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Derbyshire ASB Sub-Group

Derbyshire Community Protection Notice Guidance

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Version 1.0



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Change History

Date	Version	Reason
23/9/20 – 15/4/21	Versions 0.0 – 0.7	Development drafts
30/4/21	Version 1.0	Approved by Derbyshire ASB Sub-Group
20/5/21	Version 1.0	Approved by Derbyshire Safer Communities Core Group
24/6/21	Version 1.0	Approved by Derbyshire Safer Communities Board

The information contained within this document was correct as at April 2021.

Practitioners should be aware that case law and legislation is constantly changing.

The provisions of the legislation must be read and interpreted in conjunction with the latest statutory guidance issued, pursuant to Section 56 of the ASB Crime and Policing Act 2014.

Legal advice, should be sought, as appropriate / required.

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INTRODUCTION

In Derbyshire, there are well established structures and processes, which ensure strong partnership working in relation to the management of anti-social behaviour (ASB).

The aim of this guidance is to encourage a consistent approach towards the enforcement of ASB in Derbyshire, by setting out the key principles and elements of good practice, which partners should follow when using CPNs, which are just one of a number of tools available to tackle ASB.

This guidance has been produced by Safer Derbyshire, in consultation with, and on behalf of partners in Derbyshire and is intended to complement, not replace, individual agency ASB policy and procedures.

BACKGROUND

Community Protection Notices (CPNs) were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 and the Home Office issued the '[Anti-Social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers - Statutory guidance for frontline professionals](#)', in July 2014 (updated January 2021). The statutory guidance sets out how CPNs can be used to deal with persistent, unreasonable behaviour that is having a detrimental effect on the quality of life of the local community.

What is a Community Protection Notice (CPN)?

A CPN is a notice, issued to an individual, over the age of 16, or an organisation, which can include any, or all, of the following:-

- a requirement to stop the behaviour that is causing the problem
- a requirement to do specified things
- a requirement to take reasonable steps to avoid further ASB.

A CPN must always be preceded by a written Community Protection Warning (CPW) and reasonable time allowed for compliance.

Who can issue a CPN?

A CPN can be issued by an authorised person:-

- Council officers delegated by the relevant local authority
- Police officers
- Police Community Support Officers (PCSOs)
- Social landlords (if designated by the local authority).

What is the legal test for a CPN?

A CPN can be issued by an authorised person of one of the bodies mentioned above if they are satisfied, on reasonable grounds, that the conduct of an individual or organisation:-

- is having a detrimental effect on the quality of life of those in the locality;
- is persistent or continuing in nature; and
- is unreasonable.

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Related Documents

This Protocol should be read in conjunction with the following documents:-

- [Anti-Social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers - Statutory guidance for frontline professionals](#)
- Derbyshire Safer Communities Board ASB Protocol
- Derbyshire ASB Information Sharing Agreement
- Local ASB Protocols produced by each Community Safety Partnership
- ASB policies or procedures produced by each organisation
- Local authority enforcement policy.

The Derbyshire policy documents are available on the [Safer Derbyshire website](#).

Principles

CPNs can be an effective tool to manage ASB in Derbyshire, providing they are used appropriately. To maintain their effectiveness, the following principles should be considered:-

1. Incremental approach to enforcement
2. Complement, not replace, existing powers
3. Reasonableness and proportionality
4. Effective information sharing
5. Multi-agency involvement
6. Communication
7. Quality not quantity
8. Effective case management and recording
9. Effective compliance monitoring and breach enforcement
10. Support for victims and witnesses

1. Incremental approach to enforcement

CPNs are part of the incremental approach to ASB enforcement used by partners in Derbyshire. CPNs may be used when it is appropriate, proportionate and necessary in order to prevent escalation of the ASB and achieve long-term behavioural change.

CPNs must always be preceded by a written warning (CPW), which, in many cases, will be effective in stopping the ASB. If the ASB, and the unreasonable behaviour outlined in the CPW continues, a CPN can be issued.

The breach of a CPN could result in further enforcement action.

