



**BARNSLEY**  
Metropolitan Borough Council

## **Safer Communities**

# **Anti-social behaviour Policy**

**Version Control:** 1  
**Status:** 2022  
**Date Edited:** 18/02/2022

### ***POLICY REVIEW STATEMENT***

*This Policy will be reviewed every three years, or earlier, in line with Government guidance, best practice and legislative changes. As part of the review, we will consult with stakeholders on the contents and effectiveness of the Policy.*

## **1. INTRODUCTION**

Anti-social behaviour (ASB) is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder within local communities. These incidents may include littering or vandalism, public drunkenness or nuisance or noisy/abusive neighbours.

The extent of Anti-Social Behaviour is subjective however the defining factors are the impact of such behaviours on others.

Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, council and social landlords.

The purpose of this policy is to document and define Barnsley Metropolitan Borough Council's approach to tackling ASB in partnership with agencies.

## **2. POLICY STATEMENT, COMMITMENT AND PRINCIPLES**

Barnsley Metropolitan Borough Council, (hereon described as the Council) is committed to continuously improving the quality of life and experiences of people who live, work, invest, study or visit the borough. The implementation of this ASB policy will be part of providing safer, stronger and more resilient communities across Barnsley and will contribute to ensuring that residents are able to feel safe in their communities.

The policy sets out the Council's commitment to reducing ASB, improving the quality of life for local people and reducing crime and the fear of crime within our communities. This policy also sets out that the Council is committed to promoting and understanding, tolerance and respect within our communities.

Where applicable the Council will work with partners and residents to tackle ASB to ensure a single approach is delivered to protect local communities.

## **3. ACCESS TO SERVICE**

In order to access the relevant teams and report an incident or incidents of anti-social behaviour you can contact 01226 773555 or e-mail [safer@barnsley.gov.uk](mailto:safer@barnsley.gov.uk). Alternatively, for non-urgent matters call South Yorkshire Police on 101 or in the event of an emergency 999.

## **4. DEFINITION OF ASB**

The Council adopt the definition of ASB as documented within Section 2 of the Anti-Social Behaviour, Crime and Policing Act 2014 which states;

*“conduct that has caused, or is likely to cause, harassment, alarm or distress to any person or conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises or conduct capable of causing housing-related nuisance or annoyance to any person.”*

#### **4.1 TYPES OF ASB AND/OR NUISANCE (Not exhaustive)**

ASB can present in many forms, some of which are listed below;

- Misuse of public spaces
- Rowdy, aggressive or threatening behaviour or language
- Property damage or vandalism
- Repeat verbal or written abuse, intimidation, harassment or threats
- Acts of violence
- Hate crime
- Anti-social behaviour as a result of misuse of drugs or alcohol
- Behaviour in contravention of any current or future COVID regulations which place others at risk of heightened risk of transmission
- Off road riding of motorbikes or mopeds
- Misuse of road vehicles.
- Repeat noise nuisance including loud music, persistent alarms, excessively loud or frequent parties, shouting or yelling etc
- Environmental issues including fly-tipping, vandalism, dog fouling, graffiti, fly posting, abandoned vehicles etc (*A separate policy relates to this, please review the policy*)
- Repeat nuisance from pets such as dogs barking or failing to control an aggressive dog. (*A separate policy relates to the control of dogs, please review the policy*)

There are often occasions where the involvement of an agency such as the local Council or Police can cause any dispute to escalate. Persons being complained about can take offence at the involvement of officials and this can exacerbate the matter, causing the loss of proportionality and perspective.

The Council's approach will mean that with some less serious types of behaviour, parties should, wherever possible and practicable, seek to resolve the matter themselves peacefully and through positive communication. Some types of behaviour would not constitute ASB.

