

# Oadby & Wigston Borough Council

## Anti-Social Behaviour Policy (September 2018)

Committee Approval	
Policy Owner	
Review Date	



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# 1. Statement of Purpose and Definition

Oadby and Wigston Borough Council ("The Council") recognises the importance that residents place on the ability to live peacefully in their homes. Anti-Social Behaviour ("ASB") and Neighbour Nuisance include a broad range of disruptive behaviours. We recognise that ASB has a detrimental effect on the quality of life enjoyed by our residents. We do not believe our residents should have to live with ASB.

Unless otherwise stated within the policy, the Council use the definition of ASB as described within the *Anti-Social Behaviour, Crime and Policing Act* (2014) as;

- a) Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person
- b) Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- c) Conduct capable of causing housing-related nuisance or annoyance to any person.

This policy is being published in plain language and made available to residents upon request. It is designed to be a framework as to how ASB can be reported to, and dealt with by, the Council.

This policy makes reference to the Oadby and Wigston Community Safety Partnership ("CSP") and Joint Action Group ("JAG") throughout. The CSP brings together a number of agencies with a shared commitment to reducing ASB, crime and disorder in the Borough. The CSP is made up of a number of organisations including;

- Oadby & Wigston Borough Council
- Leicestershire County Council
- Office of the Police and Crime Commissioner for Leicestershire
- Leicestershire Police
- Leicestershire Fire and Rescue Service
- East Leicestershire and Rutland Clinical Commissioning Group (CCG)
- National Probation Service, and
- Derbyshire, Leicestershire, Nottinghamshire and Rutland Community Rehabilitation Company.

These organisations recognise that by combining resources, experience, and knowledge the CSP can offer an enhanced approach to tackling issues and concerns with the Borough, and offer a greater level of value for money within the work it undertakes or commissions.

At a Borough level ASB is managed through a multi-agency JAG. All high risk cases are monitored carefully, and emerging trends are identified within the group to ensure appropriate action is taken when and where required.

In addition to the *Anti-Social Behaviour, Crime and Policing Act* (2014) the Council also has statutory obligations to consider under the following legislation;

- *Housing Act* (1996)
- *Crime and Disorder Act* (1998)
- *Human Rights Act* (1998)
- *Anti-Social Behaviour Act* (2003)
- *Children Act* (2004)
- *Police and Justice Act* (2006)
- *Equality Act* (2010)
- *Children and Families Act* (2014)
- *Care Act* (2014)
- *Data Protection Act* (2018), and
- *General Data Protection Regulation* (2018).

## 2. Introduction

The Council is committed to improving the quality of life for everyone living and working within our communities, and in providing a safe and secure environment to enable communities to live together, free from the negative impact of ASB.

The policy has been developed in line with all relevant legislation to ensure that ASB is dealt with consistently, robustly, and that justified action will be taken where appropriate.

Reports of ASB will be investigated with relevant outside agencies, and the action taken against those responsible will be proportionate to the seriousness of the activity in which they are engaged. Intervention action will be selected based on what is most likely to produce an effective solution. Where the Council deems it appropriate, and if the nature of the ASB is serious or where it causes immediate risk of harm, rapid enforcement action will be considered.

Where ASB occurs, and it is criminal in nature, we will refer the complainant to report this to the Police. The Police will then manage the case, working in conjunction with Council staff, to jointly decide on whether civil proceedings will be brought against the perpetrator(s).

The Council will work, and share information, with partners (in accordance with our policies, procedures, and data sharing agreements) to reach the best solution, and to learn from each other. This includes internal departments as well as those that sit within the CSP, and those that attend the JAG.

The Council is also committed to the [‘Respect: ASB Charter for Housing’](#) which aims to be outcome-focused to improve the quality of people’s lives who suffer from ASB. The Charter consists of seven core commitments;

- Demonstrating leadership and strategic commitment,
- Providing an accessible and accountable service,
- Taking swift action to protect communities,
- Adopting a supportive approach to working with victims and witnesses,
- Encouraging individual and community responsibility,
- Having a clear focus on prevention and early intervention, and
- Ensuring that a value for money approach is embedded in our service.

## 3. ASB Classification and Service Standards

Initial reports of ASB will be recorded under one of the categories listed in *Appendix A*.

Not every allegation reported to the Council will be categorised as ASB; some types are considered to be everyday living noises or lifestyle differences rather than ASB, and therefore they may not be investigated under the terms of this policy. The complainant will be notified at the earliest opportunity available that an investigation will be opened, and they should be directed to the Council’s website where a copy of this policy will be published.

