

High Peak Borough Council

Policy on Anti-Social Behaviour

IN BRIEF

Individuals have a right to enjoy their homes and to go about their daily lives without being alarmed, distressed, harassed or otherwise caused a nuisance.

A wide variety of behaviour can be defined as ‘anti-social’ if it has a negative impact on others.

The Council has two general duties in respect of ASB as well as specific duties relating to certain specific types of behaviour.

The Council has powers that it can use to respond to anti-social behaviour. Officers must use their discretion based on the material evidence when deciding upon the most appropriate course of action.

Partnership working is critically important and the solutions to anti-social behaviour problems can rest individually or collectively with a range of agencies depending upon the individual circumstances of each incident.

In some cases it will be appropriate for the Council to take the lead and in other cases it will be appropriate for the Council to support action by other agencies. This will depend upon the facts of each case.

1 Introduction

This policy has been produced to support the Council’s commitment to making High Peak a safe place for all.

The purpose of the policy is to ensure that the Council follows a standard approach to responding to anti-social behaviour within the Borough. It recognises that each case is unique and must be considered on its own merits but sets out the general principles that will be applied by the Council’s officers.

The Council has a separate policy covering anti-social behaviour by Council tenants.

2 What is Anti-Social Behaviour

A wide variety of behaviour can be defined as ‘anti-social’ if it has a negative impact on others.

The Anti-social Behaviour, Crime and Policing Act provides two definitions of anti-social behaviour (ASB) depending on where it takes place:

- ASB that occurs within a housing context is defined as behaviour that causes or is likely to cause “nuisance or annoyance”.¹

- ASB that occurs in public spaces is defined as behaviour that causes or is likely to cause “harassment, alarm or distress”.

The Housing Act 1996 offers a slightly different definition of ASB in the housing context and states that ASB is:

- a) conduct that is capable of causing nuisance or annoyance to some person (who need not be a particular identified person) and that directly or indirectly relates to or affects the landlord's housing management functions, or
- (b) conduct that consists of or involves using or threatening to use housing accommodation owned or managed by the landlord for an unlawful purpose.ⁱⁱ

In each case, the definitions describe how someone’s behaviour affects other people.

Nuisance describes behaviour on private property that is lawful but causes inconvenience or annoyance for neighbours. Harassment means when the victim is targeted repeatedly with behaviour that is meant to upset them.

Some problems, such as vandalism and drug dealing, are often described as anti-social behaviour but are, in fact, criminal offences. Conversely, there are some types of behaviour that may annoy some people but that would generally not consider to be anti-social behaviour. Examples include:

- The sound of children playing or a baby crying.
- Boundary disputes or breaches of covenants.
- Noise caused by everyday living, such as flushing toilets and closing doors.
- A one-off party.
- Minor personal arguments and differences.
- Religious or cultural practice.
- Parking (including badly parked vehicles).
- Neighbours doing DIY (at reasonable times of the day).
- Groups of people in the street or in parks, unless they are being rowdy, abusive, causing damage or committing other crimes.

3 Borough Council Duties and Powers with Respect to Anti-Social Behaviour

The Council has two general duties in respect of ASB:

- to produce a strategy with other statutory partners for reducing anti-social behaviour, which it fulfils through the vehicle of the High Peak Community Safety Partnership.ⁱⁱⁱ
- to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent anti-social behaviour (and crime, substance misuse and re-offending).

The Council also has duties as a local housing authority to prepare a policy in relation to anti-social behaviour; and procedures for dealing with occurrences of anti-social behaviour.^{iv}

In addition to these general duties, the Council has duties in relation to specific types

of anti-social behaviour, including duties to:

- serve an abatement notice where the Council is satisfied that a statutory nuisance exists or is likely to occur or recur;^v
- remove abandoned vehicles in certain circumstances and subject to various provisions;^{vi}
- promote the licensing objectives, which include the prevention of crime and disorder; and the prevention of public nuisance (when functioning as a licensing authority);^{vii}
- serve a remedial notice if certain types of high hedges are adversely affecting a complainant's reasonable enjoyment of the domestic property.^{viii}
- preserve the right of Council tenants under common law to 'quiet enjoyment' of their property

The Council has also been provided with a range of powers that it can use to respond to anti-social behaviour. The most important powers are found within the Anti-Social Behaviour, Crime and Policing Act 2014 and allow the Council to:

- Apply for an injunction to prevent an individual from engaging in anti-social behaviour;
- Serve a Community Protection Notice where the conduct of an individual or body is unreasonable and is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality; and
- Make a Public Spaces Protection Order (PSPO), where justified, to impose restrictions in response to activities carried on in a public place that are unreasonable and have, or will have had a detrimental effect on the quality of life of those in the locality.