The following examples of behaviour are where the Council would not encourage complaints nor expect to investigate and these include:

- Everyday activities or household noise (e.g. washing machines, hoovers, use of stairs, smells etc), including children playing and dogs barking
- Children playing ball games or congregating with no associated ASB
- People staring at others with no other associated offending
- People perceived as being unreasonable or unpleasant without significant harm
- Vehicles that are parked legally
- Disputes between neighbours over private matters e.g. parking of vehicles, boundary fences etc.

Whilst some of the above, if undertaken in the extreme, can cause significant harassment, alarm or distress, in the majority of cases, the Council would be unlikely to conduct any formal investigation nor explore use of legislative powers in these circumstances.

In tackling ASB, the appropriate legislation and regulations must be complied with. In particular the Council and its partners have powers under, but not limited to, the following Acts of Parliament:

- Anti-Social Behaviour Act 2003
- Environmental Protection Act 1990
- Anti-Social Behaviour, Crime and Policing Act 2014
- Crime and Disorder Act 1998
- Data Protection Act 2003
- General Data Protection Regulation (GDPR) 2016
- Equalities Act 2010
- Housing Acts 1985, 1996 and 2004
- Clean Neighbourhoods & Environment Act 2005
- Refuse Disposal (Amenity) Act 1978
- Mental Health Act 1983 (amended 2007)
- Human Rights Act 1998
- Freedom of Information Act 2000
- Care Act 2014
- Local Government Act 2000
- Serious Crime Act 2015
- Home Office Serious Violence Strategy (2018)

The above Acts contain both civil and criminal enforcement, both of which require different standards of proof. Civil offences are tried on the balance of probabilities, whereas criminal offences are tried beyond reasonable doubt. The standard of evidence gathered by the Council, before formal action can be taken will depend on the ASB in question and what is deemed to be the most appropriate course of action. To assist in the Council's investigation of a complaint, the complainant will be required to provide evidence detailing what they have witnessed and/or experienced and should be willing to do so when making complaints.

## **5. OUR PARTNERSHIP**

The Council and its Safer Neighbourhood Service (SNS), consists of a partnership between key agencies and stakeholders with the main ones being police, Berneslai Homes and South Yorkshire Fire and Rescue.

The SNS will work with other key partner agencies including (not exhaustive)

- South Yorkshire Police and other force areas
- Berneslai Homes
- Registered Social Landlords
- Education Services
- Youth Justice Service
- South Yorkshire Fire and Rescue
- South West Yorkshire Foundation Trust (NHS)
- Registered Charities
- Residents Associations
- Community Interest Groups

- Safeguarding Services
- Local Area Council's
- Voluntary Sector.
- Public Health

All of the above, and others have a significant role to play and by working together we can ensure we develop a safer and stronger local community. Utilising the skills of all key partners we are able to resolve issues quickly and more effectively and as part of the collaborative approach an information sharing protocol has been developed to ensure that appropriate information flows between key organisations to expedite the resolution of issues.

Within the SNS a number of structured and formal meetings assist with the information sharing and allow for professionals from other agencies to attend to discuss specific matters where they can support to make a difference. These formal meetings with partners include (but are not limited to)

- Multi Agency Action Group's
- Case conferences
- Anti-Social Behaviour groups
- Promoting community tolerance and respect sub-group.
- Tactical Tasking and Co-ordination Group.

Accountability for the partnership's actions against managing ASB sits with the Safer Barnsley Partnership which is made up of a number of senior officers from key stakeholders.

## **6. Council Housing**

The Policy also forms part of the process adopted for escalated enforcement in Council Housing Council Housing is managed by Berneslai Homes, the Councils Arms Length Management Organisation.

The tenancy agreement sets out the responsibility of both the tenant and Berneslai Homes as the managing agent on behalf of the Council.

Berneslai Homes will investigate any instances of nuisance or annoyance caused by and or affecting Berneslai Homes tenants and residents in or near the properties they are responsible for in accordance with this Policy.