Although people can expect to hear a certain amount of noise from their neighbours, they are not expected to have to endure unreasonable and persistent levels of noise nuisance.

The Council will not commit to strategies which raise expectations but are not enforceable, i.e. “No Ball Game” signs, but will actively seek from the complainant what outcome they are seeking.

## 4. Reporting ASB

The Council will make available a wide range of methods of contact for reporting ASB. Complainants will have one nominated lead case worker for their case who will keep them updated regarding progress with the Council’s investigations.

In cases of ASB in social housing, the relevant Housing Association will investigate complaints and can pursue a course of action that can result in injunctions, committal proceedings and eviction. The Council and the Police work closely with housing providers to help with enforcement action and support for victims.

### **Elected Members**

Elected members have a key role in the response to ASB; as community leaders and advocates they can often be the first point of complaint by residents. Members should not commence any form of investigation but, ideally, provide initial support and guidance to victims, i.e. to contact the Council or 101.

It is fundamental that ASB is recorded, and the response coordinated, by the most appropriate agency or department.

## **5. The Council's commitment to managing ASB complaints**

All reports of ASB will be logged on the Council's system and passed to the most appropriate department for investigation. Complainants will be notified at their initial contact, or at the earliest possible time (normally within 3 working days), whether the matter will be investigated in line with this policy.

ASB complaints will be processed via a case management system which can be accessed by relevant Council Officers as well as the Police.

Council staff will adhere to the timeframes stated within the classifications found in *Appendix A*. Should the timeframe for investigation and/or enforcement be extended, the reasons and indicative timeframe will be given to the complainant.

## **6. Supporting Vulnerability**

The Council recognises the importance of supporting vulnerable members of our communities who may be more at risk of becoming involved in ASB, either as a victim or a perpetrator.

A person may be considered vulnerable for many reasons, including but not limited to age, alcohol and drug dependencies, disability, as defined by the *Equality Act* (2010), or mental health issues. As part of its duties under the *Equality Act* the Council, as a Local Authority, has a duty to pay 'due regard' to:

- Eliminate unlawful discrimination, harassment, and victimisation, and other conduct prohibited by the Act,
- Advance equality of opportunity between people who share a protected characteristic and those who do not, and
- Foster good relations between people who share a protected characteristic and those who do not.

When a complaint of ASB is received, the Council will make an assessment of vulnerability on every case which will be included as part of the Risk Assessment Matrix ("RAM"). RAMs are shared with partnering agencies, where required, to determine the most appropriate course of action and/or protection.

When a complainant, witness, or perpetrator of ASB is identified as being vulnerable, a referral may be made to relevant support services. We will work collaboratively with the identified carers or support agencies.

Where a complaint is made against someone who the Council knows, or suspects, is vulnerable, every effort will be made to assist them in engaging with support services. However it will be made clear that failure to engage with such services, and the continuation of the ASB, may lead to formal action being taken against them.

The Council will not accept vulnerability as a reason for a perpetrator being allowed to continue to behave badly.

## 7. Safeguarding

Safeguarding is everyone's business and we all have a part to play in protecting the most vulnerable members of our community.

The Council actively participates in multi-agency arrangements to safeguard children, young people, and adults.

The law requires the Council to ensure that its functions are discharged with regard to the need to safeguard and promote the welfare of children. Provisions within the *Care Act* (2014) mean that adult safeguarding has also been placed on a statutory footing.

The Council recognises that when dealing with ASB it may come into contact with children and adults for who there are safeguarding concerns. All employees receive safeguarding training and have access to information to enable them to respond appropriately.

It is not for the investigating Officer to make a decision as to whether there are safeguarding concerns, but it is their duty to report anything which they believe is a cause of concern via the relevant safeguarding pathway. These are outlined in the Council's own safeguarding policies.

## 8. Action the Council can take

The majority of complaints of ASB do not require legal action as a means of resolution. The Council will, in the first instance, assess the type of ASB, the risk of harm to the victim, and any vulnerability to identify how it will deal with the complaint. Early intervention through informal approaches will be considered in the first instance before exploring the more formal enforcement tools.

### Early and Informal Interventions

As a Borough and County each Local Authority is committed to the tiered, incremental approach when dealing with ASB. Early intervention through an informal approach can be successful in stopping ASB committed by most perpetrators. These methods should be considered and exhausted first to attempt to stop behaviour before it escalates.

### Verbal and Written Warnings

Warnings are issued when there is evidence of ASB occurring or likely to occur. They make it clear to the perpetrator, parent or guardian what behaviour is causing the issue, the effect this is having on the victim or the community, and the consequence of not adhering to the warning.

