

To: City Executive Board
Date: 23 January 2018
Report of: Executive Director Sustainable City
Title of Report: CPN Review

Summary and recommendations	
Purpose of report:	To review the application of antisocial behaviour enforcement, with particular reference to people thought to be rough sleeping, and to review the Council's underpinning enforcement policies.
Key decision:	Yes
Executive Board Member:	Councillor Tom Hayes Lead member for Community Safety
Corporate Priority:	Strong and Active Communities
Policy Framework:	Oxford City Council Corporate Plan
Recommendations: That the City Executive Board resolves to:	
	<ol style="list-style-type: none"> 1. Endorse the report, including the findings of the CPN Review and Cross-Party Panel; and 2. Authorise the Head of Community Services, in consultation with the Board Member for Community Safety, to update the Antisocial Behaviour Policy and Antisocial Behaviour Procedures in line with the recommendations made.
Appendices	
Appendix 1	Overview of Oxford City Council approach to tackling antisocial behaviour
Appendix 2	Overview of Oxford City Council approach to tackling homelessness and rough sleeping
Appendix 3	Council Motion (2 October 2017)
Appendix 4	Community Protection Notice Use in Oxford
Appendix 5	Principles of enforcement

1.0 Introduction and background

1. In October 2017 Council approved a motion requesting that CEB review the processes for the issuing of Community Protection Notices. The Motion as approved is set out in Appendix 3.
2. The motion at Council arose from concerns expressed by some members of the Council about the appropriateness of using such powers in respect of vulnerable people, especially those sleeping rough in the city.
3. The Council carried out a review of the small number of cases that resulted in Community Protection Notices (CPNs) being issued on those sleeping rough.
4. In addition the Board Member initiated a cross-party review panel to examine the respective policy positions on enforcement against antisocial behaviour to ensure community protection.

2.0 Objectives

5. Oxford City Council is committed to both supporting homeless people, especially the roofless to be able to end their homelessness and tackling antisocial behaviour in a way that applies to everyone regardless of their housing status. The objectives of the report are to set out:
 - The Council's approach to resolving situations where it is believed that antisocial behaviour is having a detrimental effect, of a persistent and continuing nature, on the quality of life of those in the locality
 - The Council's duties, policies, and practice in respect of engagement and support for people sleeping rough in the city (see section 4.0 and Appendix 2)
 - The results of the review of Council's practice in tackling antisocial behaviour by people sleeping rough, and whether this is in line with agreed Council policy and strategy (see section 6.0)
 - The results of the audit of the small number of cases where CPNs have been served by the Council against antisocial behaviour engaged in by rough sleepers, and conclusions of this review. (This can be found in section 5.0 and most helpfully read alongside the profile of life on the street in Appendix 2 section 3.0.)
 - Consideration of whether any further safeguards, reinforcing the existing support and engagement undertaken by officers, should be adopted in the Council's practice for tackling antisocial behaviour by people sleeping rough (see section 6.0)

3.0 Overview of key findings

6. Oxford City Council is committed to reducing antisocial behaviour and building stronger cohesive communities. Working with partner agencies – including Thames Valley Police - and communities, the Council takes a stand against antisocial behaviour, moving away from the situation where people tolerate problems to one where everyone enjoys the highest quality of life and work together to tackle problems.
7. Oxford City Council is a compassionate and caring Council and is working with partners to end the need for anyone to sleep rough on the city's streets. We believe rough sleeping is harmful and dangerous to individuals and society. It is damaging to a person's physical and mental health and therefore assertive outreach should offer people all possible opportunities to move off the street.
8. CPNs and other enforcement measures may be used in response to behaviour that is antisocial – in that it is unreasonable, persistent, and has a detrimental effect on the quality of life of the locality. The Council categorically will not serve a CPN on somebody just because they are sleeping rough or are homeless.
9. A senior officer review of all five cases in 2016 and 2017 involving the issuing of CPNs against behaviour by rough sleepers was carried out by the Corporate Affairs Lead Officer and then reported to the Executive Director Sustainable City. The CPN Review found that in all cases the Council's policies in respect of these matters had been followed appropriately.
10. A Cross-Party Panel, led by The City Executive Board Member for Community Safety considered the CPN Review findings, and the policies underpinning the enforcement actions taken. The Panel agreed with the CPN Review and its conclusions. It also endorsed the current Corporate Enforcement Policy and Antisocial Behaviour Policy with their explicit requirement to act proportionately to the risk – with consideration of a person's support needs and safeguarding risks always being the priority.
11. The Panel also made a number of recommendations – some which reflect current practice – to ensure senior officer oversight when considering enforcement notices against people who are thought to be rough sleeping. It also recommended updating written procedures to enable them to have the confidence and give them safeguards to deal with a number of risks including unattended bags, items causing a hazard such as blocking a fire exit and antisocial behaviour. The existing Antisocial Behaviour Procedures will be revised to include these procedures.
12. The Panel did not support a new policy approach for addressing antisocial behaviour or community protection issues by homeless people.

