

Community Protection Notices Waste

Warwick District Council Policy

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DRAFT

Graham Folkes-Skinner Waste Policy and Performance Officer

Email: graham.folkes-skinner@warwickdc.gov.uk

Contents

	Page No.
Purpose	
Who can use this power?	
Delegation of powers	
Existing local authority powers	
Information sharing	
Threshold	
Who can you issue a CPN to?	
CPN Procedure	
Failure to comply	
Appeals process	
Importance of Evidence	
Publicity and communication	
Monitoring and review	
CPN Process Map	
Appendix 1 – Template CPN Warning Letter	
Appendix 2 – Template CPN	

1. About Community Protection Notice, Vision and Purpose

One of the five priority themes within the Councils Sustainable Community Strategy is termed “Safer Communities” and its strategic aim is to “work in partnership to reduce crime, anti-social behaviour and re-offending”

Community Protection Notices (“CPNs”) were introduced by the Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”) and are intended to stop individuals (aged over 16), business or organisations from committing anti-social behaviour which spoils the quality of life of the local community.

The following document has been developed to provide a framework for Warwick District Council to deal with on-going problems of nuisance originating from waste and recycling issues which have a negative effect on the community’s quality of life.

The Warwick District Council Enforcement Policy should be read in conjunction with this Policy and it must be followed when issuing CPNs and taking enforcement action.

Purpose

The CPN will direct the individual, 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.

Breach of a CPN is a criminal offence.

Who can use this power?

The following organisations can issue Community Protection Notices:

- Borough and District councils in Warwickshire, following appropriate internal delegation
- Warwickshire Police uniformed officers and PCSOs where authorised.
- Registered Social Landlords, where powers are delegated by the local Borough or District council

Delegation of Powers

The powers under the ASB Crime and Policing Act 2014 are granted to local borough and district councils. Delegation of authority to relevant senior and front-line officers to use the powers must be sought through the appropriate committees and senior management teams within Warwick District Council

Existing Local Authority Powers

The CPN powers are designed to complement rather than replace existing powers and it remains a principle of law that a specific power should still be used where appropriate and if the threshold for use of that specific power is met.

Some of the specific powers available to Councils are as follows:

- Cleaner Neighbourhoods and Environment Act 2005: This gives borough and district councils the power to issue fixed penalty notices (FPNs) for a range of offences under the Cleaner Neighbourhoods Act 2005, e.g. dog fouling, littering, fly-tipping.
- Environmental Protection Act 1990: Local authorities can also issue Abatement Notices for statutory nuisance. Statutory nuisance has a higher threshold than CPNs; therefore CPNs will be targeted at the lower level nuisance that does not constitute a statutory nuisance. Should an authorised officer witness a statutory nuisance, then they are duty bound to serve an abatement notice.
- Town & Country Planning Act 1990: Section 215 permits the service of a Notice on an owner or occupier where the local amenity is affected by the condition of land

Information Sharing

Close liaison between the relevant Service Areas with the District and potentially the police, landlords, University and Letting Agents is essential when issuing a warning letter or CPN to ensure the most effective power is used to protect victims. It also ensures all parties are aware of the conditions placed on an individual or body so that enforcement/compliance of the warning or the notice can be monitored. The Act requires any person issuing a CPN to inform any individual or body that person thinks appropriate.

Threshold

A CPN can only be issued by a local authority or a designated person if they are 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 area
- Persistent or continuing in nature, and
- Unreasonable

CPN's are designed to have a broad application and should focus on how individuals and communities are affected by particular conduct. They should not be issued lightly for conduct that is benign or trivial and they are not designed for single, one off incidents. The detrimental conduct of an individual or organisation can also include acts of omission.

Officers will investigate whether a CPN is appropriate by speaking to potential victims in order to obtain first-hand accounts of the conduct and understand the wider harm to the community. Officers will form an objective opinion and will consider the nature of the conduct, its frequency and duration and the seriousness and breadth of its impact.

Who can you issue a CPN to?

A CPN can be issued to any person aged 16 or over, a business, or an organisation. If a young person is aged 16-18 years then the Warwickshire Youth Justice Service will be consulted before the Notice is issued.

