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## **Anti-Social Behaviour Procedure 2022-25**

# Appendix 2

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## 1. Scope and purpose of the procedure document

- 1.1. This document is one of two documents that tells you about Oxford City Council's anti-social behaviour (ASB) responsibilities and what we do to prevent and investigate ASB. This is the **Procedure** document. It explains in more detail how you can expect us to deal with your case should you report an ASB problem to the Council.
- 1.2. Our Anti-Social Behaviour **Policy** and Corporate Enforcement Policy should be read alongside this document and tells you what we mean by 'anti-social behaviour' and sets out the principles of our ASB service.

## 2. The Council's responsibilities

- 2.1. OCC believes that no-one should tolerate anti-social behaviour and will use tools and powers available to local authorities, where appropriate, to address all forms of nuisance.
- 2.2. These powers arise from three complementary roles
  - As a Responsible Authority for the Oxford Safer Communities Partnership
  - As a landlord
  - As an environmental protection champion
- 2.3. Anti-social behaviour refers to any form of nuisance, disorderly behaviour, intimidation or harassment that impact on a person's quality of life. Such a broad term can encompass everything from nuisance neighbours to environmental crime.
- 2.4. For ASB cases within other social landlords' and private landlords' properties the Council will not lead the case investigation but offer support and assistance, unless there are exceptional circumstances or we have a statutory duty to investigate, for example statutory nuisance offences.
- 2.5. The Council is not an emergency response service. Incidents where there is an immediate risk of harm to person or property must be reported to the police or other appropriate emergency service.
- 2.6. Incidents of a criminal nature must be reported to the police, for example, drug dealing. The police are the lead response and investigatory service for criminal offences. The Council work closely with the police and will consider criminal behaviours when investigating an anti-social behaviour case.

## 3. Behaviour that is not anti-social

- 3.1. The Council does not regard the following types of behaviours as anti-social and therefore we **will not** use enforcement powers against:
  - Children playing in a public place or a garden
  - Neighbour complaints regarding boundary disputes and other property matters, for example, location of waste receptacles, cooking smells, smoking and untidy gardens.
  - Noise from vehicles on the highway carrying out their routine activities, noise from emergency service vehicles, aircraft, helicopters or other motorised airborne vehicles and noise from demonstrations.

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- Reasonable living noise in domestic settings such as lawn mowing, household DIY, crying, loud talking, toilets flushing, sexualised noises, banging doors and noise from household appliances.
- Cycling, skateboarding, or riding e-scooters on the pavement and reports of inconveniently or illegally parked vehicles. Obstruction of the highway and pavements should be reported to the Highways Authority or to the police if there is an obstruction of the highway.
- Alcohol consumption in a public space that is not causing anti-social behaviour and noise from late night revellers.
- Flying drones. This should be reported to the Civil Aviation Authority or the police.
- People because they are homeless or rough sleeping.

## Categories of anti-social behaviour

Anti-social behaviour cases are categorised to determine the Council's response time as described below.

|  |  |
|--|--|
| <b>Category 1</b>  | <b>Target time for first contact with victim or referrer: three working days</b>       |
| <b>Definition</b>  |  |
| <ol style="list-style-type: none"> <li>1. Behaviour that presents a risk of serious harm to individuals or the peace of the neighbourhood and which may include violence, serious threats of violence or other criminal activity.</li> <li>2. Any complaint where there have been previous incidents and it appears to the case officer that a greater risk has developed or may be developing.</li> </ol>   |  |
| <b>Category 1</b> includes the following types of anti-social behaviour :-   |  |
| <ul style="list-style-type: none"> <li>■ Hate related incidents (hostility towards a person's race, sex or ethnicity, sexual orientation, disability, religion or belief, or transgender identity)</li> <li>■ Physical violence and threats of harm</li> <li>■ Child or adult safeguarding including cuckooing</li> <li>■ Domestic abuse</li> <li>■ Kerb crawling and aggressive, predatory and intrusive sexual behaviour</li> <li>■ Serious harassment, intimidation and threatening behaviour</li> <li>■ Racist or offensive graffiti following a report</li> <li>■ Threats to Oxford City Council or Oxford Direct Services staff</li> </ul> |  |
| <b>Category 2</b>  | <b>Target time for first contact with victim or referrer: within five working days</b> |
| <b>Definition:</b>   |  |
| <ol style="list-style-type: none"> <li>1. Behaviour that presents a risk to public health or nuisance.</li> </ol>  |  |
| <b>Category two</b> includes:  |  |
| <ul style="list-style-type: none"> <li>■ Noise disturbances due to unreasonable behaviour not excluded in section 5.</li> <li>■ Verbal abuse, written intimidation and harassment</li> <li>■ Allegations of sex working and sexual acts</li> </ul>   |  |