2. Complement not replace existing powers

CPNs should be used to complement and not replace existing powers. It is a principle of law that a specific power should be used in preference to a general one, so it is important to consider which power, or approach, is most appropriate in each case.

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Examples of existing local authority powers include the Environmental Protection Act 1990, in relation to statutory nuisance, and the Clean Neighbourhoods and Environment Act 2015 for dog fouling, litter, fly tipping etc. These powers should be considered and a CPN may not be the most appropriate tool to use.

3. Reasonableness and Proportionality

Before issuing a CPW/CPN, you must be satisfied that the [legal test](#) for a CPN is met.

CPWs and CPNs should only be issued to the person actually perpetrating the ASB, unless you have evidence to demonstrate that they are directly contributing to the problems.

Agencies should consider the possibility of victimisation being experienced by the intended recipient of a CPW / CPN, ie as part of a neighbour dispute. These situations may need to include an assessment of who is the main victim and who is the main perpetrator.

To help assess whether the decision to pursue a CPW/CPN is reasonable and proportionate, you should undertake an impact assessment, such as your organisation's Equality Impact Assessment or an ASB Perpetrator Assessment, which is included at APPENDIX D.

In some cases, a CPW/CPN could be issued to a third party who can reasonably control, or affect, the behaviour. Due to case law, it is strongly recommended that advice is sought from your organisation's legal department in these circumstances.

4. Effective information sharing

Sharing information amongst agencies is essential to establish a full understanding of the ASB, the perpetrator(s) and the victim(s), before making a multi-agency decision about appropriate interventions.

Under Section 115 of the Crime and Disorder Act 1998, information should be shared with the relevant authority (police, local authority, fire service, probation service or health authority) for the purposes of reducing ASB. The 'legal gateway' to sharing information in Derbyshire is provided by the Derbyshire ASB Information Sharing Agreement.

To reduce duplication, information about ASB incidents and perpetrators should be shared to facilitate the multi-agency approach to enforcement. The final decision, as to whether a CPW/CPN is appropriate, rests with the organisation issuing the CPW/CPN, but it is good practice for all partners to share evidence of the 'unreasonable conduct' for inclusion on the CPW/CPN.

Copies of the warning, or notice, should be shared with partner agencies who can support victims and perpetrators and assist with monitoring compliance with the terms imposed, where appropriate.

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5. Multi-agency involvement

Best practice shows that the multi-agency approach is essential to effectively tackle ASB and should include:-

- all partner agencies that are currently working, or could work, with the perpetrator to stop the ASB and address the underlying causes; and
- all partner agencies that are currently providing, or could provide, support for the victim.

CPNs should be part of a 'considered', longer term multi-agency approach to tackling the ASB, rather than a single agency 'immediate' response to an ASB complaint. Exceptions to this might be:-

- Housing taking enforcement action against environmental issues, such as untidy gardens.
- On the spot CPWs issued as part of a targeted enforcement campaign to address ASB in a hotspot area.

Due to the number of agencies that should be involved where there is ASB relating to a young person, a single-agency CPN should not be considered for a 16-18 year-old, or a parent.

Where the perpetrator is under 18, the Youth Offending Service should always be informed. This does not mean that the YOS must agree to the CPN, rather that they are aware and given the opportunity to comment. It also means that they can address the ASB issues, if the perpetrator is under their supervision.

Where the ASB involves a number of partner agencies, the discussion about whether it is appropriate to pursue a CPN should be through Tasking Meetings, or other multi-agency meetings / referral processes, in accordance with local partnership arrangements. This will ensure that agencies do not take conflicting action regarding the individual(s).

To demonstrate to the perpetrator that agencies are sharing information and working in together to tackle the ASB, CPWs and CPNs can include the logos of all partner agencies but, within the text of the warning/notice:-

- it must be very clear who is the issuing officer and what organisation they represent.
- it should state which partner agencies they are working with.

6. Communication

Victims

Agencies should maintain regular communications with the victim, until the ASB is resolved.

Effective communication with victims means that victims:-

- are kept informed while consideration is being given to deciding the most appropriate response.
- feel they are being taken seriously and their complaint isn't being ignored, particularly if they do not see immediate changes to the perpetrator's behaviour.
- are aware of agencies' intended course of action.

