Anti-social Behaviour
information and procedures

Housing Services

5 February 2019
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### Terms and abbreviations

<table>
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<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>ASB</td>
<td>Anti-social behaviour (for definition, see page 3)</td>
</tr>
<tr>
<td>Direct evidence</td>
<td>Facts or information that someone has seen, heard or is aware of directly.</td>
</tr>
<tr>
<td>Evidence</td>
<td>Facts or information to indicate whether something is true.</td>
</tr>
<tr>
<td>Harassment</td>
<td>Behaviour that is deliberately intended to intimidate, dominate or harm someone.</td>
</tr>
<tr>
<td>Hate incidents and hate crime</td>
<td>See pages 4 and 5.</td>
</tr>
<tr>
<td>Hearsay evidence</td>
<td>This is where someone gives evidence to someone else. For example, Person A gives evidence to Person B (e.g., a housing officer) about something which they have witnessed. Person B then presents the evidence (e.g., by means of a statement in which Person B states that person A told them they witnessed particular incidents).</td>
</tr>
</tbody>
</table>
| Nuisance                      | Nuisance is a general term to include unreasonable behaviour that makes other people uncomfortable and stops them enjoying living in their own homes. For example:  
  • loud music  
  • dumping rubbish  
  • letting dogs bark and foul in the street  
  • drunken behaviour in the street  

  It can also include more serious things, such as violent or criminal behaviour and drug dealing. |
<table>
<thead>
<tr>
<th><strong>Reporter</strong></th>
<th>A person making a report of anti-social behaviour (sometimes referred to as a “complainant”).</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject</strong></td>
<td>A person who is the subject of an anti-social behaviour report (sometimes called a “perpetrator” or “alleged perpetrator”).</td>
</tr>
<tr>
<td><strong>Victim</strong></td>
<td>A person who is subject to an impact from anti-social behaviour.</td>
</tr>
<tr>
<td><strong>Witness</strong></td>
<td>A person who sees, hears, experiences or is aware of an incident or event in another way.</td>
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Introduction

These procedures are a general guide to how we respond to anti-social behaviour. Where justified, we may decide not to follow parts of these procedures.

Council tenancies

When council tenants sign their tenancy agreements, they agree not to engage in anti-social behaviour in or near their homes. Tenants are also responsible for the behaviour of their visitors and family members who should behave in a reasonable manner.

We can also take action against people who are not council tenants but are causing problems to people living in council homes.

Definition of anti-social behaviour

Our definition of anti-social behaviour includes:

- Behaviour which includes disorderly, offensive, immoral or criminal behaviour, that has caused, or is likely to cause, harassment, alarm or distress to any person.
- Behaviour capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises.
- Behaviour that has a detrimental effect on the quality of life of people in the locality.
- Behaviour capable of causing nuisance or annoyance to any person, which is directly or indirectly related to the council’s housing management functions.

The above are examples of types of behaviour that we consider is anti-social behaviour. It is not intended to be a complete list and does not prevent us from taking action that is within our powers.
Serious anti-social behaviour

Our assessment of whether anti-social behaviour is serious determines how quickly we respond, the measures we put in place to protect victims and the measures we consider for resolving the case (see pages 9 to 11).

We would normally consider serious anti-social behaviour to include:

- Hate incidents and hate crime (see definition on page 1).
- Violence.
- Threats of violence, serious aggression and deliberate intimidation.
- Domestic abuse.
- The use of council premises or land for serious illegal activity, e.g., the production, storage or supply of illegal drugs.
- Malicious or recklessly false allegations.
- Any relevant serious housing-related criminal offence as defined in law.
- Behaviour which puts any person’s safety at risk e.g. interfering with electricity or gas supplies.

This is not a complete list.

Hate incidents and hate crime

We consider hate incidents and hate crime to be serious anti-social behaviour.