4. 0 Background

13. There are two core elements which define the background to this report. The first is the Council's responsibility to all of Oxford's businesses, visitors and residents to provide a safer city; and the second is the growing homeless population in Oxford, which the Council has a moral and statutory duty to protect, support, and treat with dignity and without discrimination.

A protective Council: Building a safer Oxford

14. Oxford City Council is committed to reducing antisocial behaviour and building stronger cohesive communities. Working with partner agencies – including Thames Valley Police - and communities, the Council takes a stand against antisocial behaviour, moving away from the situation where people have to tolerate problems to one where everyone enjoys the highest quality of life and work together to tackle problems.
15. Antisocial behaviour is that which is detrimental to the quality of life of people in a locality and is persistent and unreasonable. This can include graffiti, fly tipping, verbal or racial abuse, drug dealing or misuse, vandalism, and behaviour that causes harassment, distress or alarm to others.
16. Oxford City Council tackles antisocial behaviour with several tools, and that can include the use of CPNs. Under the law CPNs can be issued to anyone aged 16 or over, a business, or organisation committing an action which presents a hazard or risk to the community or spoils its quality of life. A CPN can be issued by authorised Council officers, police officers, police community support officers (PCSOs) or social landlords, if designated by the Council.

A compassionate Council: Caring for homeless people sleeping rough

17. Levels of homelessness are rising across the country, with the housing charity Shelter estimating that 300,000 people wake up homeless. In the most extensive review of its kind, Shelter estimates that Britain's homeless population has grown by 13,000 in one year alone, with at least one family losing a home every ten minutes.
18. Rough sleeping is a visible manifestation of this homelessness crisis. Levels of street homelessness are rising across the country with the number of people rough sleeping in England more than doubling between 2010 and 2016.
19. Oxford and a number of other cities are experiencing both a sharp increase in homelessness and rough sleeping. In the street count conducted by Oxford City Council and homelessness organisations in November 2017, 61 people were found to be sleeping rough. This is nearly double the 33 people found to be

sleeping rough on the night of the count in 2016. In addition to the official street count, the Council and homeless organisations estimate that 89 people could be sleeping rough on any given night, up from 47 people in 2016.

20. The Council's approach to tackling homelessness and rough sleeping is focused on early intervention and prevention approaches; ensuring suitable accommodation and support for people in housing crisis; and assistance to move-on. The Council's Housing Team was awarded the 'Gold Standard' by the National Practitioner Support Service 'Gold Standard Challenge' in 2017. This puts the Council into the top 3% of all Local Authorities in England to have achieved this award.
21. The Council's commissioning strategy recognises the role of partnership working. Services are commissioned using the Council's Homelessness Prevention Funds. Currently funding stands at just under £1.4m per year, rising to £1.6m per year in 2019/20 (subject to consultation and approval of the Mid Term Financial Plan).
22. This includes an assertive outreach service [Oxford Street Population Outreach Team] which is commissioned by the Council and delivered by St Mungo's. The service makes regular ongoing contact with rough sleepers and assists them to access the services and support that will help them to escape from a life on the streets.
23. The Council also commissions a wide range of other 'wrap around' services aiming to prevent homelessness in the first place, tackle rough sleeping and assist individuals who are moving off the streets to sustain their accommodation and move on to live independent lives.
24. The Council recently launched a city-wide Conversation with a range of individuals and groups interested in helping to find solutions to the increase in rough sleeping in the city. Following the successful first meeting on 28/11/17, steps are being taken towards the formation of a city-wide partnership that can work together to deliver effective, long-term solutions to rough sleeping and homelessness.