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- know what they need to do to assist any enforcement action.
- feel more reassured.

For partner agencies, it means that practitioners:-

- better understand the harm being caused by the ASB.
- understand what the victim sees as a resolution, which might be remedial action, rather than 'punishment'.
- have better evidence to support enforcement action.
- receive fewer calls for service.

Perpetrators

Agencies should communicate with the perpetrator before the CPW is issued, so that they are aware of their unacceptable behaviour and have chance to amend it before the CPW /CPN process commences.

It is important that perpetrators fully understand:-

- that their behaviour is unacceptable.
- the impact of their behaviour on others.
- what standards of behaviour are expected.
- what behaviour will not be tolerated and needs to change.
- action that will be taken if the ASB does not stop.

When issuing the CPW or CPN, it should be accompanied by a covering letter, which should detail who the recipient should contact if:-

- they do not understand the Warning or Notice.
- they cannot comply with the requirements.
- they wish to complain.

7. Quality not quantity

The wording of the CPW or CPN is crucial to its effectiveness and enforceability. It must:-

- Outline the specific behaviour that is considered anti-social and causing the 'detrimental effect on the quality of life of those in the locality'.
- Clearly, state the time by which the behaviour is expected to have changed.
- Include requirements that are no more than is 'necessary' to address the specified ASB.
- Set realistic timescales for recipients to undertake remedial action, which should be proportionate to the risk of harm.
- Set out the potential consequences of non-compliance and the sanctions, if breached.

It can include any, or all, of the following:-

- a requirement to stop doing specific things
- a requirement to do specific things
- a requirement to take reasonable steps to achieve specific results.

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The wording should be:-

- Clear and easy to understand so that the individual knows exactly what they are prohibited from doing.
- Reasonable and proportionate, realistic and practical.
- Worded in such a way to make it easy to determine, and prosecute, a breach.
- A prohibition should not mirror a criminal offence, if the sentence for the offence should be sufficient deterrent.

A CPW template is included at APPENDIX B.

A CPN template is included at APPENDIX C.

It is important that officers follow local procedures that have been put in place to 'quality check' documentation before it is issued.

Many CPWs or CPNs will be straightforward and similar wording could be applied, however, for more complex cases and those involving young people, advice should be sought from your organisation's legal department.

Multi-agency involvement, consultation and information sharing will improve the quality of the CPNs by ensuring that different types of ASB, reported to different agencies and departments, are addressed within one CPN.

By prioritising resources and targeting the most serious perpetrators of ASB, CPNs should also be an effective deterrent to others.

8. Effective case management and recording

E-CINS is the multi-agency ASB case management system in Derbyshire and should be used to record the interventions and actions that lead up to, and include, the CPN.

E-CINS also facilitates secure information sharing. A copy of the CPW/CPN should be uploaded to E-CINS to facilitate compliance monitoring.

The perpetrator will be managed on E-CINS until the CPN has expired, or the subject advised that it has been discharged.

9. Effective compliance monitoring and breach enforcement

The continuance of the behaviour that is having 'the detrimental effect on those in the locality' constitutes a breach of the CPW or CPN.

To maintain public confidence and the integrity of the enforcement action, the terms of the CPW or CPN must be effectively monitored and further enforcement action taken, if necessary.

Depending on the nature of the ASB, partner agencies, who have a role to play in monitoring compliance, need to be aware of the restrictions and requirements imposed.

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Where it is necessary and proportionate, victims may need to be made aware of relevant restrictions and requirements imposed by a CPW or CPN, to assist in determining whether behaviour which constitutes a breach.

The organisation that issued the original CPN should be the lead prosecuting agency for the breach action, but information from other partner agencies can be used as evidence of the behaviour that constitutes the breach.

Failure to comply with a CPN is a criminal offence which can result in:-

- Fine
- Fixed Penalty Notice (FPN)
- Remedial action (local authority only)
- Remedial Orders
- Forfeiture Orders
- Seizure

The number of FPNs issued for breach of the CPN should be considered on a case-by-case basis, taking into account any aggravating factors. It should be noted that payment of a FPN discharges any liability for the breach offence.