The Charter for Social Housing Residents (Social Housing White Paper) acknowledges that in some cases not all social housing tenants feel their landlord takes their concerns seriously to tackle the issues they face. In order to ensure there is transparency new national social housing Tenant Satisfaction Measures will be developed and published which will include measures on responsible neighbourhood management, including tackling anti-social behaviour.

## **7. MANAGING CASES AND ASSESSING RISK**

Effective case management underpins the successful resolution of ASB. This starts from when a complaint is received until the matter is resolved. The welfare, safety and well-being

of victims, whose complaints form the basis of any action, are the main consideration at every stage of the process.

The Council will use its electronic case management systems, relevant to the department leading the response to the case, to keep a full and accurate record of the initial complaint and any subsequent actions, communication and outcomes connected to it.

Assessing the risk of harm and effectively safeguarding the victim is also an important part of case management. It is important to identify the impact ASB is having on the victim, particularly if repeated incidents are having a cumulative effect on their well-being. A continuous and detailed risk assessment helps to identify cases that are causing, or could result in serious harm to the victim, either as a one-off incident or as part of a targeted and persistent campaign of ASB against the victim. Where suitable we will utilise the SNS Victim and Witness Support Officers to engage with the victim and/or those with fear relating to ASB or the relevant processes.

The Investigating officer will create an action plan for responding to each reported case of ASB. It will also:

- Support victims of ASB throughout the case working alongside partners to ensure that any support needs are met via a victim centred approach.
- Treat all reports as confidential unless considered that information should be shared for safeguarding purposes, or to prevent crime and disorder or where it is in the public interest
- Share information only with other relevant organisations that can help with the problem

## **7.1 ASB AND Children**

Children who perpetrate, or are victims of ASB may have many complex support needs. The Council will strive to ensure that any actions taken against juvenile perpetrators comply with responsibilities under the Children Act and other relevant legislation, with a 'Child First' focus supported by reparation and restorative justice practices. The Council will seek to address any support needs identified in children (whether they are perpetrators or victims) through available and appropriate partnership activities. This will include accessing the full range of early help on offer, including any commissioned services, which focus on early intervention, prevention and diversion.

## **7.2 VULNERABLE PEOPLE**

A person may be vulnerable for a variety of reasons, e.g. mental illness, learning disability, drug or alcohol dependence, physical disability, sensory impairment, ethnicity, or due to being subjected to trauma. If a person is deemed to be vulnerable, interventions are made as soon as possible to prevent further problems occurring. Every effort is made to work with vulnerable people to try to resolve the issues. However, any enforcement action taken by the Council will be proportionate to the risks posed and the seriousness of their behaviour. As far as the law allows, the Council will take into account the circumstances and attitude of the individual when considering what action to take.

### **7.3 VICTIM SUPPORT**

Within the SNS we have a dedicated set of officers focussed on supporting vulnerable victims of anti-social behaviour.

Where a person is identified as vulnerable and suffering from anti-social behaviour we will provide ongoing support to that individual based on the circumstances and requirements. A tailored support and contact package will be put in place to ensure continued support is provided.

### **7.4 HATE CRIME**

Hate crime is defined as *'any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic'*. There are five strands of hate crime, monitored nationally:

- Race or ethnicity
- Religion or beliefs
- Sexual orientation
- Disability
- Transgender identity.

Hate crimes are a subset of notifiable crimes that are recorded by the Police. All complaints of hate crime will be taken seriously and will be forwarded to the Police, unless they have been made maliciously. The Council will work in partnership with the Police and other partners including those that specifically offer support to individuals who feel they are a victim of hate crime to resolve the complaint and will prioritise accordingly any action taken.

### **7.5 DATA PROTECTION**

Any information provided to the Council in respect of an ASB complaint will be treated in the strictest of confidence and will not be used for any purpose without the express consent of the person who has provided it. However, it will be difficult to progress and resolve cases unless the Council are able to broach the issues with the perpetrator.

Individuals have the right to request access to the information the Council holds about them. The Council aims to deal with requests as quickly as possible and hope to do this within one month from the date of request. There may be occasions where the process takes longer, if this is the case we'll always tell you as soon as possible but within the one month time frame. All requests should be responded to within three months of the request.

