



ANTI-SOCIAL BEHAVIOUR POLICY AND PROCEDURE

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PART 1 – POLICY

1.1 Introduction

Anti-social behaviour (ASB) 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. These range from litter and vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours. 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, councils and social landlords.

This policy and procedure document defines Newcastle-under-Lyme Borough Council's approach to tackling ASB, in partnership with other statutory agencies.

1.2 Policy statement, commitment and principles

Newcastle-under-Lyme 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 and visit the Borough of Newcastle-under-Lyme. The implementation of this ASB policy and use of its procedures will be part of providing safer, stronger and more resilient communities in the Borough by taking positive action in conjunction with partners, to deal with, and prevent, all forms of anti-social behaviour and to ensure that residents are able to enjoy peace, quiet and security in their communities.

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

The Council encourages residents to resolve issues themselves wherever possible. Where problems escalate into more serious and wide spread issues, the Council will proactively work with partners and residents to tackle ASB.

1.3 Definition of ASB

The legal definition of ASB can be found in Section 2 of the Anti-social Behaviour, Crime and Policing Act 2014;

“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”.

1.4 Types of ASB and/or nuisance (not exhaustive)

ASB can take many forms, some of which are listed below.

- Misuse of public spaces
- Repeat noise nuisance including loud music, persistent alarms, excessively loud or frequent parties, shouting or yelling etc.
- Rowdy, aggressive or threatening behaviour or language
- Repeat nuisance from pets such as dogs barking or failing to control an aggressive dog
- Property damage and vandalism
- Environmental issues including fly-tipping, vandalism, dog fouling, graffiti, fly posting, abandoned vehicles etc.
- 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
- Off road riding of motorbikes or mopeds.

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 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.

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 Act 2002
- 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

The above Acts contain both civil and criminal offences, 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.

1.5 Approach to Tackling ASB

The Council will continue to work with partner agencies to prevent, and where appropriate, tackle ASB by using a wide range of measures.

The measures to tackle ASB include both informal and formal action. Wherever possible and practicable the Council will seek early intervention to prevent escalation of ASB such as; warning letters, Acceptable Behaviour Contracts (ABCs) and mediation. Formal action such as; Civil Injunctions, Community Protection Notices (CPNs), Public Spaces Protection Orders (PSPOs), Criminal Behaviour Orders (CBOs) and Closure Orders may be used for recurring and/or more serious issues.

1.6 Working Together and Sharing Information

The Council's Partnerships team, together with other key departments, such as Environmental Health, will lead the Council's work in preventing and tackling ASB. Key to this will be the work with partner agencies including (not exhaustive):

- Staffordshire Police
- Registered Social Landlords
- Education
- Staffordshire Fire and Rescue Service (FARS)
- Health service
- Registered Charities
- Residents Associations and Locality Action Partnerships (LAPs)
- Community Interest Groups
- Staffordshire County Council – including Safeguarding teams
- Town and Parish Councils
- Voluntary sector

All these, and others, have a significant role to play and by working together we will ensure the community is safer and stronger. The partners bring a range of expertise, experience and additional powers that when collaborated, can assist in resolving issues more effectively. As part of this collaborative approach an information sharing protocol has been developed to ensure that appropriate information flows between partners quickly to expedite the resolution of the issues.

Structured formal meetings will assist with the information sharing and add to other informal or small multi professional meetings specific to individual issues. The formal meetings with partners will include (but are not limited to);

- Joint Operations Group (JOG)
- Anti-Social Behaviour and Youth Violence Case Conference
- Partnership Vulnerability Hub

The JOG meets on a monthly basis and aims to identify repeat patterns and trends of ASB at locations across the Borough. With partners, actions to address the ASB will be allocated and reported back on through the meetings.

The ASB and Youth Violence Case Conference meets monthly and focuses on those individuals presenting the highest risk of offending in respect of ASB. Partners will share information and actions will be allocated to divert individuals and/or agree sanctions to be used

to enforce against them.

The Partnership Vulnerability Hub meets on a daily basis and gives partners the opportunity to highlight cases of concern involving various vulnerabilities, share information and attribute actions to help resolve the issues raised.

1.7 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 to 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.

The Partnership will agree timescales and create an action plan for responding to each reported case of ASB. It will also:

- Support victims of ASB throughout the case
- 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 and will observe data protection laws in accordance with the One Staffordshire Information Sharing Protocol
- Ensure that criminal activities reported to the Council are promptly disseminated to the Police
- Register each case appropriately to maximise opportunities to achieve multi-agency cooperation
- Fully investigate the complaint in accordance with relevant legislation
- Formally close cases with full reasons for closure, giving feedback as appropriate, using the complainant's preferred method of correspondence
- Should no further action be taken, explain this fully to the complainant and advise on self-help or other alternative courses of action whenever it is possible and appropriate.