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- Other forms of serious anti-social behaviour, which in the Council's opinion, need priority but do not warrant an urgent or immediate response
- Minor noise nuisance
- Untidy gardens that may harbour vermin or present a public health risk.
- Litter, incorrect refuse disposal from domestic and commercial properties, fly tipping and dog fouling
- Running a business without permission that impacts on the neighbourhood
- Nuisance from vehicles such as untaxed vehicles and car repairs

## 5. Stages of an investigation

5.1. Many incidents of anti-social behaviour can be resolved between the parties with no involvement by the Council or other agency. The Council will encourage this course of action, whenever appropriate. In some circumstances mediation between both parties will be suggested.

5.2. Not all anti-social behaviour cases will follow the process set out below; however these stages are used as a guide to ensure that our investigations are robust and proportionate to the nature of the case. A case whose seriousness increases rapidly may result in moving straight to emergency court action, particularly where there is a serious threat of violence. The key stages to case investigation are:

- Reporting. On receipt of the initial report the case is allocated to the appropriate team, based on the nature of the report.
- Initial investigations and evidence gathering
- Early intervention
- Involvement of support services
- Enforcement activities
- Court action
- Case closure

## 6. Housing-related remedies for Council tenants

6.1. Early intervention techniques including accessing relevant support agencies, mediation, warning letters and voluntary Acceptable Behaviour Contracts (ABCs). There are cases where these remedies either do not work or need to have enforcement activities running alongside them. Listed below are the most commonly used tools to address anti-social behaviour.

6.2. **Introductory tenancies.** Introductory Tenancies are a "trial" tenancy where, if there are no problems with the tenancy after a year, the tenant will move onto a more secure form of tenancy agreement. The Council will adhere to the legal process set out for dealing with ASB related Introductory Tenancies. Enforcement measures used for Introductory Tenancies are:

- Extension of Introductory Tenancies
- Termination of Introductory Tenancies

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- Final Warnings
  - Possession proceedings
- 6.3. **Secure/Assured/Licence Tenancies.** This is the most common form of tenancy and provides the tenant security unless they breach the grounds of the tenancy agreement. Breaches can be dealt with by:
- Written warnings
  - Demoted tenancies. A demoted tenancy is a less secure form of tenancy. A secure tenancy can be demoted where there is anti-social behaviour, and is done by serving a Demotion Notice and making a court application for a Demotion Order. Demotion tenancies generally last for a period of 12-18 months.
  - Possession proceedings
- 6.4. **Possession Proceedings.** The council can consider applying to the court to repossess a tenant's home where the perpetrator of anti-social behaviour is a council tenant or someone living with or visiting a tenant. The behaviour complained of is a breach of the terms of the tenancy agreement, or, in the case of secure tenants, one of the grounds for possession as defined by the Housing Act 1985 applies.
- 6.5. The grounds for possession include where the tenant or a person living with or visiting the tenant is guilty of anti-social behaviour.
- 6.6. The type of tenancy held determines the course of legal action. When an application is made to court for possession of an Introductory Tenancy, the court should grant possession.
- 6.7. When the tenant is a secure tenant the court must also be satisfied that it is reasonable to evict the tenant on the basis of the anti-social behaviour that has been evidenced.
- 6.8. The **absolute grounds for possession** was introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. If one of the following five conditions is met the court must make an order for possession:
- the tenant, a member of the tenant's household or a person visiting the property has been convicted for a serious offence;
  - the tenant, a member of the tenant's household or a person visiting the property has been found by a court to have breached an injunction to prevent anti-social behaviour;
  - the tenant, a member of the tenant's household or a person visiting the property has been convicted for breaching a criminal behaviour order;
  - the tenant's property has been closed for more than 48 hours under a closure order for anti-social behaviour; or
  - the tenant, a member of the tenant's household or a person visiting the property has been convicted for breaching a noise abatement notice or order (convictions in practice are exceptional and are likely to relate to very serious noise issues).

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6.9. Application for possession will always be a last resort, particularly where there is a serious harm to the mental health of the tenant. Examples of cases where eviction would be considered include:

- Dealing/supplying/cultivation of drugs from council property;
- Using violence or severe intimidation against neighbours or staff;
- Using council property for serious criminal activity;
- Where properties have been closed using anti-social behaviour closure powers;
- Where the anti-social behaviour is persistent and other attempts to prevent it have failed.