Balancing the legal duty to ensure a safer Oxford and the duty to protect rough sleepers

25. In July 2017, CPNs were served on bags blocking fire escapes in Cornmarket Street because they posed a risk to those working inside. The CPNs advised the owner(s) of the bags to remove them on the basis that they were "causing an obstruction...that may constitute a hazard". The owners of the bags received two days' notice to remove the belongings from the specific fire escapes. After two

days the owners had removed everything blocking the fire escapes apart from a soiled duvet and cardboard, which the Council then removed.

26. The case generated significant media coverage and following this. In October 2017, Council debated the issue and unanimously adopted a motion (see Appendix 3) that recognised there are circumstances where issuing a CPN where the recipient is homeless is necessary and requested the City Executive Board to review the process in order to provide sufficient checks and balances.
27. The carried motion reflected the concerns of members of Council – echoing the concerns of some Oxford residents and beyond - about the appropriateness of using CPNs against antisocial behaviour engaged in by vulnerable people generally and homeless people sleeping rough in particular. The concerns about the use of CPNs reflect wider concerns about the extent to which homeless people sleeping rough on Oxford's streets are treated with dignity and without discrimination.
28. CPNs are issued in response to actions taken that present a hazard or risk to the community or antisocial behaviour that spoils its quality of life. The Council categorically will not serve a CPN on somebody just because they are sleeping rough or are homeless.
29. There have been individuals sleeping rough engaging in behaviour that meets the legal test for being antisocial (and consistent with the requirements of serving a CPN): because it is unreasonable, persistent, and has a detrimental effect on the quality of life of the locality. Nonetheless, the Council's position is clear in that we are intent on meeting our duties to support those sleeping rough to be able to get off the streets whatever their behaviour through the support and resources we provide.

Street Wise initiative

30. Thames Valley Police believe that there are significant links between begging and drug abuse and dealing in the City, some of it associated with so-called 'County Lines' activity. This involves organised crime gangs from the metropolitan cities targeting vulnerable people in provincial cities and supplying them with Class A drugs for use and for dealing.
31. This serious issue is compounded by increasing evidence of Child Drugs Exploitation (CDE) where the organised crime gangs target minors to help distribute the Class A drugs around the city.
32. As a high priority, Thames Valley Police and Oxford City Council have been working jointly through the Street Wise project to seek to disrupt this linkage between begging and drugs.

5.0 Review and monitoring of the cases where CPNs have been served against anti-social behaviour engaged in by rough sleepers

33. A senior officer review of all five cases in 2016 and 2017 involving the issuing of CPNs against behaviour by rough sleepers was carried out by the Corporate Affairs Lead Officer and then reported to the Executive Director Sustainable City.

In summary the review found:

- CPNs were very rarely used in council officers' interactions with street homeless people. Only five were issued over 2016-2017, while there would likely have been in excess of 30 people sleeping rough on any night during that period
- In all cases the individuals concerned were known to the housing service and were being engaged by the assertive outreach programmes aimed at ending the need to sleep rough
- There was a clear use of engagement both by the outreach services and community safety teams to resolve issues before enforcement was used
- Because of this approach, many other potentially risky situations during this period were resolved informally
- Where action was taken the speed and length of engagement was proportionate to the impact on "quality of life"
- Where formal action was taken this was preceded by informal approaches. In all cases there existed an element of risk in respect (at least one of the following)of:
 - Obstruction of pavements and passageways putting pedestrians at risk and impeding legitimate street cleansing activities
 - Obstruction of safe access and egress to premises including fire escapes and routes
 - Occupation and therefore denial of access to public services (e.g bus shelters)
 - In most cases the risk was exacerbated by the indiscriminate distribution of drug paraphernalia.

34. The Corporate Affairs Lead Officer concluded and the Executive Director concurred that in all cases the Council's policies in respect of these matters had been followed appropriately.