If a CPN is being issued to a business or organisation, it will be issued to the most appropriate person who can reasonably control or affect the behaviour, either in person or posted to them e.g. shop owner of a small shop, store manager of a major supermarket.

If the owner or occupier of premises that are responsible for causing a detrimental effect cannot be determined, the issuing officer can post the CPN on the premises. The Council will undertake reasonable enquiries to identify the owner or occupier. This may include checks with the Land Registry or public registers or a formal request for information using powers within section 16 of the Local Government (Miscellaneous Provisions) Act 1976

CPN Procedure

The Written Warning

Before a CPN can be issued, a written warning must be issued to the person committing the anti-social behaviour. There is no prescribed content for the written warning but guidance indicates that it should contain:

- The name and address of the person to whom it is issued
- An outline of the conduct considered to be causing the detrimental effect
- An outline of the detrimental effect
- The time period within which the behaviour or its impact is expected to have ceased
- A warning that if the effect has not ceased within the specified time limit then a CPN will be issued
- An outline of the effect of a CPN and potential sanctions on breach
- Date of issue and name and authority of the issuer.

It is a matter for the issuing officer to decide how long should be given for the matter to be dealt with. For example in the case of a CPN requiring waste to be cleared several days or weeks may be deemed reasonable depending upon the level of the work involved. In other cases the issuer could require the behaviour to stop forthwith.

In certain circumstances the issuing officer may decide to issue more than one Warning Letter before considering issue of a CPN.

To ensure a consistent approach between Service Areas, a template Warning Letter is provided in Appendix One for authorised persons to use.

Issuing a CPN

If the recipient of the Warning Letter has not ceased their behaviour within the timescales set, a CPN can be issued. The CPN may be issued to a person by:

- Handing it to the person, or
- Leaving at the person's proper address

- In the case of a company it will be addressed to the company secretary or clerk and sent to the company's registered office.
- In the case of a partnership it will be addressed to the person having control or management of the partnership business and sent to the principal office of the partnership

Where a CPN has been issued by post it will be deemed served the second day after it was posted, provided that day is a business day. If that day is not a business day then it will be the next business day after that business day.

Where the detrimental effect arises from the condition of premises or the use to which premises have been put and the name of occupier (if occupied) or the owner (if unoccupied) cannot be found after making reasonable enquiries then the authorised person may post the CPN on the premises. The CPN will be deemed issued at the time the CPN is posted onto the premises.

Content of a CPN

The aim of the CPN is to stop behaviour and put in place steps to ensure it will not reoccur. It should be adapted to the situation and 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 within the set timescales.

The requirements of a CPN will vary according to the nature of the detrimental effect that it seeks to address. Requirements will be clear, specific, reasonable and proportionate. They should not duplicate or conflict with other enforcement action being taken by the Council.

Appeals

A person served with a CPN may appeal to a Magistrates Court against the CPN within 21 days of it being issued on any of the following grounds:

1. That the conduct specified in the CPN ;
 - did not take place; or
 - has not had a detrimental effect on the quality of life of those in the locality; or
 - has not been of a persistent or continuing nature; or
 - is not unreasonable; or
 - is conduct that the person cannot reasonably be expected to control or affect
2. That any of the requirements of the CPN , 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 connection with the CPN.
4. That the CPN was issued to the wrong person

Once an appeal is lodged then a requirement imposed by the CPN to stop doing a specified thing remains in force but any other requirement imposed by the CPN has no effect until the appeal is determined or withdrawn. For example if a CPN requires a person to stop putting rubbish in a front garden and clear the rubbish then whilst an appeal is in progress the person will have to stop adding to the rubbish but will not be required to clear the rubbish until the appeal has been heard and the CPN has been upheld.

On appeal against a CPN the court has the power to quash the CPN, modify it or dismiss the appeal and uphold the CPN.

Failure to comply with a CPN

Failure to comply with a CPN is a criminal offence under Section 48 of the Act. Section 52 of the Act allows for a Fixed Penalty Notice of not more than £100 to be issued as an alternative to prosecution.