## 7. Anti-Social Behaviour enforcement remedies

7.1. Prior to formal enforcement action, the case officer will ensure all reasonable steps have been taken to identify any vulnerabilities and safeguarding needs, and that all appropriate supportive actions have been considered.

7.2. Our policy is to take the lowest level of intervention suitable to the case. Often matters can be resolved by explaining the impact of a person's behaviour on others. Verbal or written warnings may be used. Officers have discretion to take more invasive actions as are proportionally required in each case in order to prevent harm or risk to public health.

7.3. In complex cases enforcement options will be discussed with the Council's Legal Services Team and a written note of the advice given will be filed against the case notes. Having first obtained approval by their line manager the case officer will compile a full case file with all documentary evidence obtained during the investigation for enforcement by the Council's Legal Services Team. This will include all available evidence such as photographs, statements, letters, ABCs, Cautions and CCTV evidence. In these complex cases, all draft legal notices will be sent to Legal Services for their approval, prior to serving.

7.4. All complex cases that involve homeless people, or may bring a significant media attention on the Council will be signed off at a senior level, Head of Service or above.

7.5. Managers will provide advice and guidance in regard to appropriate legal measures, taking full account of the perpetrator's age, tenure, vulnerabilities and the seriousness of the case.

7.6. In line with Home Office guidance, no enforcement action will take place if it would result in an individual being disproportionately and unreasonably affected. Reasonable steps will be made to obtain relevant information and advice on a person's vulnerabilities from support agencies, which may include outreach teams, GPs, mental health services, housing providers and the police.

7.7. **Civil Injunction.** The ASB, Crime and Policing Act 2014 introduced a Civil Injunction granted by the County Court. It is available for perpetrators of ASB aged 10 years or over. There is no minimum and maximum term for an

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injunction for adults but for under 18s, the maximum term is 12 months and the local Youth Offending Team must be consulted.

- 7.8. The Injunction can include positive requirements which are relevant to getting the perpetrator to address underlying reasons for their ASB. A power of arrest can be attached if violence has or is threatened, or there is significant risk of harm to others.
- 7.9. Breach of an Injunction is a contempt of court and not a criminal offence. However, the county court can still apply serious sanctions including prison.
- 7.10. **s.152 Housing Act 1996 Injunction.** This injunction is granted by the County court in order to prohibit a person from engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises. This also includes using the premises for immoral or illegal purposes. A power of arrest (s.153) can be attached.
- 7.11. In very serious cases it may be possible to apply for an Interim Injunction whereby the court issues the injunction without the need for the perpetrator to be at the hearing. A full hearing is scheduled for a later date.
- 7.12. **Injunctions for trespass.** The Council can send a prohibition letter banning individuals from entering council-owned land. If the letter is ignored this will be trespass and the Council can apply for an injunction banning the individual from continuing the trespass.
- 7.13. **Injunctions under s.222 Local Government Act 1972.** The Council can use the authority of s. 222 Local Government Act 1972 to bring proceedings in the County Court to prohibit a person from continuing to cause a public nuisance, if it can be shown that it is expedient for the promotion or protection of the interests of the inhabitants of the area.
- 7.14. **Closure Notices and Closure Orders.** The Council can issue a Closure Notice and if relevant apply for a Closure Order for a premises that is the cause of significant and persistent disorder, or persistent serious nuisance to a community. The Closure Notice lasts for a maximum period of 48hrs if signed by a police Superintendent or Senior Council Official, and 24 hours if signed by a police Inspector. A Notice can prohibit everyone from the premises or allow access to certain people, for example, the people who habitually live on the premises and the owner of the premises. A Closure Order is issued by the court and the application must be made within 48hrs of the issuing of a Closure Notice. The closure period is three months and can be extended to a maximum of 6 months.
- 7.15. **Seizure of sound equipment.** Section 10(7) of the Noise Act 1996 confirms the power of a local authority to abate any statutory noise nuisance by seizing and removing equipment used in the emission of the noise in question.
- 7.16. **Seizure of vehicles.**

Vehicles may be seized under different legislation dependant on the offence, including if the vehicle is making a statutory noise nuisance with its alarm system. Legislation to control waste offences; The Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015



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section 5 of the Control of Pollution Amendment Act 1989, section 34B of the Environmental Protection Act 1990.

## 7.17. **Environmental Protection Act 1990.**

The Environmental Protection Act 1990 provides the legal framework for the management of litter, domestic and commercial waste disposal, and duty of care responsibilities. Section 79 and 80 of the Act contains public health and statutory nuisance definitions and provisions for legal action.

