

REPORT TO	ON
CABINET	19 June 2019



TITLE	PORTFOLIO	REPORT OF
Community Protection Notices as an Anti-social behaviour enforcement tool.	Leader of the Council	Director of Neighbourhoods and Development

Is this report a <b>KEY DECISION</b> (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	<b>No</b>
Is this report on the <b>Statutory Cabinet Forward Plan</b> ?	<b>No</b>
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	<b>No</b>
Is this report confidential?	<b>No</b>

## PURPOSE OF THE REPORT

1. This report recommends that the Cabinet delegates authority to use Community Protection Notices (CPN's) as an environmental enforcement tool to the Director of Neighbourhoods and Development.

## PORTFOLIO RECOMMENDATIONS

2. That Cabinet delegates authority to the Director of Neighbourhoods and Development, to use powers available under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 in the form of Community Protection Notices to enforce against anti-social behaviour that is having a detrimental effect on the quality of life for those in a locality, and is unreasonable, and is of a persistent or continuing nature.
3. Cabinet to receive this report for information and express any feedback or suggestions that can help shape/inform the ongoing process.

## REASONS FOR THE DECISION

4. If approved, the recommendation will provide an additional tool for officers to enforce against a wider range of anti-social behaviours, perhaps where a statutory nuisance does not exist under the Environmental Protection Act 1990, yet where behaviour is persistent and is having a negative effect on a locality. This may particularly apply to the problem of untidy domestic gardens and other examples of anti-social behaviour.

## CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
Health and Wellbeing	x
Place	x

Projects relating to People in the Corporate Plan:

People	x
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## BACKGROUND TO THE REPORT

5. There is a duty on local authorities to consider crime and disorder implications within day to day activities. The purpose of a Community Protection Notice (CPN), is to deal with individuals who cause on-going problems that have a detrimental effect on the community's quality of life. The behaviour must have a detrimental effect on the quality of life of those in the locality; be of a persistent or continuing nature; and be unreasonable.
6. The council is strengthening its operational capacity to tackle anti-social behaviour and intends to make strong use of Community Protection Notices (CPNs). CPNs were introduced by the Anti-Social Behaviour, Crime & Policing Act 2014 as an intervention/enforcement power. They can be issued to individuals, businesses or organisations responsible for anti-social behaviour affecting a community. The formal intervention process starts when an enforcement officer is satisfied that unacceptable anti-social behaviour has taken place for which it is legally appropriate to issue a CPN.
7. Council officers and the Police can issue CPNs additionally, PCSOs and social landlords can issue them if the powers are designated them. However, in Lancashire there is an agreement that the councils will lead on the issuing of CPNs for their own purposes and also if approached by the Police or a social landlord. At the time of the report SRBC have not been approached by a social landlord to issue a CPN.
8. Prior to issuing a CPN, a Community Protection Warning (CPW) must have been issued. A CPW cannot be challenged and the recipient has no right to appeal, nor to have sight of any confidential information that the CPW is based upon or disclosure by way of an FOI. This information would only be disclosed if an appeal against a formal CPN is issued.
9. In order to provide some context into the effectiveness of the CPN process, it was reported at a recent event that one Authority, had issued 501 CPWs, 78 CPNs and carried out only seven prosecutions.
10. A CPN, can be issued to any person over 16 years of age or to the most appropriate person for a body, such as a business. If an individual cannot be identified, a CPN can be served on a premises providing that reasonable enquiries have been made, including land registry searches.
11. The penalties attached to the breach of a CPN includes a fixed penalty notice, which can be issued by the council as a way of discharging the breach. Alternatively a decision may be made to prosecute, upon conviction a remedial order, forfeiture order or a warrant for seizure of goods can be granted by the court.

12. Most recently, the local neighbourhood policing team (NPT), have approached the council to jointly issue CPWs to young people and in some instances parents in order to address anti-social behaviour that is having a detrimental effect on the community, these are still under development.
13. The agreement with the local NPT going forward, is that when they approach the council to serve a CPW, where the criteria is met, the Community Safety Officer will work with the NPT in order to draw up the CPWs. There will be a joint signatory between the police and the council and also for any associated media. The NPT will be responsible for ensuring that the warning is adhered to however, if another agency, such as the council or social landlord witnesses any breaches they will be asked to produce evidence and a statement to that effect.
14. Subsequently, if an agreement is made for a CPN to be issued, the NPT will also be responsible for monitoring any breaches and gathering evidence to that effect to produce to the council's legal team in order to consider issuing a fixed penalty notice or for intended prosecution. A discussion between the councils legal team on the police' legal team will be had to determine and agree who is best placed to prosecute.