Individuals do not have the right to see information about other people and as such the Council will not disclose personal information to perpetrators.

There are certain circumstances where consent based sharing of information may not apply, for instance where children are deemed to be at risk of harm which requires immediate referral to Children's Services, or under the Prevent duty.

Any data held by the Council will be managed in accordance with the Data Protection Legislation (the GDPR (UK) and new Data Protection Act 2018), which covers the collection,

storage, processing and distribution of personal data, but is also subject to the terms of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

The Council aims to fulfil its obligations under the legislation to the fullest extent; only processing personal data for the reason it was collected, ensuring you are aware of why it is being processed (with some exceptions due to legislative requirements) and by ensuring we take appropriate measures to protect your information.

## **8. OUR APPROACH**

An initial assessment of each case is made to establish the circumstances that have led to the complaint and if the complaint has any vulnerability that the Council need to take into consideration during the investigation. The assessment will be undertaken using the Council's 5x5 Risk Assessment Matrix in order to ascertain the associated risk and assign the relevant priority to the case.

There are three categories given to incoming complaints which are as follows:

**HIGH** – These are the most serious cases of ASB, requiring a timely and proportionate response. Any complaint received and risk assessed at this level will receive a priority response, examples of such issues at this level may include the following:

- Acts of violence
- Serious intimidation/threats of violence
- Criminal behaviour affecting the local community (where it is deemed that a civil power is the most appropriate solution e.g. Injunction)
- Serious misuse of public areas that affects the community
- Cases previously deemed as persistent (falling in the medium risk previously as per below) but have exhausted all prevention interventions and are serious enough to warrant further legal action.

In many of these cases action may be taken by the Council pursuing enforcement action or by the Council working in partnership with other agencies who have access to additional enforcement opportunities. Informal approaches may also be utilised prior to enforcement if it is proportionate and appropriate to the case in hand, dependant on risk.

**MEDIUM**– This includes the persistent cases of less serious allegations of ASB which do not require an urgent response. This may be the case where the evidence is not forthcoming or is from many sources and requires substantiating and investigating in order to pursue formal action.

Examples of issues that could fall within this category generally relate to being unreasonable enough to cause pro-longed disturbances. Some examples of such issues may include the following:

- Excessive noise, especially late at night from loud music or DIY.
- Rowdy or aggressive behaviour
- Intimidation, harassment or verbal abuse
- Hate crime not requiring legal action
- ASB from visitors to premises.
- Regular and persistent ASB from known offenders.



In many of these cases action may be taken by the Council pursuing early interventions, support and information actions such as Acceptable Behaviour Contracts. However, if the behaviour continues then it may result in formal action being pursued.

**LOW** – This includes those cases involving low level incidents of anti-social behaviour. This would include complaints where there are not witnesses or lines of investigation, examples of incidents could be:

- Damage to property or communal areas
- Nuisance caused by ball games
- Isolated incidents
- Intolerance of lifestyles.

For these cases advice and information will be provided relative to each case on how best to deal with it.

### **8.1 INVESTIGATION**

Contact will be made with complainants within 10 working days of receipt of any incident by the relevant officer within the Safer Neighbourhood Service. This will either be the officer already investigating the case or the officer allocated if it is a new case.

The officer will attempt to contact the complainant 3 times by telephone, if no response then a letter will be sent to encourage contact. If the complainant does not contact the officer back within 10 working days of that letter being sent then the case will be closed.

The Council uses discretion and professional judgement in deciding whether complaints should be investigated and in prioritising the case. During an investigation evidence is gathered objectively in a thorough and fair manner ensuring that it is unbiased and accurate. Any allegations and anonymous information is substantiated to the required legal standard before any legal action is considered.

