

## Incremental Approach Flowchart

### Out of Court Stages of the Incremental Approach

#### **The Advice Stage**

Advice is designed to highlight to an individual the circumstances of the ASB which has raised concern.

#### **The Warning Stage**

Warnings are issued to highlight to an individual their actual involvement in ASB, and to ask for this behaviour to stop.

#### **Acceptable Behaviour Contracts (ABCs)**

ABCs are offered to address a person's ASB and support them in ceasing that behaviour.

**i** A person can enter the Incremental Approach at any non-legal stage depending on the severity of the incident reported. In extreme cases a person may enter the Incremental Approach at a legal stage if there is sufficient evidence to support this, and agreement from partner agencies.

### Court Stages of the Incremental Approach

#### **Civil Injunction**

A civil remedy intended to stop or prevent individuals engaging in ASB before incidents escalate.

#### **Criminal Behaviour Order (CBO)**

CBOs are issued to tackle individuals repeatedly involved in ASB who are also engaged in criminal activity.

#### **Community Protection Notice (CPN)**

CPNs are issued to stop a person (16 or over), business or organisation committing ASB that is detrimental to local areas and is unreasonable.

#### **Closure Notice / Order**

The closure Power is designed to allow the Police and Local Authority to quickly close a premises being used, or likely to be used, to commit nuisance or disorder

#### **Public Spaces Protection Order (PSPO)**

Designed to stop certain individuals or groups committing ASB in a public space. They implement blanket restrictions/ requirements/ measures to tackle ASB at certain times in a locality.

#### **Other tools available to providers of social housing**

- Demoted tenancies
- Notice of Seeking Possession/Absolute grounds for possession
- Injunction against unlawful use of premises
- Exclusion Order and power to arrest (attached to injunction)
- Possession Order

## Community Protection Notice

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Community Protection Notices (CPNs) are intended to stop a person (16 or over), business or organisation committing ASB that is detrimental to local areas, or is having a negative impact on the local community's quality of life.

### When should you use a CPN?

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A CPN consists of a three stage process:

1. Issue of a WARNING to deter behaviour affecting community quality of life.
2. Issue of a NOTICE if the behaviour continues clearly outlining defined remedial steps required.
3. SANCTION. This can be by fixed penalty notice, or on conviction the sentence is a fine. The court may order the costs of any remedial work to be paid and/or the forfeiture of items.

A CPN warning letter should be issued if an individual has been given advice (written or verbal) within the previous six months relating to their involvement in ASB and if partners are satisfied on reasonable grounds that:

1. The conduct of the individual or body is having a detrimental effect of a persistent and continuing nature on the quality of life of those in the locality, and
2. The conduct is unreasonable

Missing the advice stage and entering at CPN warning stage is possible when there is evidence that the perpetrator's behaviour has escalated quickly over a short period of time, or has targeted specific individuals or a community. In this circumstance, a discussion should be had with a supervisor on the need to skip the advice stage and should be logged, with reasoning, on Sentinel.

If the ASB detailed in the warning letter continues, the lead agency can issue a CPN and will manage any breaches. All stages can be issued by a Police Constable, PCSO (if designated by the Chief Constable) or a local authority or housing provider (if designated by the local authority). CPNs should be consulted on and managed locally through the JAG process.

### Good practice and principles of the CPN process

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- Warnings must be issued in writing not verbally (copy of pro-forma letter on Sentinel 'Find out More' tab), and should detail the problem behaviour, a request for them to stop and the consequences of continuing.
- The CPN must only be issued if the person/body has been issued with a written warning, and, when having had sufficient time to address the conduct, the ASB continues to have a detrimental effect. Failure to comply with the terms of a CPN is a summary criminal offence.
- The CPN is intended to impose a requirement upon a person or body to stop doing specific things, or a positive requirement to do specific things, in order to reduce or remove the detrimental effects of their conduct.

- Service of a warning/notice to a person should be hand delivered, left at the person's last known address or at an address specified by them, sent by post to their last known or specified address.
- Service of a warning/notice to a corporate body it should be delivered to the company secretary/clerk at the registered or principle office in the UK.
- If you can't find the owner, or the property appears unoccupied, make reasonable enquiries. The notice may be posted on the premises and there is a power of entry in order to undertake this specific task.
- If the person/ body fails to do the work required to remedy a situation, the local authority may undertake the work, but only has an automatic right to do so if it is on land open to the air. They can also charge at cost as long as they had given written notice of the proposed work and failed to receive a response.
- The agency issuing the CPN will generally be responsible for enforcement of a breach, either by way of a Fixed Penalty Notice or prosecution at a Magistrates Court or Youth Court (for those aged 16 -18).

### Grounds for appeal of a CPN

If a person/body disagrees with service of a notice, within 21 days from the day of service they can appeal to a Magistrates court if they contend;

- The alleged behaviour took place,
- The behaviour doesn't affect quality of life locally,
- The behaviour is not persistent or continuing,
- The behaviour is not unreasonable,
- They cannot control or effect the behaviour/occurrence in question,
- The requested actions within the notice and or timescales are unreasonable,
- There is a material defect in the notice or that the notice has been served on the wrong person.

The person/body cannot continue with their behaviour during the appeal unless the court specifies they must stop doing what is requested in the notice; however they cannot be made to do something pending appeal.

### Breach of CPNs issued by the Local Authority

If a Local Authority issues a CPN, this authority will be the responsible for prosecuting a breach of the terms. They will also be responsible for the prosecution of breaches of CPNs issued by a person designated with the power to issue the CPN by the local authority, e.g. housing providers.

There will be occasions, however, when the police are involved in the enforcement process as breach of a CPN is a criminal offence and they have the power of arrest.

### Breach of CPNs issued by the Police

The Crown Prosecution Service will be the prosecuting authority for offences of failing to comply with a CPN issued by the police. In cases in which the police issued the CPN and the local authority has obtained or is otherwise in possession of evidence of a breach, that evidence will be provided to the police.



### The standard of proof for a breach of CPN (Section 43)

**1<sup>st</sup> condition:** Detrimental, persistent and continuing effect on quality of life on those in the locality - The court must be satisfied beyond reasonable doubt (the criminal standard of proof)

**2<sup>nd</sup> condition:** Conduct is unreasonable - No standard of proof is set out in the legislation. It is suggested that determination of this condition will be an exercise of judgement or evaluation

### Community Protection Notice Flowchart