The power to make a PSPO is only available to district councils, whereas the the power to serve a Community Protection Notice can also be utilised by the police and the power to apply for an injunction is available to a range of authorities. The Council also has a general power to apply for injunctions under Section 222 of the Local Government Act 1972.

The Council also has powers in relation to specific types of anti-social behaviour including:

- Serving a warning notice in respect of noise emitted from a dwelling during night hours.^{ix}
- Issuing a Closure Notice and apply for a Closure Order where the use of a premise has resulted, or is likely soon to result, in nuisance or disorder.^x
- Revoking of a premise licence.^{xi}
- Serving a notice requiring an owner to execute works of repair or restoration in respect of ruinous and dilapidated buildings and neglected sites that are seriously detrimental to the amenities of the neighbourhood.^{xii}
- Issuing a fixed penalty or prosecuting for fly-posting.^{xiii}
- Issuing an enforcement note in response to breaches of planning control.^{xiv}
- Serving a Notice to require proper maintenance of land.^{xv}

- Asking a court to make an order for possession of a Council house^{xvi} (a court must make the order if possession is sought on the grounds of anti-social behaviour and certain conditions are met^{xvii}).

4 The Council's position

Generally, the Council recognises that:

- Individuals have a right to enjoy their homes and to go about their daily lives without being alarmed, distressed, harassed or otherwise caused a nuisance.
- We cannot follow a 'one size fits all' model. Anti-social behaviour looks and feels different in every neighbourhood and to every victim.
- Partnership working is critically important and the solutions to anti-social behaviour problems can rest individually or collectively with a range of agencies depending upon the individual circumstances of each incident.
- In some cases it will be appropriate for the Council to take the lead according to the facts of the case (normally where the behaviour relates to a council function). In other cases it will be appropriate for the Council to support action by other agencies. Where the anti-social behaviour relates to another agency's functions and responsibilities, and where the agency has the evidence and powers to respond, then the Council will normally expect that agency to take the lead.
- The Council's public realm CCTV system plays an important role in deterring and detecting crime. The Council's leisure provision provides activities that can divert people from committing anti-social behaviour.
- The Council will support the Community Safety Partnership to address some of the causes of anti-social behaviour, to provide diversionary activity, and to provide support for victims.

5 The Council's Response to Reports of Anti-Social Behaviour

The Council provides two principal methods for reporting anti-social behaviour:

- on-line by completion of a webform; or
- by telephone to the Council's Customer Services team.

Members of the public and officers of partner agencies should use these reporting mechanisms to make sure that they receive a prompt and appropriate response to their enquiry.

The flow chart below shows the process that should be followed following receipt of a complaint about anti-social behaviour.

High Peak Borough Council ASB Flow Chart

Incident Reported via Webform

Incident Reported via Contact Centre

Triage Incident Using VICTIM Nnemonic as Prompt

Council Function
or Responsibility?

Safeguarding
issue?

Is it an
Emergency?

Other Agency's Function
or Responsibility?

Pass to Appropriate
Service

Follow Safeguarding
Procedure

Telephone
999

Pass to Appropriate
Agency

Assess Risk

Complete RAVA or make File Note to
record decisions

Service Determines Appropriate
Response using Professional Judgment
and Discretion

Multi-Agency Response Required?

Urgent cases: Hold multi-agency discussion
within 48 hours

Non-urgent cases: Hold multi-agency
discussion within 10 days

Follow VARM process if required

Respond to ASB and identified risk(s),
or support needs
Inform relevant partners as
appropriate

Keep Victim Informed of Any Action, Signpost to Appropriate Support Services, and Inform
About Complaints Procedure (if appropriate)

It is important that complaints are triaged appropriately to ensure that they are dealt with promptly and appropriately. The VICTIM mnemonic, developed by the Safer Communities Board, can help officers to make an initial assessment after receiving an ASB complaint:

- V** Vulnerable victim?
- I** Increase in severity/frequency of ASB incidents?
- C** Coping strategies failing?
- T** Targeted ASB?
- I** Impact on quality of life?
- M** Multi agency involvement required?