If an FPN is not paid, the issuing organisation may decide it is appropriate to prosecute the original breach of CPN. For the police, this would be through the same process as any other criminal prosecution.

As part of a prosecution for breach of the CPN, it may be appropriate to also submit an application for a Criminal Behaviour Order.

In accordance with good practice, CPNs should not be issued for an indefinite period of time, especially when issued to youths or parents. Local procedures should, therefore, consider including a process for reviewing compliance with each CPN every 12 months, or sooner if considered appropriate.

The subject of the CPN should be informed of the outcome of the CPN review – either it is to be extended for a further period or, where there has been substantial compliance, it should be discharged. It is recommended that the letter, advising that the CPN has lapsed, or discharged, should be marked ‘without prejudice’.

10. Support for victims and witnesses

Research shows that, where victims feel supported and protected, they are more likely to be prepared to take a stand and act as witnesses to help reduce ASB. People need to have confidence that their ASB complaints will be taken seriously by statutory agencies. The support needs to follow through from the first report of the ASB, to any enforcement action, or court case, and beyond.

In Derbyshire, this service is provided by the ASB Support Workers at Derbyshire Victim Services, who:-

- provide tailored emotional and practical support for all victims of ASB, regardless of whether they have reported it.
- help people access the right information and services.

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- identify choices and options to help victims cope and recover from the ASB they have been experiencing and be involved in decisions that affect them.
- offer a restorative approach to resolving ASB incidents/conflicts, where all parties agree to be involved.

For more information, contact Derbyshire Victim Services on 0800 6126505.

Resources

A flowchart detailing the recommended process for CPNs is included at APPENDIX A.

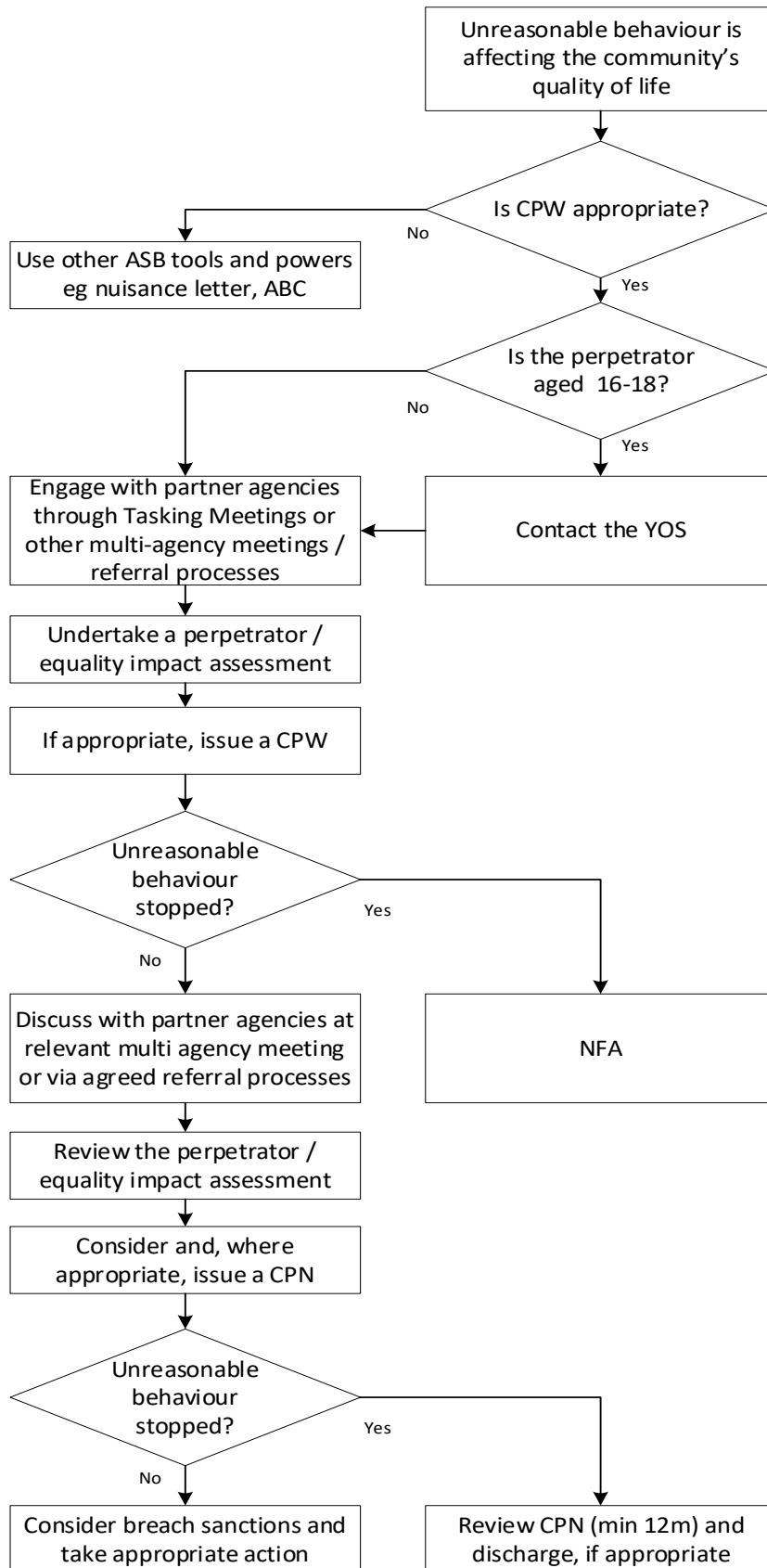
A template for a CPW is included at APPENDIX B.