### Community Resolution

This is where a resolution is found for a less serious issue of ASB where an informal agreement is reached between the parties involved, as opposed to progression through legal action.

### Mediation

Mediation can be an effective tool, solving the issues by bringing all parties together to talk through their concerns. Council Officers are able to offer mediation on a confidential, impartial basis that can solve many incidences of misunderstanding or unintentional ASB. An example of when mediation would be used is when two neighbours fall out over a difference, such as the position of a boundary fence.

### Restorative Justice

Restorative justice gives a victim of ASB an opportunity to communicate with the perpetrator in a controlled environment, to tell them how their behaviour is impacting on them, giving them a voice. It holds the perpetrator to account for what they have done.



## **Acceptable Behaviour Contracts (ABC) / Parenting Agreement (PA)**

These are voluntary written agreements between an individual and the Council. The ABC is entered into in conjunction with other agencies including the Police and the Youth Offending Service. They contain pledges to behave in a certain manner or to stop doing certain things. An ABC or PA is not legally enforceable but if they are broken, they can be used to form part of the evidence required to proceed to another level of action, such as Court.

## **Support and Counselling**

In many cases there are underlying causes of ASB. Substance misuse or alcohol dependency can drive ASB. We will refer, where possible, to the appropriate agencies that can offer support and counselling depending on the circumstances of the person concerned in the ASB, including referrals to Supporting Leicestershire Families and the Council's Housing Services.

## **Surveillance**

As part of the Council's response to dealing with ASB, it reserves the right to work with partner agencies to carry out both covert and overt surveillance. Surveillance may be visual or audio. Any surveillance will be appropriately authorised, proportionate, and justified. This will include, where necessary, the monitoring of CCTV. At times we will be required to disclose our CCTV images to a third party, such as the Police, where there is a need for the prevention and detection of crime, and for the apprehension of offenders.

In addition, any surveillance undertaken with regards to the investigation will be dealt with in accordance with all relevant legislation.

Please refer to the *Oadby & Wigston Borough Council – Closed Circuit Television Policy* (2018) for further information on surveillance via CCTV.

## **9. Legal Action**

If perpetrators are unwilling to change their behaviour following attempts along the informal intervention route, then there are some formal tools that can be used by the Council;

### **Civil Injunction**

A Civil Injunction is an order made by the court to stop or prevent individuals engaging in ASB. It can resolve any issues before they escalate and can help the perpetrator to address the underlying cause of the ASB. An injunction can be obtained for people causing ASB from the age of 10 years. If the terms of an injunction are not adhered to, it can result in a fine or imprisonment for up to two years for anyone over the age of 18. For anyone under the age of 18 it could result in a supervision order, or detention for up to three months. In addition to this, the breach of an injunction could mean that a tenant faces a mandatory possession order being granted by the court.

### **Criminal Behaviour Order (CBO)**

A CBO can be issued in a criminal court against a person from the age of 10 years upwards. It is used to tackle the most persistent anti-social individuals who are engaged in criminal activity, and have been convicted of an offence. Breaching a CBO is a criminal offence and for anyone over the age of 18 can result in up to five years imprisonment, a fine, or both. Anyone under the age of 18 could face a two year detention order, with part of that detention served in custody.

### **Closure Orders**

This can be used to close a property when it is being used, or likely to be used, to commit serious nuisance or disorder. The initial Closure Notice is valid for either a 24 or 48 hour period followed by the application to the court for a Closure Order. This is a fast and flexible power that can be used to protect victims and communities by quickly closing premises where ASB is prevalent.

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

A CPN is intended to deal with particular, on-going problems or nuisances which negatively affect the community's quality of life, such as graffiti, rubbish, or noise by targeting those responsible.

## **Public Space Protection Orders**

These orders impose conditions which may include multiple restrictions and requirements in an area such as parks, alleyways, or communal areas, where ASB is being detrimental to the local community. They are designed to ensure that the majority of people can enjoy public spaces and feel safe, and the conditions could be around alcohol, dogs, or noise for example.

## **Demotion Orders**

Demotion orders allow us to apply to the courts to reduce the security of tenure for tenants, and can be a precursor to taking possession of the property. These orders remove a number of rights including the right to buy and the right to exchange. Demoted tenancies last for a year and may be extended if notice to seek possession of the property is served during this period. The orders are a serious warning to tenants that if the negative behaviour continues swift action can be taken to seek possession of their home.