7.18. **Community Protection Notices.** Community Protection Notices (CPNs) can be issued to stop a person, aged 16 or over, business or organisation from causing anti-social behaviour. The behaviour must be unreasonable, persistent and has a detrimental effect on the quality of life of those in the locality. A warning of a CPN (CPW) must be issued first, followed by the CPN if the behaviour continues. Failure to adhere to the CPN can result in a fixed penalty notice, prosecution at court or the Council can undertake remedial action. The CPN can include positive requirements on the person or organisation, although the Council cannot prosecute for breaches of positive requirements.

7.19. CPNs are most commonly used for environmental crimes and noise complaints. For the less complex cases a set of common prohibitions are available for case officers to use. Complex cases involving more bespoke prohibitions the CPWs and CPNs are agreed with Legal Services as set out in paragraph 7.2. Remedial actions can be taken and a court can issue seizure or remedial orders.

7.20. **Public Spaces Protection Order (PSPO).** PSPOs are designed to deter anti-social behaviour in public spaces by placing conditions on the use of the area. Breaches of a PSPO will usually result in officers issuing a verbal warning, often alongside an information sheet that explains the Order in more detail. Further breaches can result in the issuing of a fixed penalty notice or prosecution at court. Current PSPOs can be found on the Oxford City Council website.

7.21. **Criminal Behaviour Orders (CBO).** Available to the Crown Prosecution Service and Local Authorities, these Orders can be applied for on conviction of a criminal offence and are designed to curb the behaviour of perpetrators of persistent ASB and criminality. The Council may apply for a CBO when a person is convicted of breaching a CPN, PSPO, Environmental Protection Act 1990, S80 abatement notice, bye-law or other criminal offence the Council has the power to prosecute.

## 8. **Evidence gathering**

8.1. The Council will not investigate anonymous complaints. It is important for us to be able to speak to a complainant about the behaviour they are concerned about.

8.2. We will not disclose a complainants personal details to the alleged perpetrator of the behaviour. Where it is necessary to speak to the alleged perpetrator, the complainant will be advised prior to a contact.

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- 8.3. In order to investigate reports of anti-social behaviour we are evidence-led and rely on evidence supplied by complainants and witnesses. We will not investigate cases where no evidence or details of the case is provided.
- 8.4. It is essential that high quality evidence is gathered at an early stage to ensure risks are identified, the correct courses of actions are taken, support agencies are involved and, if necessary, court files prepared. Case officers will ensure all investigations are thorough and all avenues of potential evidence are explored to determine the most effective means to resolve complaints of ASB.
- 8.5. This information is recorded on the ASB case management system. Any evidence provided in support of an anti-social behaviour case may be used as evidence in legal proceedings, where appropriate.
- 8.6. **Statements.** Witness Statements can be taken from any person over the age of 10 years, but for anyone under 18 an appropriate adult is advised. Persons under 18 years are entitled to special measures and best evidence principles should be considered. Everyone who gives a statement is liable for cross examination in court unless the defence have accepted the evidence as per section 9 of the Criminal Justice Act 1972.
- 8.7. **A victim personal statement** should always be included in all case files.
- 8.8. **Community Harm Statements.** May be used, where appropriate, in order to highlight the harm an individual's behaviour is having on the wider community. Statements may be exhibited as part of legal proceedings or may be used as part of non-legal interventions.
- 8.9. **Professional witnesses** can be used in situations of harassment, threat or intimidation where a witness is not prepared to make a statement.
- 8.10. **Noise App.** The ASB service has signed up to the RHE Noise App which allows individuals to download the app free of charge onto their smart phones. Noise can then be recorded and digitally diarised over a two week period. During this period the digital diary will be accessed by an allocated case officer from the ASB service and a relevant investigation plan formulated.
- 8.11. **Incident diaries** will be made available to all complainants of ASB and will be:
  - provided with guidance of 'how to complete'
  - made available in community languages where requested
  - provided with a freepost envelope, on request
  - made available digitally on request.
  - Alternative methods of capturing information can be arranged if preferable.
- 8.12. **Letter drops.** Neighbours may be written to asking whether they would like to report any cases of anti-social behaviour or have information relating to a case. All responses are kept confidential.
- 8.13. **Photographs.** Photographic evidence is particularly used when prosecuting environmental offences such as dog-fouling, fly-tipping, illegal

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parking and incorrect presentation of domestic or commercial waste. Caution is advised when taking photographs which can be intrusive and present a risk to the witness.