All evidence is recorded and used in considering the most appropriate course or type of action to take. In doing so a number of factors will be considered:

- The seriousness of the alleged offence or situation
- The previous history of the individual or company
- The consequences of non-compliance
- The confidence in a resolution without legal action
- The public interest
- The effectiveness of various enforcement options
- The availability of other appropriate courses of action

There are a number of ways in which the Council will gather evidence to support a complaint, some examples are given below:

- Interviewing complainants, this could be under caution
- Incident diaries
- Overt Surveillance
- Obtaining information from other agencies
- The utilisation of professional witnesses.

- Interviewing perpetrators, this could be under caution
- The reviewing of sound monitoring equipment.

During the investigation the investigating officer will come to one of three conclusions and act accordingly:

1. There is no evidence of anti-social behaviour and no further lines of enquiry. The complainant will be advised, information and support offered, and the case closed.
2. The behaviour is not considered to be anti-social or appropriate for further enforcement action. Information, support and early interventions if appropriate will be offered and the case closed.
3. There is evidence of anti-social behaviour and the case will be progressed for support and early intervention or legal action if appropriate.

If initial enquiries produce no further evidence to support the complaint, the complainant (and alleged perpetrator if appropriate), will be advised in writing that no further action will be taken at that stage and that the case will be closed. The complainant should record any further incidents in a diary and when there is sufficient evidence that anti-social behaviour is in occurrence a further case may be opened and linked to any previous information.

If investigations continue, regular contact (as a minimum every three weeks) with the complainant, will be maintained by the Safer Neighbourhood Service to ensure updates are provided regarding progress and actions.

## **8.2 ACTION THE COUNCIL MAY TAKE**

Dealing with ASB can be complex. Information, support and low level interventions to tackle the causes of ASB at an early stage are as important as effective case management and timely enforcement action.

The majority of complaints can be resolved through early intervention methods and these are considered with the complainant during the initial contact risk assessment with the emphasis on stopping bad behaviour before it escalates. Legal action will usually be approved where all early interventions have failed or the ASB is serious enough to warrant such action and it is proportionate to take further action.

Where an area is experiencing significant and reoccurring ASB perpetrated by groups as opposed to individuals, a multi-agency action plan will be put in place in partnership with neighbourhood policing teams and the Safer Neighbourhood Service, this could also be referred to as a Problem Oriented Policing Plan. Where there are younger individuals identified as perpetrators of anti-social behaviour or being criminally exploited, a risk assessment shall be completed and such details referred to partnership agencies promptly.

In some cases, where there is little or no evidence available then no action will be taken and cases closed.

### **8.2.1 Early Intervention**

If there is some evidence available to show that complaints are justified, or if the allegations are admitted by the perpetrator then early interventions may be considered to deter continued patterns of behaviour.

There's a wide range of options available for early intervention and this may include:

#### ***8.2.1.1 The provision of information to residents to help them deal with issues themselves***

In some cases, information will be provided to residents in order to help them deal with the issues themselves. Information is available both on the Council's website and in other formats and will include:

- Noise nuisance
- Neighbour disputes
- Football and ball games

#### ***8.2.1.2 Diversionary Activity***

These activities are particularly useful to address issues such as low self-esteem and extreme behaviour. Wherever possible, the Council will work with partners and commissioned organisations to provide additional support to divert individuals away from ASB, crime and disorder. There is a range of such support from empowering young people with self-esteem to drugs and alcohol support for all ages. This gives opportunities to be diverted from negative behaviours and engage in more positive activities. General support can also be accessed for families on a holistic basis through Early Help

#### ***8.2.1.3 Community Resolutions***

For less serious issues of ASB, a community resolution may be used between the parties involved to avoid progression to legal action. The aim is to bring together victims and perpetrators of low level crime, ASB and nuisance in a meeting where trained volunteers use restorative or reparative approaches to agree on a course of action for those involved. Providing the perpetrator admits liability and both consent to coming together, a meeting is held to consider the issues relating to the incident.