A template for a CPN is included at APPENDIX C.

A template for an ASB Perpetrator Assessment is included at APPENDIX D.

APPENDIX A

Flowchart



APPENDIX B

CPW Template

Insert issuing organisation's logo

COMMUNITY PROTECTION NOTICE – WARNING
Sections 43-58 Anti-Social Behaviour, Crime and Policing Act 2014

Name:	
Address:	

This letter is formal notification that, as an 'Authorised Officer' of [insert name of issuing organisation](#), I am satisfied that your persistent and/or continuing conduct is unreasonable and is having a detrimental effect on the quality of life of those living in the locality.

I am, therefore, issuing you with this Community Protection Notice Warning.

Your unreasonable conduct, which is having a detrimental effect includes:-

- [Insert details of the behaviour including dates and locations and the detrimental effect it is having on the life of those in the locality](#)
-

This Warning hereby requires you to **immediately** stop the behaviour described above.

This Warning hereby requires you to take the following action, within the specified timescales.

Action You Must Take	Deadline for when you must do this by

FAILURE TO COMPLY

If you do not comply with any of the requirements of this Warning, you may be issued with a Community Protection Notice, or other enforcement action, without further warning.

If you are issued with a Community Protection Notice, and you fail to comply, you will commit an offence.

Signed: Authorised Officer	
Name:	
Position:	
Date:	
Time:	

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FAILURE TO COMPLY

If you do not comply with any of the requirements of this Warning, you may be issued with a Community Protection Notice, without further warning.

If you fail, without reasonable excuse, to comply with the requirements of a Community Protection Notice, you will commit an offence and liable upon summary conviction to:-

- i. A fixed penalty notice of £100 (payable within 14 days) **or**
- ii. A fine not exceeding level 4 on the standard scale (currently £2,500 for an individual and unlimited for a business or organisation)

To ensure that the Notice is complied with, the court may make:-

- i. A court order requiring you to:-
 - carry out specified work; or
 - allow specified work to be carried out by, or on behalf of, the local authority.
- ii. The court order requiring:-
 - you to surrender possession of any item used in your failure to comply with the Notice, to a constable or to a person representing the local authority; and/or
 - the seizure and/or forfeiture and destruction of any item that was used in the commission of the offence.

If you are convicted of breach of a Community Protection Notice, the court may also be asked to make a Criminal Behaviour Order. If such an order is made and you are convicted of breaching it, the court has the power to send you to prison for up to 5 years and/or impose a fine.