#### **PROPOSALS (e.g. RATIONALE, DETAIL, FINANCIAL, PROCUREMENT)**

15. To use the powers available under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 in the form of Community Protection Notices to enforce against anti-social behaviour that is having a detrimental effect on the quality of life for those in a locality, and is unreasonable, and is of a persistent or continuing nature.

#### **CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION**

16. The Community Safety Partnership has been consulted on the proposal and are supportive of the use of Community Protection Notices.

#### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

17. To not make use of Community Protection Notices. This option is discounted, as the Community Protection Notice or CPN is a powerful tool. It is available to local authorities to tackle behaviours that cause distress and impacts on a locality that may be more difficult to tackle using other legislation. Not adopting the use of CPNs reduces the possibilities open to the Council for dealing with matters that have long term effects on residents and where other powers may not be suitable or as effective.

#### **FINANCIAL IMPLICATIONS**

18. Officers from the Council's Environmental Health and Community Safety Team will be responsible for issuing any agreed Community Protection Notices. As these notices would replace other enforcement activity at the same premises it is not envisaged that there will be any significant resource implications in using this enforcement tool, other than any marginal costs in issuing the notices.
19. Income from FPNs and/or prosecutions in the case of non-compliance will help offset service costs and (in the case of FPNs) count towards existing fees & charges budgets within the service.

#### **LEGAL IMPLICATIONS**

20. Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 provides the Council with effective powers to tackle anti-social behaviour that provides better protection for communities. If satisfied on reasonable grounds that the conduct of an 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 the conduct is unreasonable; the Council may take such steps as are appropriate to remedy such conduct, including where necessary the issuing of a notice on all parties with a proprietary right and/or interest in the subject land requiring specific actions to be undertaken to remedy the detrimental effect/unreasonable conduct.
21. The legal implications and statutory powers are set out within the body of the report.

### **AIR QUALITY IMPLICATIONS**

22. The Community Protection Notice is intended to deal with unreasonable, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible. The notice can direct any individual over the age of 16, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again. Therefore there is a potential that this unreasonable behaviour can also have a detrimental impact on air quality and the authority could enforce them to take reasonable steps for example CPW's have been used by other authorities to restrict bonfires.

### **HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS**

23. None and training has been undertaken with existing staff.

### **ICT/TECHNOLOGY IMPLICATIONS**

24. None

### **PROPERTY AND ASSET MANAGEMENT IMPLICATIONS**

25. None

### **RISK MANAGEMENT**

26. The use of the Community Protection Notices, in any capacity, are subject to rules governing applicability and consultation. Health and Safety Risk Assessments have been undertaken to control the risks to our staff investigating anti-social behaviour complaints.

### **EQUALITY AND DIVERSITY IMPACT**

27. This report has minimal equalities implications in that all formal enforcement action and decisions will be based on the application of pre-existing enforcement approved policy which bases decisions on risk, evidence and public interest.
28. The contents of the report detail measures aimed at preventing and/or mitigating the occurrence of environmental offences which will be of benefit to all groups of persons within South Ribble.

### **RELEVANT DIRECTORS RECOMMENDATIONS**

29. That Cabinet delegates authority to the Director of Neighbourhoods and Development, to use powers available under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 in the form of Community Protection Notices to enforce against anti-social behaviour that is having a detrimental effect on the quality of life for those in a locality, and is unreasonable, and is of a persistent or continuing nature.
30. Cabinet to receive this report for information and express any feedback or suggestions that can help shape/inform the ongoing process.

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

31. As set out in the financial implications above, any impact on the Council’s budgets is expected to be minimal.

**COMMENTS OF THE MONITORING OFFICER**

32. Please see the Legal Implications above. The purpose of the report is in part for information. It is also to make clear that the power to use the statutory powers in question should be delegated in the Director of Neighbourhoods and Development. Anti-social behaviour can be a blight on many lives and it is important that we use all powers at our disposal to tackle it.

**BACKGROUND DOCUMENTS**

There are no background papers to this report

**APPENDICES**

There are no appendices to this report

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