



## **Anti-social Behaviour Policy**

### **Introduction**

This policy addresses how we will approach anti-social behaviour (ASB) case management in light of the changes made due to the Anti-social Behaviour Crime and Policing Act 2014.

Anti-social behaviour can constitute a variety of behaviours that negatively impact upon other people. There are a few definitions within legislation, such as behaviour that causes or is likely to cause 'harassment, alarm, distress, nuisance or annoyance' to any person, depending on which particular power is being considered.

As a general rule, however, tackling ASB is about protecting people from the unreasonable behaviour of others, of which there can be varying degrees, as such there is much scope as to what ASB is.

When assessing the need to enforce against anti-social behaviour an officer will consider the frequency, seriousness, impact (potential for harm or amount of harm caused) and unreasonableness of the reported behaviour.

When considering the enforcement options available this policy will seek to give alleged perpetrators ample opportunity and warning to alter their behaviour before legal action is brought. The length of investigation will therefore vary depending upon the seriousness of behaviours and risk of harm posed to any person.

Complaints regarding ASB may arise from incidents that may have taken place before formal action, some of which may also be criminal offences. Behaviour which may appear to be 'low level' offending can have a cumulatively devastating impact on people's lives when this occurs over time. Looking after the welfare and interests of victims is paramount.

This policy also seeks to manage the expectations of complainants, cases may develop over a period of time (causing frustration) and some complainants may have unreasonable or unrealistic expectations of what can be done under the circumstances.

Below are some of the key elements to be considered in ASB cases. Any investigation needs to be flexible and adjusted according to evidence, on-going assessments of risk and the needs of all persons involved. There is often a balance to be struck between supporting an ASB perpetrator to change and enforcing change. This document will detail the powers that we have however a principle will be that any case put before the court will be able to demonstrate that there was no reasonable alternative left but to take legal action.

### **Partnership working**

Partnership working is crucial to resolving ASB cases. ASB can be perpetrated by and impact upon all members of society. As such, cases will involve many different dynamics, reasons and motivations behind the behaviour, and for it to be properly addressed it must be understood.

Frequently, cases will involve issues such as mental health, substance misuse, homelessness, domestic abuse, family breakdown, unemployment, poor housing standards, prejudice and many others that require support and or advice from professionals in the particular area.

The Council has fostered good working relationships with our partners and host a monthly Multi Agency Problem Solving (MAPS) meeting, which also includes individual subject discussions.

The MAPS meetings are attended by representatives of social services, registered social landlords, housing options teams, neighbourhood beat managers from the Police, and Environmental Health at the Council.

### **Escalation Process**

The agreed procedure for ASB to be utilised by Devon agencies, utilises an escalation process. This is not a statutory requirement, but is felt to be an appropriate means of avoiding criminalising behaviour that can be dissuaded through a less formal approach. Working through an escalation process will usually resolve most cases, but where it does not it should ensure that all correct actions have been taken before needing to go to court. In their evidence, the investigating officer will need to be able to demonstrate a series of proportionate actions and warnings taken to address the ASB, which were ultimately unsuccessful as the behaviour has continued. This evidence will hopefully persuade the court that behaviour has been persistent and that the offender has been given every reasonable opportunity to amend their conduct.

Our escalation process will normally follow these four stages (a person will move to a next stage if the ASB continues):

Stage 1 – First stage warning letter

Stage 2 – Second stage warning letter and visit to discuss ASB and explore any support required

Stage 3 – Multi-agency meeting / Acceptable Behaviour Contract (ABC) Community Protection Notice (CPN)

Stage 4 – Legal action; which may include prosecution, works in default, issuing a fixed penalty notice, seizure of equipment, simple cautions etc.

The escalation process may not be strictly followed in cases where more swift and urgent action is deemed necessary to prevent a situation that poses a significant risk of harm to anyone. It may also be the case that incidents occur many months apart, so decisions will have to be made on how proportionate it is to move up an escalation process given the infrequency of ASB. Professional judgement will be utilised to determine the next appropriate step to take in an ASB case. When determining the enforcement approach officers should be mindful of this guidance as well as the council's enforcement policy.

## **Investigation process**

### **Diary sheets**

On making a complaint we will ask a complainant to keep a record of details of any incidents that affect them, it is a standard means of gathering evidence and information to assess the level of ASB and what action can and should be taken. The value of diary sheets is not only in the first stage of assessing the level of impact but at all stages it helps to assess the impact of our involvement in the case, and if necessary to guide a judge on the impact of the behaviour to individuals.