A hate incident is typically one involving violence or hostility, intimidation, harassment or abuse that is motivated by prejudice on the basis of:

- Race or ethnicity
- Religion or belief
- Disability
• Sexual orientation
• Transgender identity

Hate incidents can take many forms. For example:
• Verbal abuse like name-calling and offensive jokes
• Harassment
• Bullying or intimidation by children, adults, neighbours or strangers
• Physical attacks such as hitting, punching, pushing, spitting
• Threats of violence
• Hoax calls, abusive phone or text messages, hate mail
• Online abuse for example on Facebook or Twitter
• Displaying or circulating discriminatory literature or posters
• Harm or damage to things such as your home, pet, vehicle
• Graffiti
• Arson
• Throwing rubbish into a garden
• Malicious complaints for example over parking, smells or noise

Any criminal offence can be a hate crime if it was carried out because of hostility or prejudice based on race, religion, disability, sexual orientation or transgender identity. When something is classed as a hate crime, the judge can impose a tougher sentence on the offender.

We may not get involved under the following circumstances

We understand that some people may be annoyed by the activities or behaviour of someone else and may consider this to be a nuisance or annoyance. However, we must also take account of a person’s right to engage in activities that should be considered as reasonable under the circumstances.
We may not get involved or take enforcement action where:

- There is no evidence to show that it is likely there has been, or there is likely to be, anti-social behaviour. This includes where nuisance or annoyance is a result of reasonable behaviour.
- Those engaging in anti-social behaviour cannot reasonably be identified.
- Our involvement or action would not be a proportionate response in sorting out the problem.
- We assess that there is not an acceptable chance of a successful outcome.
- There is no suitable legal remedy that we can take.

In such cases, we may advise on “self-help” options and/or refer to another service.

**What we don’t consider to be anti-social behaviour**

To avoid doubt, the following are examples of types of behaviour that we do not generally consider to be anti-social and therefore may not become involved in investigating them:

- A baby crying.
- Young people gathering socially or children playing in areas of general needs housing or a designated play area at reasonable times (unless this is combined with other anti-social behaviour).
- Being unable to park a vehicle near or outside a home.
- Mowing lawns, using garden tools, using domestic appliances (e.g., vacuum cleaner, washing machine) or carrying out DIY at reasonable times, frequency and duration.
- Noise from everyday living, e.g., walking across laminate flooring, flushing a toilet
- Cooking smells

This is not a complete list.
Procedures

Contacting us

Anyone who lives in Chesterfield can contact us. But we will only become involved in an investigation where:

- The person engaging in anti-social behaviour is a council tenant, or a member of a council tenant’s household, or a council tenant’s visitor.
- or
- A council tenant is affected by anti-social behaviour from someone who is not a council tenant.

In all cases, the behaviour must be happening near the council tenant’s home.

If we cannot get involved, we will advise you on where you can report the problem.

How to contact us

Phone: 01246 345071

Post: Write to:
The neighbourhoods team, Stonegravels Depot, Old Brick Works Lane, Chesterfield S41 7LF

Email: neighbourhoodteam@chesterfield.gov.uk

Text: 07960 910 264

Facebook: Facebook.com/chesterfieldhousing

Download our free smartphone app (visit iTunes or the Google Play Shop)
What we do when you first contact us

In person or by phone

We will listen to you carefully and give you the opportunity to tell us what the problem is. We may ask a specialist ASB caseworker to speak to you.

By letter, email, text, Facebook or app

You will need to let us know how we can contact you to speak to you on the phone or in person.

Initial assessment

At this stage, we may let you know whether it is something that we can deal with. If we are speaking to you directly (e.g., on the phone), we may make this assessment there and then. If you contact us by letter, email, text or Facebook, we will contact you by whatever means you provide for us. However, please provide us with a phone contact number as we can deal with things much more quickly and effectively if we can speak to you at the earliest opportunity.

What happens next

Depending on the information you have provided and whether we have spoken to you directly, we may:

- Advise you on ways to try to sort out the problem without the council’s involvement, including approaching the person if this is appropriate. In many cases, approaching the person in a calm and reasonable manner can resolve the problem quickly and permanently. Often, the person genuinely does not know that their activities are affecting someone else or may assume that if no one tells them, everything is okay. Also, if the council gets involved before you have made an approach, the person is likely to feel unhappy that they have been reported without being told
about the problem first. This can lead to long-term ill-feeling, with the problem getting worse and with less chance of it being sorted out.

We would not suggest this if there is reason to believe that the person would react with aggression or abuse or if you have tried it before and it has not worked.

