

REPORT TO: Safer Policy and Performance Board

DATE: 17th November 2020

REPORTING OFFICER: Strategic Director – Enterprise, Community and Resources

PORTFOLIO: Community Safety

SUBJECT: Update on Community Protection Orders

WARDS: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 To consider the report updating the board on the use of Community Protection Notices in Halton as set out in the Anti-Social Behaviour Crime and Policing Act 2014. This legislation gives Council's the authority to issue Community Protection Notices (CPNs) where behaviour of individuals or businesses is having a detrimental effect on the quality of life of those in the locality, is persistent or continuing in nature and is unreasonable.

2.0 RECOMMENDATION: That

- 1) **the report be noted; and**
- 2) **the Board consider the information presented and raise any questions of interest or points of clarification following the presentation.**

3.0 SUPPORTING INFORMATION

3.1 Community Protection Notices (CPN)

- 3.2 Since 1998, the range of powers available to frontline staff to deal with Environmental crime and ASB has grown substantially with numerous powers being introduced to deal with very specific issues. The Council has the responsibility to combat a variety of statutory and nonstatutory nuisance. This has normally been enforced through the '*Cleaner Neighbourhoods and Environmental Act 2005*' and '*Environmental Protection Act 1990*'. Both acts have allowed designated officers to implement enforcement proceedings where necessary under certain conditions.

- 3.3 The ASB Crime and Policing Act 2014 has attempted to simplify matters by bringing together a wide range of environmental crime, ASB offences and other nuisances under a single framework namely '*The*

CPN'. This allows legislation to be used more efficiently and widen the scope of anti-social nuisance.

- 3.4 CPN's are designed to be a broad ranging tool to deal with repeated or ongoing nuisance behaviour. The Anti-Social Behaviour, Crime and Policing Act 2014 deliberately does not stipulate the types of behaviour that can be considered to give authorities freedom to tackle all behaviour that is detrimental to the local community's quality of life. It puts victims at the heart of the response to anti-social behaviour, and gives the flexibility needed to deal with any given situation.
- 3.5 The CPN amongst other things replaces litter clearing notices, defacement removal notices and street litter control notices. The test is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A CPN can be issued if the Council is satisfied on reasonable grounds that the conduct of the individual, business 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.
- 3.6 CPNs are intended to deal with the more difficult or serious issues and does not replace statutory nuisance legislation. While a CPN can be issued for behaviour that may constitute a statutory nuisance, the interaction between the two powers should be considered. It remains a principle of law that a specific power should be used in preference to a general one. Statutory nuisance legislation will always take precedence and carries with it greater powers and sanctions.
- 3.7 A CPN is designed for use by authorised persons within the local authority, Police Officers and Police Community Support Officers (PCSOs) if designated by the Chief Constable. An opportunity is available for the Council to further delegate the authority to Registered Social Landlords for use on their estates, allowing them to deal effectively with problem tenants or problems directed towards their tenants while working to an agreed protocol.
- 3.8 The CPN is issued after failure to comply with a written warning letter) and compels an individual or a company to put things right or face the consequences, such as litter being left on the street from the local take away, or the inconsiderate resident letting his dog out to freely to foul an area.
- 3.9 Breach of any requirement in the notice, without reasonable excuse, is a criminal offence and either subject to a fixed penalty notice or prosecution. The maximum fine for an individual is £2,500 and £20,000 for an organisation. The court also has the power to order the forfeiture or destruction of any item used in the commission of the offence. An

alternative to prosecution would be for the Local Authority to make good any damage itself, and recover the costs of doing so from the person or business concerned. This could also include a social housing provider cleaning a tenant's garden and charging them for it.

3.10 CPNs are different from the powers it replaces in the following ways:

- they cover a wider range of behaviour (all behaviour that is detrimental to the local community's quality of life) rather than specifically stating the behaviour covered (e.g. litter or graffiti);
- noise disturbance could be tackled, particularly if it is demonstrated to be occurring in conjunction with other anti-social behaviour;
- the notices can be issued by more agencies: local authorities, police and social housing (if approved by local authorities) thereby providing greater coverage.
- the notices can apply to businesses and individuals (which is the case for some of the notices it replaces but not all); and
- it would be a criminal offence if a person did not comply, with a sanction of a fine (or fixed penalty notice) for non-compliance. (Again, this is not the case for all of the notices that it replaces.)