## **Possession Proceedings**

This is court action that can lead to Council tenants being evicted from their homes. Before this stage is reached the tenants involved will have had several warnings to stop their behaviour. Evicting someone, who may have a family and children, from their home, is a very serious consequence. The Council would have to prove to the court that on the 'balance of probabilities' the tenants have indeed broken the terms of their tenancy agreement, and that it is responsible for the court to evict the tenant.

The *Anti-Social Behaviour, Crime and Policing Act* (2014) has introduced a new absolute ground for possession for secure tenancies where ASB or criminality has already been proven by another court. This means that the Council will no longer need to prove that it is reasonable to grant possession, and the court must grant possession providing set procedures have been followed.

# **10. Protection of Staff and Contractors**

The Council will not, under any circumstance, tolerate abusive, threatening, or violent behaviour towards our staff or contractors, and will always take swift and robust action to protect our staff. All acts of aggression, harassment, or intimidation towards staff members will not be tolerated, and will be referred to the Police if appropriate.

The Council will ensure a prompt and robust response takes place. Where there is a direct threat of harm or violence towards the complainant the Council may commence legal action.

A Corporate Warning List is kept centrally by the Council and all reports of the above natures will be recorded. The Council have a responsibility to ensure it places sufficient warning markers on its systems to ensure staff safety, and any recommended measures are put in place.

# **11. Performance Monitoring**

The Council will closely monitor the quality of the ASB service by;

- Setting challenging performance target for its staff to achieve,
- Completing customer satisfaction surveys, and
- Ensuring managers carry out audits and reviews on a sample of cases.



The Council will regularly report statistical information about ASB both internally and externally, including benchmarking to link with other similar organisations. This gives the Council comparison for best practice, identifying trends, and to inform service delivery.

Information will also be made available upon request to our partnering agencies.

## **12. Closing Cases**

The Council will normally only close cases when the situation has been resolved and/or the complainant is happy for it to do so. However, in some circumstances it may be necessary to close the case without the consent of the complainant.

This might happen when the Council is satisfied that it has done everything it can that is reasonable and proportionate to resolve the complaint, or the complainant has failed to respond to requests for contact. The Council may also close the case if it is considered that the allegations made are false or malicious, or if the complainant refuses to work with the investigating Officer to resolve the alleged ASB.

The Council will not assume that a situation has improved if it has not heard from the complainant, and will try to make contact with them before closing their case. If there is no response, the Council will close the case and record it as resolved.

To avoid cases being open indefinitely, the Council has a robust process of review with the lead Officer dealing with each case on its own merit. Where the case has been open for 12 weeks it will be reviewed by the relevant manager. All high risk cases will be referred to the JAG who will review all actions in these cases, and task the investigating Officer if further recommendations are required.

## **13. Community Trigger**

The Community Trigger introduces a right for victims, or victim's representatives, to ask local agencies to review how they have responded to previous ASB complaints, and consider what further action might have been taken where the behaviour persists.

A Community Trigger is not a first port of call, and should not be used to report an incident of ASB for the first time.

A request to activate a Community Trigger can be made if, within the last six months;

- An individual has complained to the Council, Police or a Registered Housing Provider (Social Landlord) about three separate incidents of ASB within their area,
- Three individuals in a local community have complained separately to the Council, Police or Registered Housing Provider (Social Landlord) about the same incident of ASB, or
- An individual has been a victim of a Hate Incident.

It should also be noted that in order for a Community Trigger to be considered, the individual must have made their initial complaint of ASB within one calendar month of the incident occurring.

Community Trigger applications can and will be rejected if they are identified as prejudicial, discriminatory, malicious, unreasonable, vexatious, or frivolous. In such a case details of this decision will be provided including any appeal options.

The Community Trigger does not replace the standard complaints procedure. Individuals still have the right to complain to the Ombudsman or Independent Office of Police Conduct if they are unhappy about the service they have received.

## **14. Publicising the Council's approach to ASB**

The Council's approach to ASB will be publicised to residents, potential residents, and staff in a number of ways, including;

- Leaflets and/or guidance documents,
- The Council's website,
- Policy Briefing and Training,
- At all Council tenancy sign ups,
- Tenant's Handbook, and
- The Tenancy Agreement.

## **15. Development and Responsibility**

The Council's ASB Policy has been developed through consultation with the public, staff, and other stakeholders, and has been approved by elected members.

Staff will be trained to deliver this policy, and are responsible for adhering to its terms and suggesting improvements with its administration.

This document will be reviewed every two years; however it will be updated at any time if there is a material change in a process or legislation.