#### ***8.2.1.4 Target Hardening***

This is used to identify practical ways to design out ASB from a location as a protective and preventative approach, such as lighting schemes, boundary definition, structural or planting initiatives or certain implementation of equipment that may be beneficial to reduce any harmful factors. Target hardening activity is subject to available funding which wouldn't normally be met by the Council.

#### ***8.2.1.5 Tenancy Support***

This is used to put in place support mechanisms within the Council related social housing to ensure tenants are able to manage their tenancy correctly and to ensure there are no issues identified with the tenancy itself.

### **8.2.1.6 Mediation**

Mediation can be used successfully in most low level disputes. Officers can offer (subject to availability) an independent mediator on an impartial basis for neighbour disputes, family mediation and also offer mediation in an attempt to avoid court action.

### **8.2.1.7 Overt Surveillance**

The Council reserves the right to work with partner agencies to carry out surveillance in the community to assist in ongoing investigations. This may include applying for CCTV footage or use of mobile CCTV solutions, where there is a need for the prevention and detection of crime in accordance with prevailing legislation in line with the Regulation of Investigatory Powers Act 2000.

## **8.2.2 Informal Action**

If there is enough evidence available to show that the complaint is justified, or if the allegations are admitted by the perpetrator, further proportionate informal action may be taken such as:

### **8.2.2.1 Verbal Warnings/Written Warnings**

Warnings are issued initially if ASB is admitted or the investigating officer feels ASB has or is likely to occur. The perpetrator will be told the nature of the behaviour which has resulted in the warning and the consequences of not adhering to the warning. This can be via a letter, telephone or other means of communication. The Council keep a record of verbal or written warnings issued so that they are available to use, even by partner agencies, as evidence in court proceedings, should the issue escalate for further action. Such a warning could also include a Pre Legal or pre warning before seeking an Injunction or a Notice Seeking Possession for social housing matters.

### **8.2.2.2 Acceptable Behaviour Contract/Parenting Contract**

These are voluntary written agreements between an individual, the Council and partners such as education and Police. They are useful in dealing with children and young people aged over 10 as an effective way to assist in addressing truancy and ASB. These agreements are not legally binding however they are useful in highlighting children and young people's behaviour to their parents and guardians and in communicating the consequences if they are not adhered to.

The Youth Justice Service and relevant education setting will be notified when an Acceptable Behaviours Contracts (ABCs) or Parenting Contract is being pursued with a child.

There is no formal sanction in refusing to participate in an ABC or Parenting Contract, so individuals cannot be forced to do so but refusal may persuade a court that only formal action such as a civil injunction or criminal behaviour order will prevent the ASB.

### **8.2.2.3 Community Protection Notice Warnings**

Community Protection Notice (CPN) warnings were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014 and can be used in ongoing problems or nuisances which negatively impact on the community's quality of life, for example graffiti, rubbish or noise. These warnings are given in writing, by the Council or the Police acting on the Council's behalf, highlighting the behaviour that needs to stop or positive action to be taken, in order to prevent a Community Protection Notice being served, see 7.2.3.3 below.

### **8.2.3 Formal and Legal Action**

More serious cases may require formal / legal action being pursued with or without any warnings being given. In the majority of cases a warning will be given and if a perpetrator fails to address their behaviour then legal action will be considered.

In a small number of the most serious cases, where time is of the essence, the Council reserves the right to take legal action without prior warning to the perpetrator in order to provide a swift resolution.

Under the Anti-Social Behaviour Crime and Policing Act 2014 there are a number of formal / legal actions that can be taken, such as:

Where any formal or legal interventions are required these will be approved by an officer of at least Group Leader level within the SNS based on the delegated authorities.

#### **8.2.3.1 Civil Injunctions**

A Civil Injunction is a court order to stop or prevent individuals engaging in ASB. The injunction can offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from continuing.

Injunctions can be utilised to control the actions or omissions of anyone, not just social housing tenants, over the age of 10 years.