It is important for complainants to record how the behaviour affects them, as this not only helps monitor impact on their quality of life and therefore what action must be taken to protect from it, but is also important for the judge to know the impact of the behaviour on which he/she may be making a judgement.

An example of our diary sheet is located in appendix A.

### **Warning Letters**

The purpose of a warning letter is to clearly explain to the alleged perpetrator what the issues of concern are, what is expected of them (i.e. modified behaviour) and what the consequences could be of failing to cease further anti-social behaviours. They also perform a second important function of being good evidence in court of what information has been provided to the offender in efforts to address their behaviour, and help to overcome restrictions imposed on the local authority of carrying out covert directed surveillance under the Regulatory Investigatory Powers Act 2000 (as amended).

Any allegations made within a letter will normally detail, date and time where possible, make it explicitly clear what the matters of concern are. This also allows the complainee a right to respond to the letter and challenge the content should they feel it contains inaccuracies. A warning letter will also detail the potential consequences and refer to the specific legislation that may be used should the ASB continue.

Any series of warning letters should be seen as a continued effort to resolve the matter informally. They may refer to previous warnings to highlight the continuing nature and as things escalate, the seriousness of tone may escalate also. It must be remembered that these documents may be produced in court as evidence of the reasonableness of the investigating officer's actions in the case (and the unreasonableness of the defendant's).

### **Monitoring and recording equipment**

Officers from Environmental Health will arrange to visit a complainants property at times where it is felt that we are most likely to gather evidence of the anti-social behaviour. We will usually visit up to three times, as if we have not obtained evidence during these three visits then it is unlikely we will reasonably do so.

The Council also has access to calibrated noise monitoring equipment and may deploy this equipment where it is felt appropriate to do so. The use of monitoring equipment will be viewed as being one visit.

### **Community Impact Statements**

Specific guidance on community impact statements is available from the Crown Prosecution Service [here](#). In general terms a statement is produced to details the concerns and priorities of a community that is complaining about ASB impacting on them. They can be compiled by the Police but may also be completed by an Officer of the Council.

The statement is there to provide additional relevant information to the case about the impact of the ASB. This may help officers to determine what actions should be taken or help in a prosecution to persuade a judge on the merits of the action taken.

### **Less formal enforcement solutions to ASB problems**

#### **Mediation**

Mediation is the process of bringing two parties in dispute together to discuss and agree a way forward. Mediation can be a useful tool in tackling ASB at an early stage, although it is not appropriate in all cases. The process is facilitated by trained mediators who are independent and impartial of both the parties and the enforcement agencies.

The mediators will contact both sides and hear their views; if there is consent then everyone will meet and mediation will take place. This involves both sides having a chance in a safe environment to have their say and listen. An agreement may be made about the best way forward which is their agreement, not one imposed upon them. The strength of mediation lies in the communication being directly between the involved parties and empowers them to resolve their own dispute, rather than an agency taking a view following investigation and impose a judgement. Whilst typically associated as an early intervention, it can also be used for more longstanding disputes as long as all parties are willing.

In cases involving disputes whereby there appears to be equal culpability for ASB by each party against each other, mediation may be the only potential remedy that an officer can reasonably offer before closing the case.

The Council does have details of local mediators, however we do not have a contract with service providers, therefore the cost of mediation does have to be covered either by the parties involved, or the main agency e.g. Social Landlord or Police, should they wish to proceed. Alternatively if there is no enforcement case to answer, the Council may offer to carry out the mediation, this will be carried out by an officer who has not had previous involvement with the case.

### **Restorative Justice (RJ)**

RJ is often associated with the criminal justice system, but can be utilised in different circumstances where harm has been caused. It seeks to repair harm by facilitating communication between those harmed and those that caused the harm. It should create an opportunity for the person harmed to be able to ask questions about the actions they had been victim of and for the person/s responsible to make amends for what they did.

In Devon RJ is facilitated by Devon and Cornwall Police who have trained practitioners, they will guide the process and ensure the safety of all parties, any agreements remain between the persons directly involved (which can include anyone else effected including friends, family, colleagues etc.). It differs from mediation due to the fact that recognition must be forthcoming from the person/s that caused the harm that they are responsible, it is not appropriate for persons in dispute who disagree where responsibility fits.