- Assign a named ASB caseworker to the case and give you their name and contact details.
- Arrange for your caseworker to see you directly. This would normally be in a council office, but it could be at your home or another place if necessary.
  - If it looks like the most serious type of anti-social behaviour (see ‘Serious anti-social behaviour’ on page 4) and/or if we have serious concerns about your health or wellbeing, we will offer you an appointment to take place within one working day of you contacting us.
  - If it looks like less serious anti-social behaviour, we will offer you an appointment to take place within five working days of you contacting us.
- Ask you to complete a form giving us brief details of the problem and giving us your permission to carry out an investigation and share your information with relevant organisations where needed.
- In all cases where we assess that there is anti-social behaviour for us to investigate, we ask you some questions to assess your risk of harm.
- Give you a Record of Incidents Form to help us carry out a more detailed assessment. You may need to provide us with written details of the problem, including:
  - dates of incidents and times of incidents
  - how often incidents occurred
  - the nature of the problem
  - how long any incidents lasted
  - who was affected
− whether there were any other witnesses
− any other relevant information

If you can’t give us details in writing, we will discuss how we help.

• Come to an agreement about:
  − how often we contact you to update you on any progress
  − how long you need to keep records of incidents. This will normally be between one and four weeks, depending on the nature of the problem. In some cases, it may just require the details of one or two incidents

• If we assess that it is not anti-social behaviour (e.g., where behaviour is reasonable under the circumstances), we will explain why and may suggest alternative types of action.

**Supporting you**

We will support you by:

• Keeping you updated on how the case is going.
• Only asking you to keep records for the shortest time possible.
• Taking action as quickly as possible to help prevent the anti-social behaviour from carrying on.
• Where we assess you as being at risk of serious harm, we will make a referral to the Police or other organisations so that a decision can be made with us about who should provide you with specialist support and what that support will be. Because your risk of harm might change, we will update this assessment where needed.
• We recognise that giving evidence at court can be a worrying and stressful experience. Those who act on behalf of their community by agreeing to be our witnesses deserve support. To reduce any anxiety around the process we will offer support to those who act as witnesses in court for us, including:
  − explaining the process to you
where possible arranging for you to visit the court before the hearing so that you will be familiar with it
- arranging transport or paying for your public transport costs in attending a court hearing
- assigning an officer to support you before, during and after the court hearing

- Where needed, we will carry out a safety audit of your home and arrange for home security items.
- In some very exceptional cases, we will consider moving you if you want.

**Action we can take**

We will normally consider any appropriate action which might work in a particular case. This may include working in partnership with other organisations.

Where appropriate, we will take a step by step (incremental) approach, where legal action (e.g., eviction) is only considered if other actions are not appropriate or have not worked, particularly where those engaging in anti-social behaviour are more vulnerable. However, we may take any action, including legal proceedings, without warning or without considering other actions if, in our opinion, the circumstances require it.

In all cases we become involved, we will try to talk to the person who is causing the problem.

We may provide support directly or by referral to another specialist support provider for people whose behaviour may be a result of a disability. We will take reasonable steps to make sure that an assessment takes place before taking legal action against a person who has, or who we suspect may have a protected characteristic (e.g., a disability).
The following are examples of the circumstances where we might consider taking the most serious actions such as eviction:

- A response to the most serious anti-social behaviour as outlined on page 4.
- Where the behaviour is so bad that the person should no longer be our tenant.
- Where there may be an absolute ground for possession. Absolute grounds for possession are specified in the law. They can be used when things have happened such as breaching an anti-social behaviour injunction or a conviction for a serious offence near the offender's home.
- Where incremental actions have not worked.
- Where anti-social behaviour is persistent and/or repeated.

For descriptions of the legal action we can take, see our publications ‘ASB Legal Action (CBC Tenants) 2019’ and ‘ASB Legal Action (Non CBC Tenants) 2019’

**Our decision on what action to take**

We will take into account the views of those involved in a case. However it will be our decision about what action we take or do not take.

**The right to respond**

We will give a reasonable opportunity for any person we are investigating to respond to allegations.

**Impartiality**

Impartiality means being fair, balanced and not taking sides. We must be impartial throughout our investigation. This means that we must base our assessments and actions on evidence (see pages 14 and 15).
Closing a case

We will always try to make contact with the person making the report before closing a case.