The police should be contacted without delay by telephoning 999 in emergency situations. An emergency is where there is:

- Danger to life
- Use of, or immediate threat of use of, violence
- A crime in progress
- Serious injury to a person
- An offender has just been disturbed at the scene
- A need for immediate police attendance such as when a crime is about to be committed

If the reported anti-social behaviour does not relate to a function of the Council then the complainant should be signposted to the appropriate agency and organisation that can provide support. This will normally be by providing the complainant with the appropriate contact details. In some situations, such as where a person is particularly vulnerable, then it would be appropriate for the Council Officer to forward details of the problem with the consent of the complainant. Consent is not required if the case requires involvement of another agency because of reasonable concerns about the health, safety or welfare of an individual.

Once a report has been passed to a Council Service for a response, the Service should carry out a thorough assessment of the risks to the individual or others. This assessment should be recorded as a case file note depending upon the system that each particular service uses. The Risk Assessment and Vulnerability Assessment (RAVA) developed by the Derbyshire Safer Communities Board can be found at Appendix A.

It is important that any risks that are identified are responded to promptly and all actions recorded. In many cases, the response will not require the involvement of outside agencies. Where a multi-agency response is required then discussion with partner organisations should take place within:

- 48 hours in urgent cases where there is a high level of risk
- 10 days in all other cases.

Services should consider whether it is appropriate to follow the Vulnerable Adult Risk Management (VARM) process that was developed by the Derbyshire Safeguarding Adults Board. The process is designed for the management of risks that may arise

when working with adults deemed to have capacity to make decisions for themselves, but who are at risk of serious harm or death through:

- self-neglect (Care Act 2014)
- risk taking behaviour / chaotic lifestyles or
- refusal of services

The VARM is a multi-agency adult assessment risk management process to:

- identify the relevant risks for the individual
- discuss and agree agency responsibilities/actions
- record, monitor and review progress with the agreed action plan
- agree when the risks have been managed and evaluate the outcome

More details of the VARM process can be found here:

<https://www.derbyshiresab.org.uk/professionals/vulnerable-adult-risk-management.aspx>

Where appropriate, victims of anti-social behaviour should be signposted to appropriate sources of support. A list of support services will be maintained on the Council's intranet.

6 Public Spaces Protection Orders

The Council will respond positively to requests to introduce Public Spaces Protection Orders but will require anyone requesting that an Order be introduced to provide evidence to show that (i) the statutory tests have been met and (ii) that there is capacity and willingness to enforce the requirements of any order.

7 The Council's Approach to Enforcement

Decisions about enforcement action are largely discretionary, involving judgements by the officer in charge of the case. The Officer must ensure that there is sufficient reliable and credible evidence, and that enforcement action is in the public interest.^{xviii}

There may be several possible responses that the Council could take depending on the nature, seriousness and public interest of the anti-social behaviour. Officers should be mindful of the principles set out in the Council's Enforcement protocol, the factors outlined below and any statutory guidance when taking any action. Decisions should be made on the basis of material evidence and officers should clearly record the reasons for the decision.

Officers will consider a range of factors when considering action including:

Factors relating to the anti-social behaviour

- Nature and Seriousness of the behaviour
- Whether the behaviour is likely to be continued or repeated.
- Whether the behaviour has come to light as the result of a complaint or information from an outside body.

- Whether there has been a blatant disregard of legislation.
- Whether previous action has been unable to resolve the problem.

Factors relating to the victim:

- The impact on the safety, quality of life, etc of the people affected.
- Whether the victim was a staff member (the Authority will not tolerate abuse, violence, etc directed at staff members and will normally prosecute in such circumstances).
- Whether the behaviour was targeted at the victim because of a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, or sexual orientation)
- The views of the aggrieved person/people.
- Impact on the wider community.

Factors relating to the offender:

- The circumstances, state of mind and attitude of the offender.
- Whether the offender has taken any action to resolve the problem.
- The degree of culpability.
- Past conduct and previous history of the individual including previous enforcement action taken.