The Council will investigate and act in accordance with its enforcement policy when deciding what action is appropriate against a person or organisation that fails to comply with a CPN. The following action may be taken:

- **Prosecution:** If an individual is convicted of failing to comply with a CPN they can be fined a maximum level 4 fine (currently up to £2,500). A business or organisation can be fined a maximum of £20,000. There is a defence where the person served can show that they took all reasonable steps to comply with the notice or had some other reasonable excuse for failing to comply with it. The Council will usually invite potential defendants to attend an interview under caution as part of the investigation.
- **Issue of a Fixed Penalty Notice ("FPN"):** The Council has discretion to issue an FPN as an alternative to prosecution. The potential defendant has the opportunity to pay a fixed sum of £100 within a fixed period of time. Payment of the FPN within the specified period discharges any liability to conviction for the offence. Where an FPN is not paid the Council will usually prosecute for the failure to comply with the CPN.
- **Caution:** The Council may issue a simple caution for the offence where this is deemed appropriate. Cautions are likely to only be appropriate where the offence is minor, the level of harm is low and it is a first offence. The offender must also admit guilt and formally agree to accept a caution.
- **Remedial Action.** The Council may carry out work to remedy the failure to comply with a CPN where the work is on land open to the air. The Council has a power of entry to this land in order to carry out the work. Where the work involves premises not open to the air the Council can issue the recipient of the CPN with a Notice specifying the work it intends to carry out and an estimate of its cost. The recipient or owner of the premises is then invited to grant permission for the work to be carried out. If permission is given by one of them the Council may proceed with the work. Once the work is completed the Council is required to notify the person issued with the CPN of the work done and the cost. The person issued is then liable to pay the Council the amount specified subject to a 21 day right of appeal to Magistrates Court on the grounds that the cost of the work is excessive. Subject to any decision by the Magistrates the costs of the remedial work will be recoverable by the Council from the person issued with the CPN as a civil debt.
- **Seizure:** Where an officer of the Council provides Information on Oath to Magistrates and they are satisfied that there are reasonable grounds for suspecting that an offence has been committed under section 48 of the

Act and an item used in the commission of the offence is present on specified premises then the Magistrates can grant a warrant of entry for an authorised person to enter the premises, by force if necessary, for the purpose of seizing the item. Items seized in this way must be returned within 28 days unless criminal proceedings under section 48 of the Act are commenced within that time.

Orders following Conviction

On conviction the Council as prosecuting authority can ask the Court to make one of the following orders in addition to any penalty imposed by the court;

- Remedial Order
This may require the defendant to carry out specified work (typically the CPN's requirements) or to allow specified work to be carried out by, or on behalf of the local authority which issued the CPN. The defendant's consent is required where work is to be carried out to any accommodation where he usually lives or is living at the time of the work however obstructing a Court Order constitutes contempt of court which may be punished by imprisonment.
- Forfeiture Order
The Court may order the forfeiture of any item used in the commission of the offence.

Publicity and communication

The Community Protection Notice process will be actively promoted, both internally and to the public.

Monitoring and Review

Community Protection Notices will be reviewed monthly at the most appropriate group within Warwick District Council. Any learning points will be shared with the group. A summary report will be submitted quarterly to ??

Community Protection Notices

Unreasonable behaviour is occurring that is affecting a community's quality of life



Warning Letter Issued



Does the behaviour involve young people **between the ages of 16 to 18?**

Yes

No

Liaise with Warwickshire Youth Justice Service before CPN issues

Discussion with Legal and Service Area colleagues



Unreasonable Behaviour continues



Community Protection Notice issued
Explaining what individual, business or organisation must do to stop affecting the community's quality of life



Unreasonable Behaviour continues – CPN is breached
Possible sanctions include: fixed penalty notice; up to a level 4 fine (on conviction); paying for remedial work; forfeiture of items



Monthly review

What is the test?
Behaviour has to: have a detrimental effect on the quality of life of those in the locality; be of a persistent or continuing nature; and be unreasonable

Appendix A

**Community Protection Notice - Warning
ASB Crime and Policing Act 2014**

Date:

Dear:

**Re: Warning Letter – Community Protection Notice
(In accordance with Section 43 of the Anti Social Behaviour Crime and Policing Act 2014)**

Insert issuing agency name is satisfied that you are responsible for unreasonable behaviour which is persistent and/or continuing in nature and is having a detrimental effect on the quality of life of others.