For ASB in a non-housing related context, the test is; conduct that has caused, or is likely to cause, harassment, alarm or distress to any person. This will apply, for example, where the ASB has occurred in a public place, such as a town centre or local park, and where the behaviour does not affect the housing management functions of a social landlord or people in their homes.

For ASB in a housing context, the test is where the conduct is capable of causing a nuisance or annoyance to a person in relation to that person's occupation of residential premises or the conduct is capable of causing housing related nuisance or annoyance to any person. This may be used by the police, local councils and social housing providers against perpetrators in social housing, the private rented sector and owner occupiers.

Breach of the injunction is not a criminal offence, but breach must be proved to the criminal standard, that is, beyond reasonable doubt. The penalties are:

- Over 18s: civil contempt of court with unlimited fine or up to two years in prison

- Under 18s: supervision order or, as a very last resort, a civil detention order of up to three months for 14-17 year olds.

### **8.2.3.2 Criminal Behaviour Orders**

The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court.

CBOs can be issued against a person aged over 10 years, who has been convicted of an offence to tackle the most persistent ASB where involvement includes criminal activity.

Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt. The penalties are:

- For over 18s on summary conviction: up to six months imprisonment or a fine or both
- For over 18s on conviction on indictment: up to five years imprisonment or a fine or both
- For under 18s: the sentencing powers in the youth court apply.

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

The Community Protection Notice (CPN) is intended to deal with the conduct of an individual or body that is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those living in the locality and that the conduct is considered to be unreasonable.

A CPN can be issued against any person aged 16 years or over or a body (corporate), including a business. The notice can impose requirements to stop doing specified things, or to do specified things and to take reasonable steps to achieve specified results. A CPN can only be served once a written warning has been issued, see 6.2.2.3 above. They can also be used to the parent or guardian of those aged under 16 years.

Breach of a Community Protection Notice is a criminal offence, any liability to which can be discharged by payment of a fixed penalty notice, if deemed appropriate, or upon prosecution through the Magistrates Court. On breach of a Community Protection Notice there is also the option to undertake works in default and recover its costs.

### **8.2.3.4 Public Spaces Protection Orders**

Public Spaces Protection Orders (PSPOs) are intended to stop individuals or groups of individuals committing ASB by imposing specific conditions that apply to everyone, regarding the use of that space. This may include multiple restrictions and requirements throughout the Borough or in specific areas for example parks or communal areas, where ASB is evident and is deemed to be detrimental to the wider community.

PSPOs are set following a public consultation process and are subject to review every three years.

PSPOs are designed to ensure the law-abiding majority can use and enjoy public spaces, and feel safe from ASB. Breach of any of the PSPO conditions can result in a Fixed Penalty Notice being issued by any delegated Officer of the Council, Police Officer or prosecution through the Magistrates court.

#### **8.2.3.5 Closure Orders**

Closure Orders allow the Police or Council to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder.

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder.

A closure notice can be issued for 24 hours if the Council or Police Officer (of at least the rank of Inspector) is satisfied on reasonable grounds:

- a) That the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public; or
- b) There has been, or (if the notice is not issued) is likely to be, disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

The closure notice can be issued in the first instance for 24 hours by the Chief Executive or a person delegated by them such as the Head of Community Safety or Group Leader and extended up to a maximum of 48 hours by the Council's Chief Executive or designate thereof or by a Police Superintendent.

A closure order can subsequently be applied for and issued if the court is satisfied:

- a) That a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or
- b) That the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public; or
- c) That there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

It is a criminal offence to breach the conditions imposed by a Closure Notice or Order, with up to three months imprisonment for the former, six months for the latter and an unlimited fine for breaching both.