1.8 ASB and Young People

Young people who perpetrate 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. The Council will seek to address any support needs identified through available and appropriate partnership activities, which may be commissioned by a variety of funders, with a focus on early intervention and diversion.

1.9 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. 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.

1.10 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 to resolve the complaint and will be prioritised accordingly any action taken.

1.11 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 provide access to information for 'data subjects' within 40 days of a subject access request being received, in line with the Council's Data Protection Statement. However, 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 these principles may not apply, for example in child protection cases which require immediate referral to Children's Services.

Any data held by the Council will be managed in accordance with the Data Protection Legislation (the GDPR 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.

1.12 Monitoring and Review of the Policy

This aims and objectives of this Policy will be monitored by quarterly quality reviews to ensure that the procedure for case management is being followed appropriately and that records are suitably detailed and accurate.

This Policy will be reviewed every 3 years to ensure that any changes in legislation or best practice are included and updated. The Council will consult with staff, internal and external partners in the review.

The Council will maintain procedural documents for the use of ASB enforcement powers and this will be subject to scrutiny and monitoring by the Economy, Environment and Place and/or the Health, Wellbeing and Partnerships Scrutiny Committees. Under the Council's Scheme of Delegation the Chief Executive and Head of Environmental Health Services will also have a number of enforcement powers, particularly in relation to Public Space Protection Orders and Prosecution proceedings for breaches of anti-social behaviour powers. Any changes to this Policy will be subject to approval by the Portfolio Holder for Community Safety and Wellbeing.

PART 2 – PROCEDURE

2.1 Making an ASB complaint

The Council deal with ASB complaints for homeowners and private tenants in the Borough and use a range of powers from informal actions such as mediation, referrals to support services and warnings through to the enforcement by the use of legal powers through the courts.

Residents who are social housing tenants, should report issues directly to their landlord in the first instance.

Anyone experiencing ASB should report it as soon as possible. Complaints can be made online via the Council's website at <https://www.newcastle-staffs.gov.uk/online-form/?id=18>

Alternatively, a complaint can be reported;

- by telephone on 01782 717717
- by email asb@newcastle-staffs.gov.uk
- in person or in writing to the Council at Castle House, Barracks Road, Newcastle-under-Lyme, Staffs, ST5 1BL.

2.2 Anonymous and Malicious Complaints

Anonymous complaints will be treated with the same importance as any other complaint. If there are serious allegations such as child abuse or drug dealing, these will be passed, without delay, to the relevant agency for the most appropriate action to be taken. Other anonymous complaints will be handled carefully as they may be difficult to prove and could be harmful to the accused if found to be untrue. Anonymous complaints will not form the sole basis of legal action, but could lead to additional evidence and formal action. Malicious complaints will be dealt with in line with the Council's policies and procedures for such matters.

2.3 Community Trigger

The Anti-social Behaviour, Crime and Policing Act 2014 includes a new 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 <https://www.staffordshire.police.uk/ASB/CommunityTrigger>

2.4 Case Management Process

2.4.1 Risk Assessment

An initial assessment of each case is made to establish the circumstances that have led to the complaint and if the complainant has any vulnerability that the Council need to take into consideration during the investigation. The assessment will be undertaken using the Council's computer based tool to ascertain the associated risk and in order to establish the priority category assigned to the case, which is also dependent on the seriousness of the allegations.

2.4.2 Categories for prioritisation

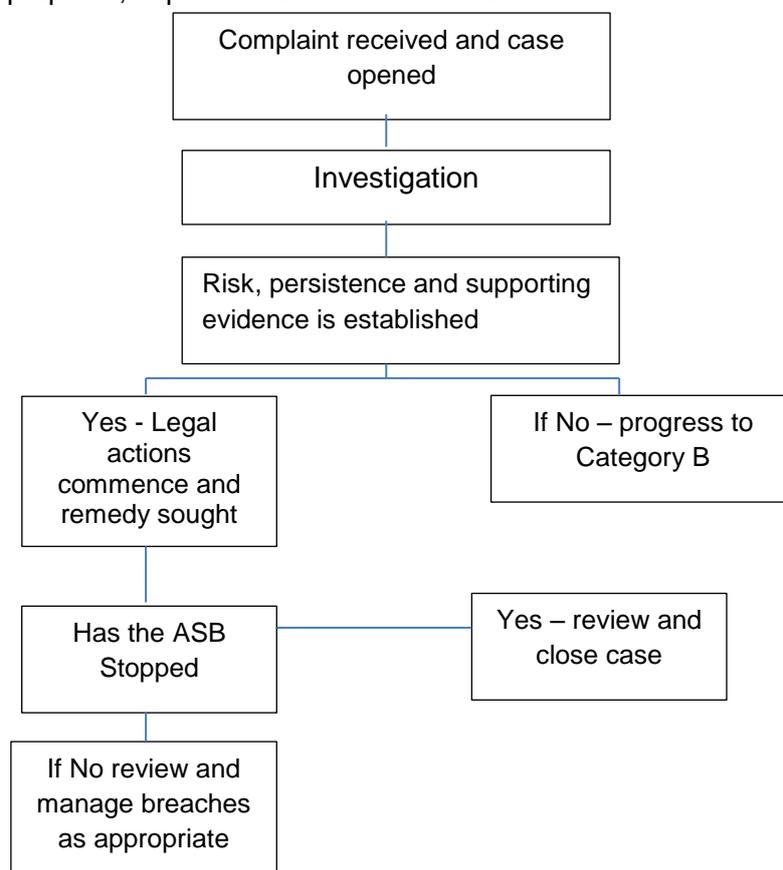
There are three categories given to incoming complaints:

Category A - these are most serious cases of ASB, requiring a timely and proportionate response.

These complaints relate to behaviour which requires a priority response and 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)
- Serious misuse of public areas that affects the community
- Cases previously deemed 'Persistent' (see 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 powers or by the Council working in partnership with agencies who are able to utilise safeguarding and/or criminal enforcement powers, however informal approaches may be utilised prior to enforcement action if proportionate and appropriate, dependent on risk. See flowchart below:

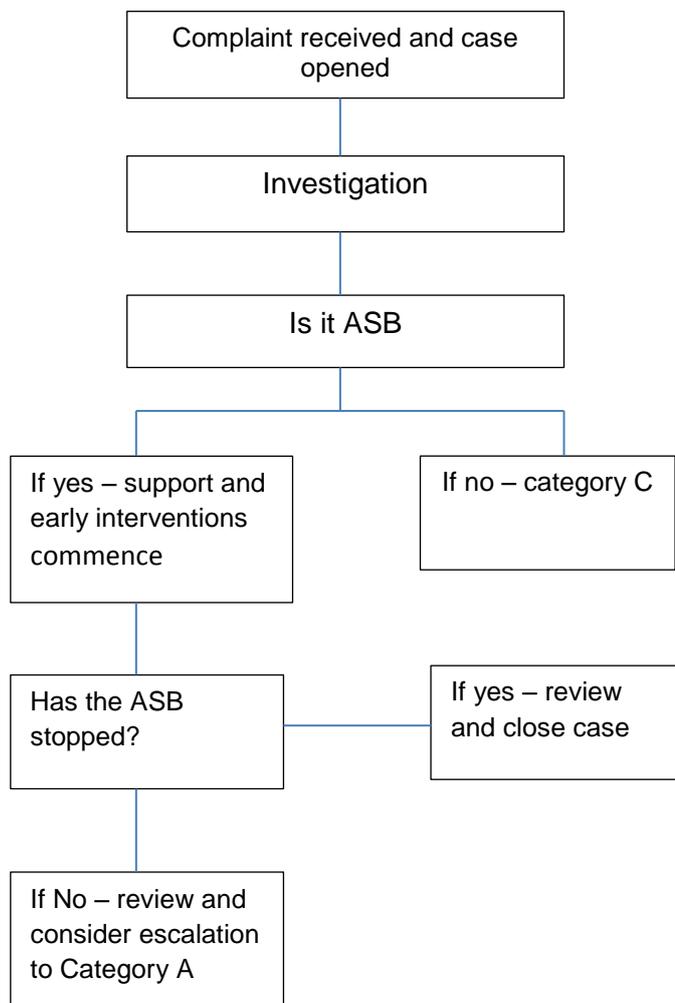


Category B – this includes the persistent cases of less serious allegations of ASB which do not require an urgent response. This may be the case where the evidence is not forthcoming or is from many sources and requires substantiating and investigation in order to pursue formal action.

These complaints relate to behaviour that is unreasonable, causes prolonged disturbance or persistent noise nuisance and will include the following:

- Excessive noise, especially late at night e.g. loud music, DIY
- Rowdy or aggressive behaviour
- Problems caused by animals e.g. dog barking, dog fouling.
- Intimidation, harassment or verbal abuse
- Hate crime not requiring legal action
- ASB behaviour from visitors to premises.