In its simplest of forms RJ could be about someone offering an apology when they have acted wrongly and someone else affected or it can be applied in more complex situations. It does not necessitate face to face contact (although this often has the biggest impact) and could be facilitated by a letter or other form of communication dependent on the wishes of the participants. The benefits of a restorative approach are that it can provide more meaningful outcomes to persons harmed by being able to address the concerns that they have had which may not otherwise be possible - often the question is simply 'why me?'. It also reduces reoffending and allows people to make amends in a more direct and meaningful way for their behaviour.

### **Acceptable Behaviour Contracts**

ABCs are a non-legal contract used as a means to engage an ASB perpetrator in a voluntary way before more formal action is required. They will be offered when it is apparent no further warnings are justified and should address the behaviour of concern.

Typically the focus is on agreeing things that the individual will not do, such as be in certain areas, associate with named individuals or behave in a certain way. But it can also list things that the individual either will or should do to make positive change,

such as attend an anger management course, attend school or seek help for substance misuse. Usually an ABC will be the result of multi-agency input and will be the outcome of a multi-agency meeting held to discuss the case. It will therefore be signed by a representative of the police and relevant enforcement agency (local authority/Registered Housing Provider) to show a co-ordinated and shared resolve to address the issues.

For youths, the Youth Offending Service should be consulted as standard practice and the parent/guardian be involved. The content of an ABC will be guided by all parties, but ultimately depends on what the individual will agree to.

As a non-legal document, strictly speaking there is no legal consequence for breaching an ABC. However, proven breaches may be the deciding factor in instigating legal proceedings, and the ABC produced in evidence as proof of attempts to engage and encourage modified behaviour.

### **Formal interventions**

As previously mentioned formal interventions are viewed as a last resort, it is not the Council's wish to criminalise activity, but we will take action where it is viewed as the only way to prevent an undue impact on the wider community.

### **Civil Injunctions**

Designed to stop anti-social behaviour escalating by preventing individuals from engaging in behaviour that is viewed as unacceptable. A civil injunction is issued by a court on application made by the Police, Local Authorities, Social Landlords etc.

An injunction can be used to both prevent a person from doing something or positively to require them to start taking action to prevent the under-lying cause of their anti-social behaviour.

Positive requirements could include requiring the person to engage with drug or alcohol support services, to attend dog training classes provided by animal welfare charities, or requirement to attend mediation sessions (although this must first be agreed with the other party).

Prohibition of behaviour will only be sought as long as; it does not interfere with a person's ability to work or be educated, and it does not conflict with any other court order the person may have.

The behaviour seeking to be addressed must be causing alarm or distress if nonhousing related or nuisance and annoyance if housing related. If the order is breached it is punishable by up to 2 years in prison for over 18's or imposition of curfews or detention for those under 18.

Where officers feel that a civil injunction should be sought a case will be prepared and presented to the community of practice lead for environmental health and a

senior specialist from the Legal team. They will review the merits of the case and give authority to proceed.

Should an injunction be granted then the decision on whether to publicise the case will be made in consultation with our partners and the victims. We will take into account the need to show that action has been taken to address ASB, and to aid in the enforcement of the injunction, whilst ensuring that publication would not materially harm the person's right to privacy.

### **Criminal Behaviour orders**

A criminal behaviour order is similar to an injunction but can be issued to a person on conviction of any offence. An order will be requested by the prosecutor (usually the CPS), and is used to tackle the most serious and persistent cases of anti-social behaviour.

Similar to an injunction both negative (prohibitions) and positive (requirements) actions can be required of a person subject to an order. The breach of a criminal behaviour order does however have stronger penalties for breach including up to 5 years in custody.

Due to the nature of the order being post prosecution we will be reliant upon the prosecutor agreeing to request an order being made. However similar to an injunction officers will be required to discuss the request with the community of practice lead for environmental health and a senior specialist for legal who will help draft the order.

### **Dispersal Powers**

The Council is not authorised to use a dispersal power at this time.

A dispersal power is used by a constable of the Police to require a person the suspect of committing or likely to commit ASB to leave an area and not return for up to 48 hours, as approved by an authorising officer.

Officers in consultation with the Police may request an officer to use such a power where it is felt appropriate to prevent an urgent ASB issue. These powers have been used by the Police to control aggressive begging rather than use the Vagrancy Act 1824.