We will normally close a case only when the situation is sorted out and the person making the reports is happy for the case to be closed. However in certain circumstances we may close the case without the agreement of the reporter. These circumstances include:

- We have assessed that it is not anti-social behaviour.
- We are satisfied that we have done all we reasonably can.
- The person who reported the problem has not cooperated with a reasonable request (e.g., has not responded to requests for contact, has refused to attend an interview or has not provided information reasonably requested).
- We have not received any further reports of anti-social behaviour for three months.
- The allegations are likely to be false, malicious, a nuisance or vexatious.
Evidence

See terms and abbreviations (page 1)

If there is no evidence to show that it is likely that there has been anti-social behaviour, we will not take enforcement action (see pages 3, 4 and 5).

We must make reasonable attempts to clarify evidence and to make sure it is true and accurate. This includes face to face interviews and trying to get information to back up the evidence (corroboration) from other sources, including other people.

Where someone does not provide, clarify and back up evidence where needed, for instance by refusing a face to face interview, or to respond fully to questions, we may decide not to take further action.

We may not investigate or take further action unless we have direct reports from someone or direct evidence such as a conviction, open source information or it is self-evident. If evidence from a witness is needed for investigation and enforcement, we will not normally accept anonymous reports or those made through a third party.

Direct (first hand) evidence

See terms and abbreviations (page 1)

Where a case goes to court, the strongest type of evidence is direct evidence. Where someone provides this evidence (a witness), the identity of the witness is made known to the person being taken to court (the defendant) and to his or her legal representatives and to the court. The witness attends court and may be asked questions by the defendant’s solicitor and by the judge. We encourage and expect witnesses to provide direct evidence where it is reasonable to do so.
Hearsay evidence

See terms and abbreviations (page 1)

Hearsay evidence is where, for example, Person A gives evidence to Person B (e.g., a housing officer) about something which they have witnessed. Person B may present this information to the court as hearsay evidence without Person A needing to give a statement or to attend court to give evidence. However, Person B (e.g., the housing officer) may still need to make known the identity of the Person A.

Hearsay evidence may be accepted by the court, but it does not have the same value as direct evidence. We may therefore consider the use of hearsay evidence, but may decide not to use it or take it in into consideration if we think that there is not an acceptable chance of a getting a court order.

Anonymous evidence

The court may consider anonymous evidence where it can be shown that there is likely to be a serious risk of harm to Person A if his or her identity is made known. However the value which the court gives to anonymous hearsay evidence will be less than that of direct evidence. We may therefore consider the use of anonymous evidence, but may decide not to use it or take it in into consideration if we think that there is not an acceptable chance of a getting a court order.
Information exchange, disclosure and publicity

As part of our investigations, we may share information with other organisations (e.g., the police or environmental health). We will do this as allowed by law and with protocols, agreements and guidance made with Derbyshire Constabulary and Derbyshire Safer Communities Board. These explain the information that can be provided and exchanged and the ways this is allowed.

Unless there are exceptional circumstances (e.g., where the public interest would otherwise be profoundly and adversely affected), we will not disclose who made the report without permission from person who made the report.

Disclosure is possible where someone asks for information under data protection law (a data subject access request). We may refuse to supply information if the purpose of the refusal is to prevent or detect crime or some other lawful purpose.

If we consider it is reasonable in the circumstances to do so, we may disclose third party information (e.g., information provided by Person A that may identify them) to a data subject (normally the subject of Person A’s report) even where Person A has not given consent for disclosure. However before deciding whether to disclose this information, we will be sensitive to, and give proper consideration to this potential conflict between the data subject’s right of access and Person A’s right to respect for a private life. We will normally seek Person A’s consent before disclosure. We may advise Person A of this and give the option to withdraw the report rather than have the information disclosed.

We may disclose personal information to various teams within the council, but we will only do this with that person’s consent or where permitted under the law.
Publicity

We may publish details about individual orders that are granted in open court, including personal details of the defendant. In each case, we will consider the impact, including the human rights, on the named person and any associated people and whether the publicity is proportionate. If the court imposes reporting restrictions on the press, we will also consider whether and how to restrict our publication.