- 8.14. **Surveillance.** Where surveillance operations are to be used to obtain directed covert CCTV evidence, an appropriate Regulation of Investigatory Powers Act 2000 (RIPA) authorisation will be sought. Private CCTV systems are commonly used, including door bells. Use of these systems must adhere to statutory guidance found on the Information Commissioners Office website.

## 9. CCTV

- 9.1. CCTV can be a significant tool in the fight against ASB. The impact of CCTV can also help detect crime, as well as identifying missing persons and other public safety concerns.
- 9.2. The ASB service has a number of redeployable overt and cover CCTV cameras available for monitoring ASB hotspot areas throughout the City and within communal areas of council owned properties. These cameras are managed by the ASB Service.
- 9.3. The Council own body-worn video (BWV) cameras for use by case officers when undertaking their evidence-gathering and investigate roles. The Council has a separate procedure for the use and management of the cameras and the data gathered, including the use of privacy zones.
- 9.4. The Council adhere to the principles set out by the Information Commissioner Office.
- 9.5. Oxford's public space CCTV cameras are currently managed under a partnership agreement between Oxford City Council and Thames Valley Police.
- 9.6. The cameras, except those in the Park and Ride sites, are managed and monitored from the CCTV Suite in St Aldates Police Station. The cameras are located in the following places:
- Oxford City Centre
  - Park and Ride sites
  - Cowley Road
  - Rose Hill
  - Wood Farm
  - Barton
  - Blackbird Leys
  - City Council tower blocks.

## 10. Supporting victims and witnesses

- 10.1. When a complaint of ASB is reported to the ASB Service the case officer will explain the process, agree with the complainant how often they want to be contacted, assess the risk to them and update them as the case progresses.

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- 10.2. Every complainant will receive information on what they can expect from the case officer, how they can gather evidence, what tools and powers are available and the investigation process.
- 10.3. The case officer, if appropriate, will sign post or refer complainants to other support services.
- 10.4. To tackle ASB effectively, victims and witnesses must feel able to provide evidence in confidence and without fear. We will discuss with the complainant their views on anonymity, particularly in regard to court hearings that usually require a witness statement and subsequent appearance at court.
- 10.5. For cases that go to court, the case officer must consider compiling a "Victim personal statement" detailing the effects of the perpetrator's behaviour on the witness's life. The court is obliged to take this statement into account when dealing with the offender.
- 10.6. Officers will ensure that any instructions issued to legal representatives will include full consideration of the needs of the witness especially with regard to the availability of special measures. Officers will always advise complainants of the final outcome of cases and of any measures aimed at preventing problems from recurring.

## **11. Information sharing arrangements**

- 11.1. Information sharing arrangements are governed by the Oxfordshire Community Safety Information Sharing protocol that can be found on the Oxfordshire Insight website. This is based on the power to share information for the prevention or detection of crime and disorder as set out in statute. The protocol describes how data will be managed in line with data protection principles.

## **12. Logging concerns for children, young people or vulnerable adults**

- 12.1. In the course of an investigation an officer may come across a person whose welfare may raise concerns. Whether or not the subject has a direct connection to the case under investigation, it remains the duty of officers to ensure that these concerns are properly logged on the Council's safeguarding reporting system and passed to social services through the Council's safeguarding procedures.

## **13. Monitoring the service**

- 13.1. Oxford City Council is committed to delivering a high quality anti-social behaviour service. Our aim is to continuously improve the way we work and to acknowledge, and learn from, the occasions when the service fails to meet expectations.
- 13.2. How we deal with ASB in the community is also monitored against an agreed set of minimum standards of performance, established in the Oxford Local Offer for ASB. We report on our performance against these standards.

## **14. Professional discretion**

- 14.1. Our ASB policy commits us to dealing with anti-social behaviour fairly and proportionately. Our services are constantly evolving and each ASB case is

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unique. When appropriate, we will use our discretion to vary our approach depending on the circumstances of the case.

## **15. Comments, compliments and complaints**

- 15.1. As a service provider, Oxford City Council strives to excel in customer satisfaction. We particularly feedback where our staff, services, policies and procedures have exceeded customer expectations.
- 15.2. Oxford City Council's objective is to build a world class city for everyone and excel in our service provision. We recognise that things sometimes can go wrong. When they do, we want to put them right as soon as possible and learn from what happened to develop and improve services and procedures.
- 15.3. To ensure we receive customer feedback, either positive or negative, please call us on our mainline number: 01865 249811 or use our on-line form that can be found here:

<http://www.oxford.gov.uk/PageRender/decVanilla/CommentsComplimentsorComplaints.htm>

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