OTHER ACTION WE MAY TAKE

As part of [insert area](#) Community Safety Partnership, [insert name](#) Council works with Derbyshire Constabulary, housing providers and other organisations to tackle anti-social behaviour. The partner agencies will continue investigating complaints about your conduct.

We will consider, and use, a variety of tools available to us to collate evidence, which may include surveillance, use of CCTV, taking photos, use of noise recording equipment, patrols, joint visits, interrogation of social media and completion of diary sheets.

Other enforcement action may be taken by us and/or partner agencies, which may include further formal notices being served, an application for an injunction (with power of arrest), possession proceedings.

APPENDIX C

CPN Template

Insert issuing organisation's logo

COMMUNITY PROTECTION NOTICE
Sections 43-58 Anti-Social Behaviour, Crime and Policing Act 2014

Name:	
Address:	

You were issued with a Community Protection Notice Warning on [insert date](#), requiring you to stop your unreasonable conduct but **you have failed to comply**.

THIS IS A FORMAL NOTICE that, as an 'Authorised Officer' of [insert name of issuing organisation](#), I am satisfied, on reasonable grounds, that your conduct is having a detrimental effect, which is of a persistent or continuing nature, on the quality of life of those living in the locality and it is unreasonable.

I am, therefore, issuing you with this Community Protection Notice.

Your unreasonable conduct, which is having a detrimental effect includes:-

- [Insert details of the behaviour including dates and locations and the detrimental effect it is having on the life of those in the locality](#)
-
-
-

You are hereby required you to **IMMEDIATELY** stop the behaviour described above.

This Notice hereby requires you to take the following action, within the specified timescales.

Action You Must Take	Deadline for when you must do this by

FAILURE TO COMPLY
If you do not comply with any of the requirements of this Notice, you are committing a criminal offence and may be prosecuted (see attached notes).

Signed: Authorised Officer	
Name:	
Position:	
Date:	
Time:	

FAILURE TO COMPLY

If you fail, without reasonable excuse, to comply with any of the requirements of this Community Protection Notice, you will commit an offence and liable, upon summary conviction, to:-

- iii. A fixed penalty notice of £100 (payable within 14 days) **or**
- iv. A fine not exceeding level 4 on the standard scale (currently £2,500 for an individual and unlimited for a business or organisation).

To ensure that the Notice is complied with, the court may make:-

- iii. A court order requiring you to:-
 - carry out specified work; or
 - allow specified work to be carried out by, or on behalf of, the local authority.
- iv. The court order requiring:-
 - you to surrender possession of any item used in your failure to comply with the Notice, to a constable or to a person representing the local authority; and/or
 - the seizure and/or forfeiture and destruction of any item that was used in the commission of the offence.

If you are convicted of breach of a Community Protection Notice, the court may also be asked to make a Criminal Behaviour Order. If such an order is made and you are convicted of breaching it, the court has the power to send you to prison for up to 5 years and/or impose a fine.

OTHER ACTION WE MAY TAKE

As part of [insert area](#) Community Safety Partnership, [insert name](#) Council works with Derbyshire Constabulary, housing providers and other organisations to tackle anti-social behaviour. The partner agencies will continue investigating complaints about your conduct.

We will consider, and use, a variety of tools available to us to collate evidence, which may include surveillance, use of CCTV, taking photos, use of noise recording equipment, patrols, joint visits, interrogation of social media and completion of diary sheets.

Other enforcement action may be taken by us and/or partner agencies, which may include further formal notices being served, an application for an injunction (with power of arrest), possession proceedings.

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APPEALS

An appeal against this Notice may be made to a magistrates' court within 21 days from the date on which it is served, on the grounds that:-

- i. The conduct specified in the Community Protection Notice:-
 - did not take place,
 - has not had a detrimental effect on the quality of life of those in the locality,
 - has not been of a persistent or continuing nature,
 - is not unreasonable, **or**
 - is conduct that the person cannot reasonably be expected to control or affect;
- ii. Any of the requirements in the notice, or any of the periods within which, or times by which they are to be complied with, are unreasonable;
- iii. There is a material defect or error in, or in connection with, the notice; or
- iv. The notice was issued to the wrong person.

