of him ever ringing back to 101 are really slim, you know. When you do ring the police, the actual chances of anyone coming out is again very slim." (Sophie)

Communication deficiencies raised by victims between themselves and the authorities and between partner agencies reinforced the latter point. Victims referring to 'spraying' reports in the hope of someone eventually picking their case up, as discussed by John:

"Yes, I find I am repeating myself over and over again to them, but nothing ever gets done." (John)

For victims, the prioritisation of the CPN process came at the expense of understanding their experiences. These perceptions stem from the lack of transparency and accountability for ASB from practitioners with delegated responsibility, which ultimately led to concerns around the effectiveness of the CPN process.

Experience with the CPN process

Participants raised questions about the effectiveness of CPNs due to the significant amount of time it took for the CPN to be issued, and for a case to reach court upon repeated breaches of

the CPN. These findings led to questions about whether the breach rate for CPNs could be higher than for ASBOs (Ministry of Justice, 2012). Furthermore, a lack of victim involvement led to issues in the requirements imposed as they did not cover all the anti-social behaviour experienced by victims. The lack of follow-up meant that victims were unable to correct or amend the requirements of the CPN to include all the ASB that they were experiencing. In addition, the CPN had a negligible effect once in place in terms of the short respite it offered the victims, as expressed by John:

"I do know he got fined last year for having all the cars outside; that was for the Community Protection Notice. To tidy up all the vehicles, he had out on the front—which he did for five minutes. But the seven-hundred pound fine he got didn't mean anything; it didn't work; all the vehicles disappeared—well, most of the vehicles disappeared—they didn't all go. Since then—since the fine has been and gone—like I say, he has got another nine vehicles out there." (John)

Many of the participants expressed a desire for an authentically restorative environment (e.g., conferencing) where they could discuss the broader impact of the ASB with the perpetrator before going through the CPN process. The lack of victim involvement caused further stress and frustration. For example, as Georgia explained, she was not permitted to see the content of the CPN issued in her case:

"…. No, because basically, we were never involved in the terms of it; when he said he was going to issue it, he said that he didn't know what the enforcement would be or the punishment—or whatever at the end of it. When we were told, what it was, to this day, we have never, for some bizarre reason, been allowed to have a copy of it; there is always an excuse as to why we are not allowed to see it or have a copy." (Georgia)

Enforcement issues surrounding the CPN process and requirements were present throughout the interviews due to the lack of victim involvement. As was the case with ASBOs, the exclusion of victims and continued ASB by the perpetrator raises doubts about how this new approach in its current form will empower victims and communities (Casey and Flint, 2007; Farrow and Prior, 2006). Victims drew on their experiences to suggest recommendations for change which supported the development of the following concluding comments.

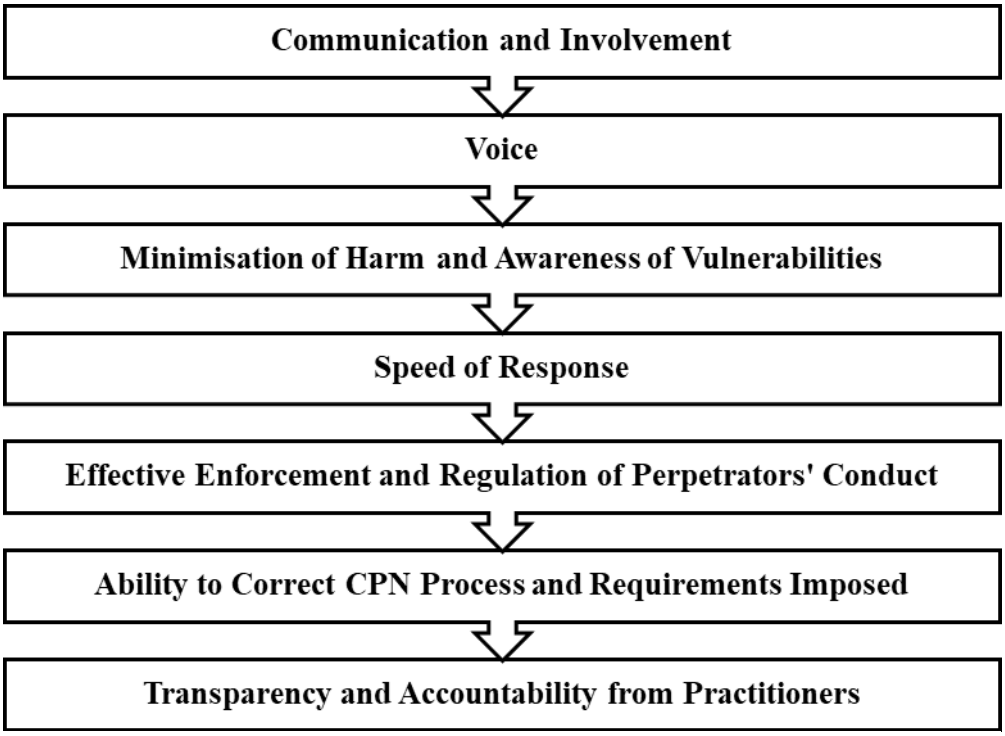

Figure 1: CPN victims' needs model, Rodgers 2022.

Conclusion

This research project has highlighted several important empirically grounded implications for policy, practice, and research. It has raised questions surrounding the 'putting victims first' agenda at the heart of the CPN process and the powers introduced by the ASB, Crime and Policing Act (2014). For this motto to ring true, there is a need for increased victim involvement in the CPN process, a joined-up partnership approach and communication strategy between those with delegated responsibility, and an underpinning restorative ethos. Further qualitative research is needed to develop a fair, positive, and effective process. This research starts to address this gap by providing the first insight into the needs of victims, as summarised in Figure 1. However, accounting for the needs of all stakeholders is required, reproducing the model above. We need to advance our understanding of the 'lived experiences of victims' and those involved to bring about a supportive, inclusive and empowering environment.

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About the author

Zoe Rodgers is a PhD student and Graduate Teaching Assistant at Sheffield Hallam University in the Department of Law and Criminology. Her research interests reside in policing, anti-social behaviour, organised crime and civil preventive orders and notices. Zoe's current research examines the policing practices associated with civil preventive orders and notices to address sub-criminal and criminal behaviour. The above discussion from her most recent publication in the *International Review of Victimology*, 'Examining victims' experiences of Community Protection Notices in managing anti-social behaviour'.