This unreasonable behaviour includes:

Briefly detail behaviour including dates and locations and the detrimental effect it is having on the life on those in the locality

This letter is formal notification that you are required to stop behaving in the manner described above to avoid further consequences. Please ensure that you take the following actions within the timescales identified.

Action you must take:	Deadline for when you must do this by:

If you fail to comply with the above requirements within the timescales given then *insert issuing agency name* will consider serving you with a Community Protection Notice (CPN). This notice will tell you the things that you **must** do to put these problems right. If you still fail to do so without reasonable excuse:

1. You may be issued with a fixed penalty notice.
2. You may be prosecuted. If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 4 on the standard scale (currently £2,500 for an individual, and up to £20,000 for a business or organisation?)
3. The court may make whatever order the court thinks appropriate to ensure that what the notice requires to be done is done.
4. A court order may require you to:
 - a. Carry out specified work, or
 - b. Allow specified work to be carried out by, or on behalf of *insert issuing agency name*.
5. The court may require 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. The court may require this item to be destroyed or disposed of. A justice of the peace may issue a warrant, authorising a constable or authorised person to enter your premises to seize the item.
6. Social Landlords may offer a responsible tenant reward scheme which could ne compromised if further action is taken.

Insert issuing agency name will also consider what other action may be required to stop the problems, such as applying for an ASB Injunction, Premises Closure Order, or notifying your landlord (where relevant) if *insert issuing agency name* consider that breaches of your tenancy agreement/lease have occurred. Your details will also be passed on to the local Community Incident Action Group who will consider a multi-agency response to the anti-social behaviour that has led to this warning being issued.

You are advised to refer to the extract from the ASB Crime and Policing Act 2014 provided.

Signed:	Name:
Job Role:	Issuing agency:
Contact Details:	

Extract from the Anti-social Behaviour, Crime and Policing Act 2014**46. Appeals against notices**

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

Community Protection Notice

Date:

Dear:

Re: Community Protection Notice**(In accordance with Section 43 of the Anti-Social Behaviour Crime and Policing Act 2014)**

Take notice that *insert issuing agency name* is satisfied on reasonable grounds that the conduct of *insert name and address of individual and/or business/organisation* is having a detrimental effect on the quality of life of those in the locality, that it is persistent and continuing in nature and the conduct is unreasonable.

The nature of the conduct which is having a detrimental effect is as follows:

Briefly detail behaviour including dates and locations and the detrimental effect it is having on the life of those in the locality

You have previously been given a written warning on, *insert date warning letter was issued*, that a Community Protection Notice will be issued unless your unreasonable behaviour, detailed above, ceases. *insert issuing agency name* is satisfied that, despite having had enough time to deal with the matter, your unreasonable behaviour continues.

You are hereby required to comply with the following requests:

a) A requirement to stop doing specific things
b) A requirement to do specific things
c) A requirement to take reasonable steps to achieve specific results

If you still fail to comply with these requests, without reasonable excuse:

1. You may be issued with a fixed penalty notice.
2. You may be prosecuted. If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 4 on the standard scale (currently £2,500 for an individual, and up to £20,000 for a business or organisation)

3. The court may make whatever order the court thinks appropriate to ensure that what the notice requires to be done is done.
4. A court order may require you to:
 - a. Carry out specified work, or
 - b. Allow specified work to be carried out by, or on behalf of *insert issuing agency name*.
5. The court may require 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. The court may require this item to be destroyed or disposed of. A justice of the peace may issue a warrant, authorising a constable or authorised person to enter your premises to seize the item.
6. Social Landlords may offer a responsible tenant reward scheme which could be compromised if further action is taken.

insert issuing agency name will also consider what other action may be required to stop the problems, such as applying for an ASB Injunction, Premises Closure Order, or notifying your landlord (where relevant) if *insert issuing agency name* consider that breaches of your tenancy agreement/lease have occurred. Your details will also be passed on to the local Community Incident Action Group who will consider a multi-agency response to the anti-social behaviour that has led to this warning being issued.