Legal considerations:

- The available alternatives to legal proceedings.
- The likely penalty as opposed to the cost of investigation.
- The effect of likely defences and mitigation.
- The possible wider deterrent effect of taking action.
- Whether a prosecution could test an important legal point or set a precedent.
- Whether it would be in the public interest, having regard to all the circumstances of the case, to institute legal proceedings.

Comments on this Policy

This policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Head of Communities and Climate Change
High Peak Borough Council
Buxton Town Hall
Market Place
Buxton
Derbyshire
SK17 6EL

Appendix A

Name:	Address/Tel:	
Date of Birth:	Tenure: Owner occupier / Social landlord / Private landlord / Other	
Ethnicity:	Landlord:	
Incident No:	Case Reference:	
Incident date and time:		
Incident details:		
OFFENCE		
1. Other than this occasion - how often do you have problems?		0 - Isolated incident 1 - Only occasionally 2 - Most months 3 - Most weeks 4 - Most days 5 - Daily
2. Do you think that incidents are happening more often and / or are getting worse?		0 - No 2 - Yes
OFFENDER		
3. Do you know the offender(s)?		0 - No 1 - Yes 2 - Know each other well
4. Do you live close to the offender(s) or location of the incident?		0 - No 2 - Yes
5. Is anyone in particular being specifically targeted by this behaviour?		0 - No 1 - A number of people 2 - Your family 3 - You
6. Is there any reason why you might be targeted eg your faith, nationality, ethnicity, sexuality, gender identity or disability?		0 - No 3 - Yes
7. Do you feel intimidated or harassed by the offender (or their associates)?		0 - No 2 - Does not feel harassed but offender has history or reputation for harassment or violent behaviour 4 - Has previously been harassed by the offender 6 - Currently being harassed by the offender
IMPACT		
8. How have you been affected by what has happened?		0 - Not at all 2 - Changed routine or avoid locations 4 - Distressed 6 - Affected physical or mental health
9. Are any children within your household affected?		0 - No 2 - Yes (Consider safeguarding referral)
10. In addition to what has happened, do you feel that there is anything that is increasing the risk to you, or your household (eg financial, cultural, social)?		0 - No 3 - Yes
11. Do you have any family, friends or professionals to go to for support?		0 - Has close support network 1 - A few people to draw on for support 3 - Lives alone and is isolated
VULNERABILITIES		
12. Do you have any mental health issues?		0 - No 3 - Yes
13. Do you have any substance misuse issues?		0 - No 3 - Yes
14. Are there any other factors that increase your vulnerability eg experiencing or at risk of abuse or neglect, learning disabilities, suicide, physical disability?		0 - No 3 - Yes
SCALE		
15. Are any other agencies involved with this problem?		
16. Do you think anyone else has been affected by what has happened?		
SCORE		
Using your own professional judgement and any additional knowledge of the case, adjust the score, if appropriate Reasons:		Approved by:
TOTAL SCORE		
0 to 15 Standard	16 to 29 Medium	30 + High
Assessment Completed by:		
Name:	Agency:	

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- ⁱ Section 2 Anti-social Behaviour, Crime and Policing Act 2014
 - ⁱⁱⁱ Section 218A(8) Housing Act 1996 (as inserted by s12 of the Anti-social Behaviour Act 2003)
 - ⁱⁱⁱ Section 6 Crime and Disorder Act 1998
 - ^{iv} Section 218A(1) Housing Act 1996
 - ^v Section 80 Environmental Protection Act 1990
 - ^{vi} Section 3 Refuse Disposal (Amenity) Act 1978
 - ^{vii} Section 4 Licensing Act 2003
 - ^{viii} Section 68 Anti-Social Behaviour Act 2003
 - ^{ix} Section 3 Noise Act 1990
 - ^x Sections 76 - 93 Anti-social Behaviour, Crime and Policing Act 2014
 - ^{xi} Section 52 Licensing Act 2003
 - ^{xii} Section 79 Building Act 1984
 - ^{xiii} Section 224 Town and Country Planning Act 1990; Section 43 Anti-Social Behaviour Act 2003.
 - ^{xiv} Section 172 Town and Country Planning Act 1990
 - ^{xv} Section 215 Town and Country Planning Act 1990
 - ^{xvi} Section 83 Housing Act 1985.
 - ^{xvii} Section 94 Anti-social Behaviour, Crime and Policing Act 2014
 - ^{xviii} CPS 2018 Code for Crown Prosecutors