The address to appeal is:-

[Insert local Magistrates Court details](#)

IMPORTANT NOTE

In the event of an appeal, any requirement imposed by this Notice to stop doing any specified thing(s) shall remain in force, pending the appeal hearing and action may still be taken for non-compliance.

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EXTRACTS FROM THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

Appeals against notices

(1) A person issued with a community protection notice may appeal to a magistrates' court against the notice on any of the following grounds.

1. That the conduct specified in the community protection notice—
 - (a) did not take place,
 - (b) has not had a detrimental effect on the quality of life of those in the locality,
 - (c) has not been of a persistent or continuing nature,
 - (d) is not unreasonable, or
 - (e) is conduct that the person cannot reasonably be expected to control or affect.
2. That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable.
3. That there is a material defect or error in, or in connection with, the notice.
4. That the notice was issued to the wrong person.

(2) An appeal must be made within the period of 21 days beginning with the day on which the person is issued with the notice.

- (3) While an appeal against a community protection notice is in progress—
- (a) a requirement imposed by the notice to stop doing specified things remains in effect, unless the court orders otherwise, but
 - (b) any other requirement imposed by the notice is of no effect.

For this purpose an appeal is "in progress" until it is finally determined or is withdrawn.

- (4) A magistrates' court hearing an appeal against a community protection notice must—
- (a) quash the notice,
 - (b) modify the notice (for example by extending a period specified in it), or
 - (c) dismiss the appeal.

47 Remedial action by local authority

(1) Where a person issued with a community protection notice ("the defaulter") fails to comply with a requirement of the notice, the relevant local authority may take action under subsection (2) or subsection (3) (or both).

(2) The relevant local authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air.

(3) As regards premises other than land open to the air, if the relevant local authority issues the defaulter with a notice—

- (a) specifying work it intends to have carried out to ensure that the failure is remedied,
- (b) specifying the estimated cost of the work, and
- (c) inviting the defaulter to consent to the work being carried out, the authority may have the work carried out if the necessary consent is given.

(4) In subsection (3) "the necessary consent" means the consent of—

- (a) the defaulter, and
- (b) the owner of the premises on which the work is to be carried out (if that is not the defaulter).

Paragraph (b) does not apply where the relevant authority has made reasonable efforts to contact the owner of the premises but without success.

(5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection (2) may only enter land that is open to the air.

(6) If work is carried out under subsection (2) or (3) and the relevant local authority issues a notice to the defaulter—

- (a) giving details of the work that was carried out, and

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(b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)).

(7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive.

(8) A magistrates' court hearing an appeal under subsection (7) must—

- (a) confirm the amount, or
- (b) substitute a lower amount.

(9) In this section "the relevant local authority" means—

- (a) the local authority that issued the community protection notice;
- (b) if the community protection notice was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

48 Offence of failing to comply with notice

(1) A person issued with a community protection notice who fails to comply with it commits an offence.

(2) A person guilty of an offence under this section is liable on summary conviction—

- (a) to a fine not exceeding level 4 on the standard scale, in the case of an individual;
- (b) to a fine not exceeding £20,000, in the case of a body.

(3) A person does not commit an offence under this section if—

- (a) the person took all reasonable steps to comply with the notice, or
- (b) there is some other reasonable excuse for the failure to comply with it.

49 Remedial orders

(1) A court before which a person is convicted of an offence under section 48 in respect of a community protection notice may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done.

(2) An order under this section may in particular require the defendant—

- (a) to carry out specified work, or
- (b) to allow specified work to be carried out by or on behalf of a specified local authority.

(3) To be specified under subsection (2)(b) a local authority must be—

- (a) the local authority that issued the community protection notice;
- (b) if the community protection notice was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

(4) A requirement imposed under subsection (2)(b) does not authorise the person carrying out the work to enter the defendant's home without the defendant's consent. But this does not prevent a defendant who fails to give that consent from being in breach of the court's order.