Breach of a Community Protection Notice is a Criminal Offence.

You are advised to refer to the extract from the ASB Crime and Policing Act 2014 provided.

Signed:	Name:
Job Role:	Issuing agency:
Contact details:	

Extract from the Anti-social Behaviour, Crime and Policing Act 2014

46. Appeals against notices

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

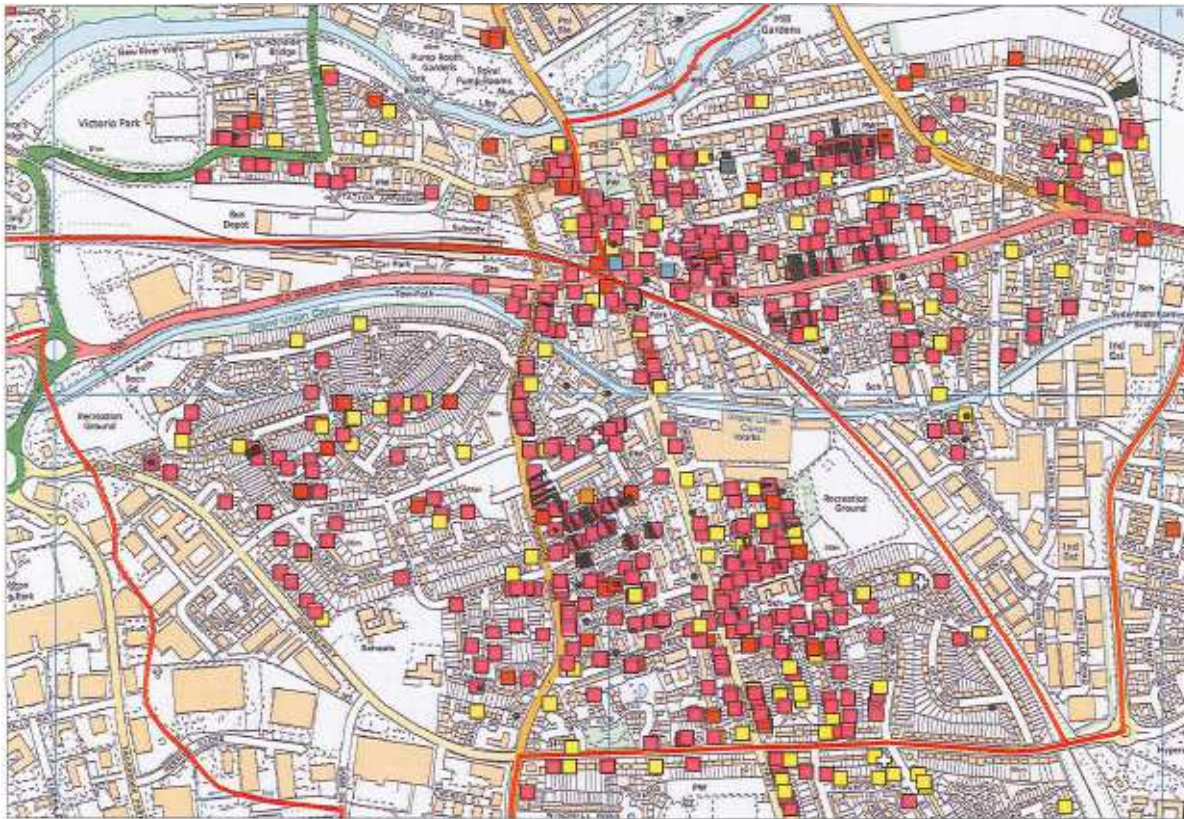
whatever way seems appropriate to the police force. (5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2) (b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction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

DRAFT

A map showing 'hot spots' in South Leamington. Indicates a pilot around the areas with black splodges could be trialled.



HMO Rubbish Complaints in WDC