#### **8.2.3.6 Possession Order (Barnsley Council Tenants Only)**

In the most serious and/or persistent cases of criminal activity or anti-social behaviour, the council as landlord may use the Housing Act 1985 to seek possession of a property that we own. We will do this where the tenant, a lodger, sub-tenant or visitor has engaged in criminal or immoral activity or conduct that is capable of causing nuisance or annoyance to others in the locality. Possession action can be a lengthy process and prolongs the suffering of victims, witnesses and the community. The court will assess all the evidence presented and apply the 'reasonable in all the circumstances' test before making a decision whether to give possession

of the property back to the council. For introductory tenancies and demoted tenancies, the council may seek a mandatory possession order if proportionate to do so.

Additionally, the council may use the ASB, Crime and Policing Act 2014 absolute ground for possession of a secure tenancy where the anti-social behaviour meets one of the 5 triggers, is of a very serious nature, and has already been proven in another court. These are that a tenant, member of their household or visitor has;

- been convicted of a serious offence;
- been found by a court to have breached a Civil Injunction;
- been convicted of breach of Criminal Behaviour Order;
- been convicted of breaching an abatement notice, or;
- the Property has been closed for more than 48 hours under a Closure Order.

If possession is sought under the new absolute ground or as an introductory or demoted tenancy, subject to any human rights defence, the court must grant possession where the council has followed the correct procedure. The court does not have the discretionary right to suspend the possession order.

#### ***8.2.3.7 Demotion Order (Barnsley Council Tenants Only)***

Where serious ASB occurs in or around our housing stock, the council as landlord may use the Housing Act 1985 to seek a Demotion Order for a secure tenancy as an alternative to seeking full possession.

A Demotion Order significantly reduces the security of tenure for 12 months and removes some of the rights enjoyed by a secure tenant. Demoted tenants are expected to modify the behaviour that lead to the council seeking an order. If they do, at the end of the demoted tenancy period they will be offered a new secure or flexible tenancy. If the behaviour continues to cause nuisance, annoyance, offence or harm to others, the council may make a further application to the court for a possession order.

### **8.3 CASE RESOLUTION AND CLOSURE**

A case will be closed when:

- It has been assessed and the relevant information has been shared or signposted to appropriate support services.
- An investigation has been undertaken and it has been deemed not to be ASB
- An investigation has been undertaken and there is no corroborating evidence
- An investigation has been undertaken but does not meet the threshold for enforcement action and support and early intervention have been offered.
- It has been successfully resolved through mediation, warnings or formal action
- The complainant has not been in contact for 4 weeks or more.

Before closing a case, the complainant(s) will be contacted giving the reasons for the decision. The perpetrator(s) will also be informed of the decision and reasons underpinning that decision and should the conduct recur in the future the case may be reopened.



#### **8.4 RECOVERY OF COSTS**

Where any enforcement action is taken by the Council in relation to ASB then the Council will seek to recover all associated costs. Any monies will be re-used by the primary service responsible for the investigation.

#### **9. COMMUNITY TRIGGER**

The Anti-social Behaviour, Crime and Policing Act 2014 includes a measure which is designed to give victims and communities a say in the way anti-social behaviour is dealt with; The 'Community Trigger' or ASB Case Review gives victims the ability to require action, starting with a review of their case, where the locally defined threshold is met.

If there have been 3 separate incidents recorded from the same complainant within a six month period of anti-social behaviour and the complainant does not feel that they have been dealt satisfactorily they can apply for a community trigger where the case will be reviewed.

In terms of the behaviour itself, what is seen as 'anti-social' will vary from victim to victim, and community to community. This is one reason why the way in which incidents of anti-social behaviour are reported has changed; no longer focusing on the behaviour, but on the impact it has on the victim.

Agencies including councils, the police, local health teams and registered providers of social housing have a duty to undertake a case review when someone requests one and the case meets a locally defined threshold.

For further information see the following website links:

Barnsley Council: [www.barnsley.gov.uk](http://www.barnsley.gov.uk)

South Yorkshire Police: [www.southyorks.police.uk](http://www.southyorks.police.uk)

Barneslai Homes: [www.barneslaihomes.co.uk](http://www.barneslaihomes.co.uk)