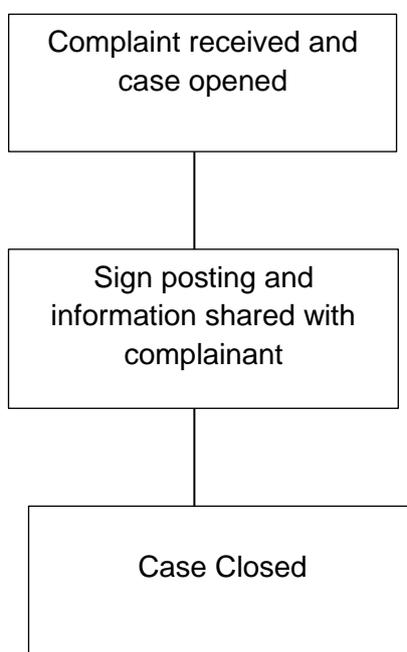
These cases may be dealt with by pursuing early interventions, support and informal actions such as mediation or acceptable behaviour contracts (ABCs). However, if the situation escalates, it may result in formal action being pursued. See flowchart below;



Category C - this includes those cases involving low level incidents of anti-social behaviour. This would include complaints where there are less than 3 incidents in a 6 month period or where there are no witnesses or lines of investigation. This may include incidents of;

- Damage to property or communal areas
- Pets & animals causing nuisance
- Neighbour disputes over boundaries, car parking, use of communal facilities.
- Nuisance caused by ball games
- Isolated incidents
- Intolerance or conflict of lifestyles.

Advice and information will be provided in such cases, through either signposting to information available on the Council's website or on occasions through contact by a suitably experienced officer. In appropriate cases mediation may be offered. See flowchart below:



2.5 Investigation

Contact will be made with complainants within 5 working days of receipt by the Partnerships Team, who will be responsible for the investigation of ASB complaints. If the Partnerships Team are unable to contact the complainant after 3 attempts by telephone, a letter will be sent to encourage contact. If the complainant does not contact the Council or the Partnerships team within 10 working days of the letter being sent, 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

- 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
- incident diaries
- overt surveillance
- obtaining information from other agencies
- professional witnesses
- interviewing perpetrators.

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

1. There is no evidence and no further lines of enquiry. The complainant will be advised, information and support offered and the case closed.
2. The behaviour is not anti-social behaviour. 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 the alleged perpetrator if appropriate), will be advised in writing that no further action will be taken at this stage and the case will be closed. The complainant should record any further incidents in a diary and when there is sufficient further evidence the case may be re-opened.

If investigations continue, regular contact (as a minimum every three weeks) with the complainant, will be maintained by the Partnerships Team, to ensure that they are updated with progress and actions that have been taken.

2.6 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 interview and 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 led by the Council's Partnerships Team.

In some cases where there is little or no evidence or where an alleged offender has fully co-operated with information given in accordance with this policy, no action will be taken by the Council and the case will be closed.

2.6.1 Early Intervention

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

2.6.1.1 Information

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 or in other formats and will include:

- Noise
- Neighbour disputes
- Football and ball games

2.6.1.2 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 addiction support for all ages.

2.6.1.3 Community Resolution

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.

2.6.1.4 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 and boundary definition.

2.6.1.5 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.

2.6.1.6 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 private mobile CCTV professionals, where there is a need for the prevention and detection of crime in accordance with prevailing legislation.

2.6.2 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 pursued, such as:

2.6.2.1 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.

2.6.2.2 Acceptable Behaviour Contract/Parenting Contracts

These are voluntary written agreements between an individual, the Council and partners such as education and Staffordshire 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 Offending Service and relevant education setting will be notified when an Acceptable Behaviours Contracts (ABCs) or Parenting Contract is being pursued with a child or young person.

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.

2.6.2.3 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 2.6.3.3 below.

2.6.3 Formal / 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.

Any enforcement action will be carried out in line with the Council's Enforcement Policy (2018-21) and appropriate permissions obtained in line with the Council's Scheme of Delegation.

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

2.6.3.1 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.

2.6.3.2 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.

2.6.3.3 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 2.6.2.3 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.

2.6.3.4 Public Space Protection Orders (PSPO)

Public Space 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 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.

2.6.3.5 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 Environmental Health 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.

2.7 Case Resolution and Closure

A case will be closed when:

- It has been assessed as a Category C complaint and the relevant information has been shared or signposting to appropriate support services has been offered to the complainant
- 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 ASB desists without the need for further action
- The complainant has not been in contact for 4 weeks or more.

Before closing a case, the complainant(s) will be informed in writing of the reasons for such a decision. The perpetrator(s) will also be informed in writing of the decision and the reasons underpinning that decision and should the conduct recur in the future the case may be re-opened.

2.8 Complaints

If the complainant is dissatisfied with the outcome of the investigation they can ask that the case be reviewed by invoking the Community Trigger, see 2.3 above.

A complainant may also make a complaint using the Councils Corporate Complaints, Comments and Compliments Policy, which can be found at <https://www.newcastle-staffs.gov.uk/all-services/advice/complaints-comments-and-compliments> However, this Policy excludes the decision made by the Investigating Officer and can only be about the conduct of the procedure.