## APPENDIX A – ASB CLASSIFICATION AND SERVICE STANDARDS

All action taken by an Officer must be reasonable and proportionate to the behaviour reported and experienced by the victim of the ASB. There will be occasions where the ASB reported will be classified within multiple groups. In this instance the action will be determined on the highest grouping.

	Type of ASB	Interventions Available <sup>1</sup>	Service Standards
1	<ul style="list-style-type: none"> <li>Domestic Noise</li> <li>Vandalism and Damage to Property</li> <li>Misuse of Communal Areas / Public Space Loitering</li> </ul>	<ul style="list-style-type: none"> <li>Offer advice and support, signposting where appropriate</li> <li>Work together with partner agencies as appropriate</li> <li>Warning Letter</li> <li>Acceptable Behaviour Contract</li> <li>Parental Agreement</li> <li>Community Resolution</li> <li>Restorative Justice / Mediation</li> <li>Civil Injunction</li> <li>Community Protection Notice</li> <li>Public Space Protection Order</li> <li>Fixed Penalty Notice</li> <li>Recharge</li> <li>Noise Abatement Notice / Prosecution</li> </ul>	First Contact with the investigating Officer or advocate within 3 working days, and agree an action plan. Action within 10 working days.
2	<ul style="list-style-type: none"> <li>Verbal Abuse / Harassment / Intimidation</li> <li>Drug Smells / Substance Misuse</li> <li>Alcohol Related ASB</li> <li>Prostitution / Sexual Acts</li> <li>Criminal Behaviour / Crime</li> <li>Noise including Other General ASB</li> <li>Domestic Noise</li> <li>Bullying / Cyber Bullying</li> </ul>	<ul style="list-style-type: none"> <li>Offer advice and support, signposting where appropriate</li> <li>Work together with partner agencies as appropriate</li> <li>Warning Letter</li> <li>Acceptable Behaviour Contract</li> <li>Parental Agreement</li> <li>Community Resolution</li> <li>Restorative Justice / Mediation</li> <li>Civil Injunction</li> <li>Criminal Behaviour Order</li> <li>Closure Order</li> <li>Notice of Seeking Possession*</li> <li>Possession*</li> <li>Demotion of Tenancy*</li> <li>Community Protection Notice</li> <li>Public Space Protection Order</li> <li>Noise Abatement Notice / Prosecution</li> <li>Fixed Penalty Notice</li> <li>Injunction</li> <li>Local Resolution</li> <li>Mediation</li> </ul>	First Contact with the investigating Officer or advocate within 3 working days, and agree an action plan within 5 working days of this contact.
3	<ul style="list-style-type: none"> <li>Hate related incidents (based upon the Protected Characteristics identified in the <i>Equality Act</i> (2010).)</li> <li>Domestic Abuse</li> <li>Physical Violence (other than Domestic Abuse)</li> <li>Drug Production / Supply</li> <li>Threatening Behaviour</li> </ul>	<ul style="list-style-type: none"> <li>Offer advice and supporting, signposting where appropriate</li> <li>Work together with partner agencies including Police, Environmental Health, Social Services, Youth Offending Service, Probation Services, Education Welfare, NHS, and Mental Health Teams</li> <li>Warning Letter</li> <li>Acceptable Behaviour Contract</li> <li>Parental Agreement</li> <li>Restorative Justice / Mediation</li> <li>Civil Injunction</li> <li>Criminal Behaviour Order</li> <li>Closure Order</li> <li>Notice of Seeking Possession*</li> <li>Possession*</li> <li>Demotion of Tenancy*</li> <li>Domestic Violence Protection Order</li> </ul>	First Contact with the investigating Officer or advocate within 3 working days, and agree an action plan within 24 hours of this contact.

Outside of ASB Policy	<ul style="list-style-type: none"> <li>▪ Animal Nuisance</li> <li>▪ Graffiti (non-offensive / non-directed / non-abusive)</li> <li>▪ Car Repair / Vehicle Nuisance</li> <li>▪ Litter / Rubbish / Fly Tipping</li> <li>▪ Garden Nuisance</li> </ul>	<p>The matters listed in this section will be dealt with outside of this Policy and logged as an Estate Complaint.</p> <p>If the alleged perpetrator is a Council tenant, the Housing Department will discuss the terms of the tenancy with the alleged perpetrator.</p> <p>Should the matters escalate or change in nature, we will look to re-categorise the behaviour as anti-social.</p>	<p>First contact with the investigating Officer or advocate within 3 working days. Action plan to remedy behaviour within 10 working days.</p>
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<sup>1</sup> Interventions marked with an asterisk (\*) are only available to the Housing Department.