



APPLICATION AND ENFORCEMENT OF

Community Protection Notices (CPNs)

(DRAFT)

POLICY

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Community Protection Notice Policy for Gloucester

1. Purpose

Community Protection Notices (CPNs) are intended to deal with on-going problems of nuisance, which have a negative effect on the community's quality of life, by targeting those responsible. This policy has been made in line with the overarching 'Community Engagement and Regulatory Policy 2020.

2. Relevant Bodies and Responsible Authorities

The following organisations can issue CPNs:

- Gloucester City Council
- Gloucestershire Police
- Registered Social housing providers (RSLs) in Gloucester (only where the council formally designate powers to them).

This policy should be read alongside:

- The Anti-Social Behaviour, Crime and Policing Act 2014 (available on www.legislation.gov.uk), and
- The Home Office's "*Anti-Social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers, Statutory guidance for frontline professionals, January 2021*" (available on www.gov.uk).
- Gloucester City Council Community Engagement and Regulatory Policy v1 2020. ([Click here](#))

3. CPN Threshold/Test

A CPN can only be issued where the Council is satisfied on reasonable grounds that the conduct of an individual (aged 16 or over), a business or an organisation is:

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

For clarification, references to "conduct" include a failure to act. The Council will consider where the above threshold is met, on a **case by case** basis.

Gloucester City Council may consider a wide range of enforcement powers available to them and different legislation may be considered more appropriate.

- For the CPN test to be met there needs to be **2 or more complainants** for an address/issue within a 6-month period. Written information should be submitted by complainants.
- There needs to be a wider implication for the community
- The complainant is required to submit substantial information as to how this is affecting their household. It **MUST** be
 - DETRIMENTAL on quality of life for community actual evidence – cannot just be annoying
 - PERSISTANT – one off or sporadic events are not considered
 - UNREASONABLE – will be on a case by case basis.

4. Community Protection Warning and Notice (CPW and CPN)

4.1. The Written Warning (CPW)

Before a CPN can be issued, a written warning must be issued to the person committing the ASB. It must state that if the person does not stop their ASB, they could be issued with a CPN.

The written warning will also:

- Outline the behaviour that is considered anti-social
- State the time by which the behaviour is expected to have changed *
- Set out the potential consequences of being issued with CPN, sanctions or breach.

* It is at the professional judgement of the issuing officer to decide how long should be given for the matter to be dealt with.

Gloucester City Council will focus on the victims and their expectations, at this point the issuing officer should update those affected of the steps that have been taken, potential timescales and possible implications to the perpetrator and any actions required by the complainants.

4.2 Breach of the CPW

Failure to comply with a Community Protection Warning may allow the enforcing authority to issue a full Community Protection Notice (CPN). Regard will be taken of the complainants and their willingness to present evidence and witness statements.

4.3 Penalty on breach of CPN

Failure to comply with a CPN is a criminal offence. The evidence of this breach must be able to reach the 'criminal standard'. Your case officer may issue witness statement forms or visit to obtain these. Without the correct evidence for court a case may not be able to progress. The evidence is on how the behaviour is affecting the complainant/community, therefore must be presented from the individual/community. Enforcement officers are not able to gather this evidence as they are not the ones affected. Once a breach has been made there are a few options available; however, consideration should be given to the victims' wishes.

4.4. Fixed Penalty Notices (FPN's)

Failure to comply with a CPN is a criminal offence. Fixed penalty notices (FPNs) offer perpetrators an opportunity of escaping criminal liability if they pay the Council a fixed monetary penalty. A Fixed Penalty Notice may be appropriate, but it does not alleviate the impact on the community.

4.5. Remedial action by the local authority

Where a CPN has not been complied with, the Council may have work carried out to remedy the failure, but only on land that is open to the air. Here, the defaulter's consent is not required.

Consent is required where the premises are *not* open to the air (i.e. indoors). In such circumstances the Council can issue a notice on the defaulter specifying the nature and costs of the intended works and inviting the defaulter to consent to them being carried out. Without such consent the Council cannot proceed.

On completion of the work, a notice of the details of the actual work completed and final amount payable must be issued to the perpetrator. The costs must be 'reasonable' i.e. (i) not more than is necessary to restore the land to the standard specified in the notice and (ii) not more than was actually incurred by the Council. The perpetrator is then liable to the Council for the costs, subject to their right to appeal the notice within 21 days of issue to the Magistrates' Court.

4.6. Remedial Orders by the court on conviction

On conviction for an offence of failing to comply with a CPN, the prosecuting authority may ask the court to impose a remedial order and/or forfeiture order, because:

- The matter may be so serious a court order is warranted
- Works to be carried out need consent and this is not forthcoming
- Issuing authority may believe that forfeiture or seizure of items is required, as a result of the behaviour e.g. sound making equipment.

A Remedial Order may require the defendant:

- To carry out specified work, or
- Allow work to be carried out by, or on behalf of, the local authority.

Even where the court orders remedial works to indoor premises be carried out, the defaulter's consent is still required before the works can proceed. The defaulter does not have to give such consent but failure to do so may constitute contempt of court.

4.7. Forfeiture Orders by the court on conviction

Following conviction for an offence under section 48, the court may also order forfeiture of any item that was used in the commissioning of the offence e.g. spray paint, sound making equipment, poorly socialised dog. Items can be destroyed / disposed off (dogs re-homed). The item must be handed over as soon as reasonable, to either a police officer or council employee.

4.8. Seizure

The court may issue a warrant authorising seizure of items used to commission the offence, due to the failure to comply with the CPN. A police officer or council enforcement officer may use reasonable force to do so. A warrant for seizure can be applied for independently from any prosecution for the offence and must detail on the warrant that the police have the power of entry.

Failure to comply with these orders is a contempt of court, and possibly a custodial sentence. If an individual is convicted under section 48, they may receive a level 4 fine (up to £2,500). Businesses or organisations convicted of this offence may be fined up to £20,000.

5. Appeals Process

Any person issued with a CPN can appeal; the process is detailed on the CPN. The appeal will be heard in the Magistrates Court and can be made on the following grounds:

- The conduct specified in the CPN:
 - did not take place
 - has not had a detrimental effect on the quality of life of those in the locality
 - was not persistent or continuing
 - was not unreasonable
 - was conduct that the person cannot reasonably be expected to control or affect
- The CPN requirements or timescales are unreasonable
- There is a material defect or error with the CPN, or
- The CPN was issued to the wrong person.

Any appeal must be made within 21 days of the issue of the CPN. Any requirements to do a specific activity to achieve a specific result must be put on hold until the outcome of the appeal. Requirements to *stop* doing specified things will continue to have effect despite the appeal.

6. Publicity and Communication

The CPN process will be proactively promoted, both internally and externally.

7. Information Sharing

Information sharing for this procedure is governed by the Safer Gloucester Partnership Information Sharing Agreement, and wider legislation such as the Data Protection Act 1998 and the Crime and Disorder Act 1998.

8. Monitoring and Review

On an annual basis, the CPN process will be reviewed by the review team. Any identified learning points must be shared with all parties involved in the process, so improvements can be made.

All information on the case will be stored on the councils systems.