(5) In subsection (4) "the defendant's home" means the house, flat, vehicle or other accommodation where the defendant—

- (a) usually lives, or
- (b) is living at the time when the work is or would be carried out.

(6) If work is carried out under subsection (2)(b) and the local authority specified under that subsection issues a notice to the defaulter—

- (a) giving details of the work that was carried out, and
- (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)).

(7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive.

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- (8) A magistrates' court hearing an appeal under subsection (7) must—
- (a) confirm the amount, or
 - (b) substitute a lower amount.

50 Forfeiture of item used in commission of offence

(1) A court before which a person is convicted of an offence under section 48 may order the forfeiture of any item that was used in the commission of the offence.

(2) An order under this section may require a person in possession of the item to hand it over as soon as reasonably practicable—

- (a) to a constable, or
- (b) to a person employed by a local authority or designated by a local authority under section 53(1)(c).

(3) An order under this section may require the item—

- (a) to be destroyed, or
- (b) to be disposed of in whatever way the order specifies.

(4) Where an item ordered to be forfeited under this section is kept by or handed over to a constable, the police force of which the constable is a member must ensure that arrangements are made for its destruction or disposal, either—

- (a) in accordance with the order, or
- (b) if no arrangements are specified in the order, in whatever way seems appropriate to the police force.

(5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2)(b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction or disposal, either—

- (a) in accordance with the order, or
- (b) if no arrangements are specified in the order, in whatever way seems appropriate to the local authority.

51 Seizure of item used in commission of offence

(1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting—

- (a) that an offence under section 48 has been committed, and
- (b) that there is an item used in the commission of the offence on premises specified in the information, the justice may issue a warrant authorising any constable or designated person to enter the premises within 14 days from the date of issue of the warrant to seize the item.

(2) In this section “designated person” means a person designated by a local authority under section 53(1)(c).

(3) A constable or designated person may use reasonable force, if necessary, in executing a warrant under this section.

(4) A constable or designated person who has seized an item under a warrant under this section—

- (a) may retain the item until any relevant criminal proceedings have been finally determined, if such proceedings are started before the end of the period of 28 days following the day on which the item was seized;
- (b) otherwise, must before the end of that period return the item to the person from whom it was seized.

(5) In subsection (4) “relevant criminal proceedings” means proceedings for an offence under section 48 in the commission of which the item is alleged to have been used.

APPENDIX D

ASB Perpetrator Proportionality Assessment



Name of alleged perpetrator:	
Address of alleged perpetrator:	
Type of action being considered:- e.g. injunction, ABC, CPW/N, tenancy demotion, possession etc.	

ACTION ALREADY TAKEN	
List the informal action taken to date for this matter e.g. warning letters, visits, mediation ABC, etc	
List the formal action taken to date for this matter	

VULNERABILITIES	
Does the alleged perpetrator have any vulnerability? e.g. victim of domestic abuse, lifestyle, substance misuse, age If so, provide details of whether it is believed that the ASB or criminal behaviour is linked to the specific vulnerabilities.	
Is it believed that the alleged perpetrator is disabled within the definition of the Equality Act 2010? e.g. learning disability, mental health, developmental impairment, such as autistic spectrum disorders (ASD) If so, provide details of whether it is believed that the ASB or criminal behaviour is linked to this disability.	
Does the alleged perpetrator reside with individuals who have a disability or vulnerability? If so, what actions have been taken to mitigate the risks that enforcement	

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action against the alleged perpetrator will have on these individuals?	
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SUPPORT

Has the alleged perpetrator been offered, or referred for, any support? If yes, provide details. e.g. which agency?, when was last contact made and how?	
Has re-housing been considered and by who?	

IMPACT

What impact is the behaviour having on:- Victims? Wider community? Partner resources?	
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SUMMARY

Summarise why the proposed action is reasonable, necessary and proportionate	
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I can confirm that I have reviewed this case and the facts above and believe that the action suggested is reasonable, necessary and proportionate means to achieving a legitimate aim.

Signed:	
Job title:	
Date:	

Date review due:	
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This assessment will be reviewed at regular intervals, including when new information material to it is revealed.