

HIGH PEAK BOROUGH COUNCIL

The Executive

5 August 2021

TITLE:	Anti-Social Behaviour
EXECUTIVE COUNCILLOR:	Councillor Todd - Executive Councillor for Climate Change, Environment and Community Safety
CONTACT OFFICER:	David Smith – Head of Communities and Climate Change
WARDS INVOLVED:	All

Appendices Attached – Appendix A: Housing Anti-Social Behaviour and Harassment Policy; Appendix B Anti-Social Behaviour Policy; Appendix C: Anti-Social Behaviour

1. Reason for the Report

- 1.1 The Council has committed to reviewing its approach to Community Safety to ensure that it is supportive in fighting crime and anti-social behaviour. This report helps to deliver that commitment.

2. Recommendation

- 2.1 That the Executive notes the Council's responsibilities with respect to anti-social behaviour.
- 2.2 That the Executive approves the draft Anti-Social Behaviour Policy.
- 2.3 That the Executive notes the Anti-Social Behaviour Handbook and assists in raising awareness of the handbook within the community.

3. Executive Summary

- 3.1 A wide variety of behaviour can be defined as 'anti-social' if it has a negative impact on others. In law, anti-social behaviour is defined as behaviour that causes, or is likely to cause alarm, distress or harassment to others (and nuisance in the housing context).

- 3.2 The Council has a duty to exercise its functions with due regard to the impact on anti-social behaviour. The Council has specific duties in relation to certain types of behaviours, such as noise nuisance.
- 3.3 The report presents a draft policy covering the Council's response to anti-social behaviour and also a handbook that is intended to provide relevant advice to the residents of High Peak.

4. **How this report links to Corporate Priorities**

- 4.1 The report links to Aim 1 of the Corporate Plan: Supporting our communities to create a healthier, safer, cleaner High Peak. In particular, it supports the key priority of 'increased level of community support' and the Council's commitment to seeking to influence positive outcomes around dealing with anti-social behaviour.

5. **Alternative Options**

- 5.1 The Council could formally adopt the Safer Communities Board's guidance on Community Protection Notices, and the Victims First Process (not recommended). However, discussions with the Council's Heads of Services have indicated that these processes would not add anything to the approach set out in this report but would increase the demand on current resources, could cause confusion for Officers by increasing the number of statutory and non-statutory sources of guidance that they have to refer to, and increase the risk of the Council being challenged for failing to meet commitments that it cannot keep.

6. **Implications**

6.1 Community Safety - (Crime and Disorder Act 1998)

The report outlines how the Council will meet its duties under the Crime and Disorder Act 1998 and other related legislation.

6.2 Workforce

Officers will be required to have regard to the policy when carrying out their duties.

6.3 Equality and Diversity/Equality Impact Assessment

The policy applies equally to all. Protected characteristics are highlighted as a key factor to be considered when deciding upon the appropriate response to reported incidents of anti-social behaviour. The ASB Handbook provides guidance on sources of support.

6.4 Financial Considerations

None

6.5 Legal

The report sets out the Council's duties and powers in relation to anti-social behaviour.

6.6 Climate Change

Anti-social behaviour includes behaviour that has a detrimental impact on the environment. Actions to tackle such behaviour can have a positive impact on the Council's actions to tackle climate change.

6.7 Consultation

The policy and accompanying procedure has been developed with input from the Heads of Housing, Customer Services and Environmental Health.

6.8 Risk Assessment

If the Council does not respond to ASB appropriately then there may be a risk of harm to the complainant, and reputational risks.

Neil.W.Rodgers
Executive Director (Place)

Web Links and Background Papers

Contact details

David Smith
Head of Communities and Climate Change
david.smith@highpeak.gov.uk

7. Detail

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

7.2 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".
- ASB that occurs in public spaces is defined as behaviour that causes or is likely to cause "harassment, alarm or distress".

- 7.3 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.
- 7.4 In each case, the definitions describe how someone's behaviour affects other people.
- 7.5 Nuisance describes behaviour on private property that is lawful but causes inconvenience or annoyance for neighbours. Harassment is the repeated targeting of a victim with behaviour that is meant to upset them.
- 7.6 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 antisocial 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.

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

- 7.7 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.
 - 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).
- 7.8 The Council also has duties as a local housing authority to prepare (i) a policy in relation to anti-social behaviour; and (ii) procedures for dealing with

occurrences of anti-social behaviour. A copy of the Anti-Social Behaviour and Harassment Policy produced in response to this duty is provided at Appendix A.

7.9 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;
- remove abandoned vehicles in certain circumstances and subject to various provisions;
- promote the licensing objectives, which include the prevention of crime and disorder; and the prevention of public nuisance (when functioning as a licensing authority);
- Serve a remedial notice if certain types of high hedges adversely are affecting a reasonable complainant's reasonable enjoyment of the domestic property.
- Preserve the right of Council tenants under common law to 'quiet enjoyment' of their property

7.10 The Council has also been provided with a range of powers that it can use to respond to anti-social behaviour.

Anti-Social Behaviour Policy and Handbook

7.11 Appendix B provides a draft Policy on Anti-Social Behaviour. The policy has been produced to support the Council's commitment to making High Peak a safe place for all. The policy is intended to assist the Council to follow 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.

7.12 Derbyshire's Safer Communities Board has produced guidance on the use of Community Protection Notices (one of the tools for addressing anti-social behaviour) and on a process for addressing anti-social behaviour (Victims First). This is in addition to the statutory guidance issued by the Home Office and other protocols and guidance that officers must follow including the Code for Crown Prosecutors and the Council's Enforcement Protocol. The Borough Council has taken note of these Safer Communities Board documents whilst developing its own policy.

7.13 The handbook at Appendix C provides advice for members of the public and others for responding to anti-social behaviour. It is intended to help victims of anti-social behaviour identify the most appropriate sources of support. It is hoped that this will assist victims to obtain a prompt response to their complaint, whilst also reducing the number of calls to the Council about incidents that are without the Council's areas of responsibility.