### **Community Protection Notices (CPN)**

A Notice is a formal document that states what behaviour a person or organisation must stop doing to prevent a recurrence of the unreasonable impact on the community, it can also require certain things to be done to prevent ASB. A notice can be served on any individual over the age of 16 or a business. Prior to the issue of such a notice the perpetrator must be warned about their behaviour, this is usually by way of visit and letter (Stage 2 of the escalation process).

The breach of the notice is punishable in many ways including; by bringing a prosecution against the offender, seeking a warrant to seize items used in breaching the CPN, A fixed penalty notice being issued, or by carrying out remedial works at cost to the person responsible.

In the first instance normally a breach of a community protection notice will be dealt with by the issuing of a fixed penalty notice (FPN). The penalty notice shall be set at £100.

In determining whether to serve a community protection notice an internal case review will be undertaken with a senior specialist or community of practice lead of environmental health.

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

A Public Spaces Protection Order (PSPO) allows the local authority (LA) to respond to concerns of anti-social behaviour in a specific area. This can be done by stopping certain activity and/or restricting other activities which are causing concern.

Two conditions must be met for a PSPO to be made:

- Behaviour must be causing, or likely to cause, a damaging effect on the quality of life to those in the area
- Behaviour must be, or likely to be, persistent or continuing in its unreasonable nature

The Anti-social Behaviour, Crime and Policing Act 2014 gives power to South Hams District Council and West Devon Borough Council to create a PSPO, but only once we have carried out appropriate consultation.

It must be remembered that when considering the appropriateness of the requirements of an order, that by preventing ASB in one location it may just move it to another location. Therefore officers will be minded as to whether this approach is better than other options.

Failure to comply with the requirements of a PSPO could lead to the Council seeking a prosecution where a fine of up to Level 3 on the standard scale). A fixed penalty notice may also be issued with the fine being £100.

When seeking a new order officers will normally initially seek the views of the ward member/s and parish/town council. For some orders it may then be necessary to carry out a public consultation which is appropriately advertised with a draft order.

Once the necessary views and evidence has been gathered, a report will be produced detailing the draft order and feedback, this report will then be brought through the committee processes of the Council before being presented at Full Council for approval.



If approved the order will then be deemed made, and suitable and sufficient notices will be put up to advertise the order.

## **Case Review**

## **Community Trigger**

The community trigger is a mechanism by which a perceived victim of ASB can request for their case to be reviewed by a multi-agency group of organisations that may have been involved in the case. This group are tasked with reviewing the complaints and steps taken to determine whether any further action could or should have taken place.

In Devon it has been agreed by the Police and Local Authorities that the community trigger point will be reached when requested and if there has been 3 separate reports of ASB in a rolling 6 month period, made to any of the partner agencies.

A community trigger meeting will then be arranged as soon as practicable with those agencies interested in the case. A notification of the outcome of the trigger meeting and agreed actions to be taken, will be sent to the person requesting the trigger within 5 working days of the meeting.

# Nuisance/ASB Diary Sheet

**All parts must be fully completed**

*If known/applicable*

<b>Your NAME</b>	
<b>Your ADDRESS:</b>	
<b>Your Landline number :</b> <i>If applicable</i>	
<b>Your Mobile number:</b> <i>If applicable</i>	
<b>Your Email address:</b> <i>If applicable</i>	
<b>ADDRESS COMPLAINED OF:</b>	
<b>NAME OF OCCUPIER</b> <i>If known</i>	
<b>Have you spoken to the person causing the problem about this issue?</b>  <b>Please give details:</b>	
<b>Have you written to them?</b>  <b>Please give details:</b>	
<b>Was either approach helpful – if only for a short time?</b>  <b>Please give details:</b>	

<b>Formal intervention by us may ultimately end in Court action. Are you prepared to attend Court and give supporting evidence if required?</b>	<b>Yes / No</b>  (If we are unable to consider Court action, if appropriate, because you are not prepared to give evidence, this limits what we can do to help you).
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Date	Time (Use 24hr clock).		Description of Nuisance	How it affected you
	Start	Finish		
<b>E x a m p l e</b>	14.00 hrs	15.30 hrs	Smoky bonfire	Smoke throughout the house, had to close windows on hot day.
	23.30 hrs	02.30 hrs	Loud music & shouting	Woke me from sleep, difficult to get back to sleep.

This statement consisting of ..... page(s) signed by me is true to the best of my knowledge and belief and I make knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed .....

Dated the ..... day of .....201... ..of.....

LOGSHEET NO:

**Continue Overleaf**