35. Five underlying themes were identified as being associated where enforcement action had been taken:

- "bedding down" in the working day ie between broadly 0800 and 2000
- The accumulation of belongings

- The dealing in and administration of Class A drugs in public places
- Indiscriminate discarding drug paraphernalia
- Failure to engage and comply with requests to mitigate impact on others

Officers will in drafting revised guidance, reflect on how these underlying issues may be addressed.

6.0 Review of Council Enforcement Policies

36. Having established that the Council's enforcement policies were correctly applied in the five specific cases examined in the CPN Review, the City Executive Board Member for Community Safety undertook a review of the policies underpinning the actions taken. In this he was assisted by members who formed a cross-party working group. That group also sought a view as to whether the Council's policies should be amended.

Member Panel Review meeting

37. The panel's findings are detailed below.

The Panel endorsed:

- The current Corporate Enforcement Policy which underpins the Council's approach to enforcement, with its explicit requirement to act proportionately to the risk, the consideration of a person's support needs and safeguarding risks are always the priority
- The current Antisocial Behaviour Enforcement Policy which mirrors the Corporate Enforcement Policy
- The findings of the CPN Review and its conclusions that officers acted in accordance with both of the above policies
- The policies are used to address problematic behaviour and are not used to resolve a person's housing needs or the act of sleeping rough. The policies recognise the overlap between behaviour and housing status in that officers are expected to consider whether support of a person's vulnerabilities would elicit behavioural change
- The use of enforcement powers to address behaviour in line with the policies, i.e. lowest level of intervention is used suitable to the case, following a process of engagement
- Enforcement on any person could result in fixed penalty notices issued by the Council, prosecution at court that could result in fines and the application for

further orders to address behaviour such as Criminal Behaviour Orders. However, it was clear that compliance was the driver not issuing fines.

The Panel recommended:

- A formal process of senior officer oversight when considering enforcement notices against people who are thought to be rough sleeping, for a period of six months. This reflects current practice. After six months this oversight will be reviewed to determine whether it is necessary.
- All CPNs are signed by a manager in the Community Safety Service, not by frontline officers. This is current practice.
- Procedures will be written for officers to enable them to have the confidence and give them safeguards to deal with:
 - Unattended items
 - Items causing a hazard such as blocking a fire exit route
 - Begging
 - Antisocial behaviour – this is already covered within the Antisocial Behaviour Policy
- The existing Antisocial Behaviour Procedures will be revised to include these procedures
- The existing Antisocial Behaviour Policy will be updated in line with the Council's Policy Review timetable – it is due for review
- The Council's policies could be amended to make it clear that enforcement activities shall not be used to harass or disrupt rough sleepers
- Refresher training on the Council's policies for enforcement officers
- Continuous Professional Development for all staff involved in enforcement to include welfare support resulting from staff facing difficulties in discharging their duties

The Panel did not support:

- A Senior Officer appeal process after the serving of a CPN.
- A further review of CPN use
- A new policy approach for addressing antisocial behaviour or community protection issues by homeless people

7.0 Additional Information

Financial implications

38. There are no financial implications arising from this report.

Legal issues

39. Anti-social behaviour is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder that make many people's lives a misery. The Council's responsibilities in relation to ASB and nuisance are derived from The Crime and Disorder Act 1998. The act requires that the Council must work with the police and other agencies to reduce crime and disorder in its area. The Council plays a leading role in tackling ASB in Oxford. The Antisocial Behaviour, Crime and Policing Act 2014 provides the Council with a raft of powers to tackle ASB. These include civil injunctions, community protection notices, public space protection orders, closure powers and accelerated possession proceedings in cases where ASB has been proven by another court. The existence of these powers confers an expectation that the Council will use its powers to investigate and deal with issues in its area. This Council's response to this is set out in the Council's Antisocial Behaviour Policy. The Act also gives those suffering ASB the right to require a review of the actions of public bodies if they believe that effective action has not been taken.

Level of risk

40. There are reputation and legal risks associated with striking an appropriate balance in enforcement of anti-social behaviour and community protection issues. These are explored in the report.

Equalities impact

41. See attached assessment.

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Background Papers:	
1	Anti-social behaviour policy OCC - July 2014
2	Corporate Enforcement Policy OCC – December 2015