3.11 The use of the CPN provides the Council with the opportunity to deal with environmental crime and ASB more flexibly and brings the opportunity to encourage our partners to utilise the power and improve the quality of life for the residents of Halton.

4.0 **Who can use this power?**

4.1 For the areas covered the following organisations can issue community Protection Notices:

- Authorised Officers within the ASB Team and Environmental Services
- Cheshire Police uniformed officers and Police Community Support Officers (PCSO) where authorised by the Chief Constable, Cheshire Police
- Registered Social Landlords, where powers are delegated by Halton Borough Council.

4.2 The Police will normally only issue CPNs where there is a criminal element to the Anti-Social Behaviour (ASB) such as use in disrupting organised crime groups or premises/persons that are linked to crime

and disorder. It is expected that Local Authorities, will manage the issuing of CPNs for other types of ASB such as noise, litter, graffiti, out of control animals etc.

- 4.3 However, Cheshire Local Policing Units may support this process by providing evidence prior to issuing a CPN or to support prosecution on breach. The Local Authority will be the prosecuting authority.

5.0 CPN use In Halton

- 5.1 To date, CPWs and CPNs have predominantly been used to tackle issues in rear entries. This does not include problems such as littering and fly-tipping, as Primary Legislation put in place to deal with relevant offences must always be used first. Instead, the problems being dealt with by way of a CPW or CPN are those that are caused by individuals not adhering to the Council's required waste collection procedures, and where such failure to do so is having a regular and detrimental impact upon others.

- 5.3 Prior to considering the issuing of a CPW, the Council must ensure that individuals are fully aware of what is required of them. To this end, the Council issued formal Notices under section 46 of the Environmental Protection Act 1990 to **461** residents in areas where problems of non-compliance with refuse collection procedures were occurring. These **546** Notices set out clearly the refuse collection procedures that residents must follow and advised that any failure to do so would result in further action being taken. The Notices were sent to all households in the relevant areas and copies were also sent to landlords of properties where applicable.

- 5.4 Following the issuing of the s46 Notices, and subsequent monitoring, a total of **38** CPWs were issued where the conduct of occupiers of properties was deemed to remain unreasonable and persistently having a detrimental impact on others. The CPWs were issued in **8** different wards across Runcorn and Widnes. A total of **4** CPNs have thus far been issued where a CPW failed to bring about an improvement in behaviour.

6.0 Fixed Penalty Notice (FPN) Appeal

- 6.1 A breach of a CPN can attract a fixed penalty fine not exceeding £100. Council procedure allows a 14 day period for this to be paid with the fixed penalty being reduced to £75 if paid within 8 days. The offender has the right to request a review of the circumstances relating to the issue of the FPN within the 14 day period.
- 6.2 Should the review not be upheld the offender may still pay the reduced rate providing that the review of circumstances was made within the given 8 day period with the remaining balance being carried forward. If the request for a review is made after 8 days and not upheld the FPN

must be paid within the remaining balance of the 14 day timescale or the offender may face court action.

- 6.3 In dealing with anti-social behaviour the council should consider all the options available to officers. The use of CPNs will help, in some circumstances, to manage environmental ASB alongside existing remedies.

7.0 POLICY IMPLICATIONS

- 7.1 The policy implications of the review relate primarily to the Safer Halton priority. However this is a cross cutting work area which has wider implications on other areas of council business.

8.0 FINANCIAL IMPLICATIONS

- 8.1 None

9.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

9.1 Children and Young People in Halton

The Community Safety Service as a universal service impacts on the health, safety and well-being of young people.

9.2 Employment, Learning and Skills in Halton

None

9.3 A Healthy Halton

The Community Safety Service as a universal service impacts on the Health, safety and well-being of the residents of Halton.

9.4 A Safer Halton

The Community Safety Service as a universal service impacts on the Health, safety and well-being of the residents of Halton.

9.5 Halton's Urban Renewal

None

10.0 RISK ANALYSIS

None

11.0 EQUALITY AND DIVERSITY ISSUES

None

12.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

12.1 There are no background papers under the meaning of the Act.