

**RUSHCLIFFE BOROUGH COUNCIL**

**ANTI-SOCIAL BEHAVIOUR INVESTIGATION  
AND ENFORCEMENT PROTOCOL**

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## **1. INTRODUCTION**

Anti-Social Behaviour (ASB) can occur anywhere and at any time. It may occur in a private area or a public one and it is primarily generated through an individual's perception of an act being anti social. In other words the primary mechanism by which an individual will be triggered into thinking that an act was anti social in nature will be determined by what their perception is of 'social behaviour'. Clearly this perception will vary between individuals who live in the same area and will be determined by an individual's range of life experiences and beliefs. With this in mind it is very difficult to have a standardised response to allegations of ASB, as responses and investigations need to be sensitive to the perceptions of the victim. This document therefore attempts to set out the processes that Rushcliffe Borough Council ('the Council') will use, often in partnership with other agencies, to try and tackle allegations of ASB.

## **2. RUSHCLIFFE BOROUGH COUNCIL'S LEGAL DUTIES**

The law places a variety of duties on the Council and these are set out below.

The primary duty is under Section 17 of the Crime and Disorder Act 1998 and states that:

*"Without prejudice to any other obligation, every local authority...are under a duty to exercise their 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, crime and disorder in it's area."*

The Council is committed to meeting the above legal duty, when dealing with Anti Social Behaviour, through employing a variety of measures and interventions that are proportionate to the problem being addressed. The Council also acknowledges that in addition to the general duty above, it may also have specific duties placed upon it by legislation e.g. duty to investigate statutory nuisances and the duty to deal with abandoned vehicles.

The Council also recognises that individuals may be owed a specific statutory duty by legislation e.g. the duty to assess a child's needs and make provision for them. These duties would be considered with relevant partners as and when necessary.

Finally the Council also recognises the general legal duties which are negative in nature e.g. the duty when taking administrative action not to act illegally, irrationally, or in a way that is procedurally improper; the various prohibitions on discrimination and the prohibition in section 6 of the Human Rights Act 1998 on public authorities acting in a way that is incompatible with rights under the European Convention.

## **3. WHAT IS ANTI SOCIAL BEHAVIOUR?**

ASB is defined for the purposes of the law at Section 1(1) of the Crime and Disorder Act 1998, which states that ASB means acting in:

*“a manner that caused or was likely to cause harassment alarm or distress to one or more persons not of the same household as himself’.”*

Outside of the law the government has given guidance on the meaning of ASB as follows:

*“A pattern of behaviour which continues for a period of time but cannot be dealt with easily or adequately through the prosecution of those concerned for a single snapshot or criminal offence.” (Home Office Guidance, March 1999)*

*“ASB...covers a whole complex of thoughtless inconsiderate or malicious activity.” (Home Office Guidance, 2002)*

*“The common element in all ASB is that it represents a lack of respect or consideration for other people. It shows a selfish inability or unwillingness to recognise when one’s individual behaviour is offensive to others and a refusal to take responsibility for it. More fundamentally it shows a failure to understand that one person’s rights are based on the responsibilities we have towards others and towards our families and communities.” (White Paper, ‘Respect and Responsibility – Taking a Stand against Anti-Social Behaviour’)*

ASB is therefore defined by the impact it has, or the likely impact that the behaviour could have had, on a victim.

As the definitions above will be interpreted based largely on individual perceptions and understanding of society this makes them very broad and nonspecific which in turn makes measuring and tackling ASB difficult. To address this, the Council has categorised ASB in line with the Home Office Development and Practice Report ‘Defining and measuring anti-social behaviour’ (2004). The behaviours are divided into four core areas according to whether they occur in a public space, whether they have a direct or indirect victim and whether the behaviour impacts on the environment. Sitting below the four core areas are sixteen types of ASB that are used for the categorisation and recording of complaints made to the Council (see table one). It also has to be recognised that some types of behaviour could fall under more than one heading and in this situation the most appropriate behaviour type will be selected for recording the complaint.

**Table 1: The 16 Categories of ASB**

| <b>Misuse of Public Space</b>   | <b>Disregard for community/<br/>personal well being</b>                                     | <b>Acts Directed at people</b> | <b>Environmental Damage</b>                     |
|---|---|--------------------------------|---|
| Drug / substance misuse & dealing<br>Street Drinking<br>Begging<br>Prostitution<br>Kerb Crawling<br>Sexual Acts | Noise<br>Rowdy behaviour<br>Unreasonable Behaviour<br>Hoax calls<br>Animal related problems | Intimidation / harassment      | Criminal damage / Vandalism<br>Litter / rubbish |

|   |  |  |  |
|---|--|--|--|
| Abandoned cars<br>Vehicle related<br>nuisance &<br>inappropriate vehicle<br>use |  |  |  |
|---|--|--|--|

Just as important as defining what constitutes ASB is defining what does not constitute ASB, as a failure to do this could result in almost any behaviour being treated as such. The broad definition of ASB means that reaching agreement about the meaning of the term is extremely difficult, as whether or not a type of behaviour satisfies the definition(s) will undoubtedly depend on an individual's standpoint in relation to it.

The government has given guidance on what ought **not** to be considered as ASB:

*“run of the mill disputes between neighbours, petty intolerance or minor one-off acts.” (Home Office Guidance, March 1999).*

Limited resources require any investigations to be targeted at the ASB which the Council can have the greatest impact on and therefore we **will not** record or investigate the following:

- Children playing in a public place e.g. streets, where they are **not** making excessive noise, obstructing access to public space or causing damage.
- Low level neighbour disputes, e.g. over land boundaries, location of bins.
- Reasonable noise from vehicles on the highway carrying out their routine activities.
- Reports of inconveniently or illegally parked vehicles will be recorded, but may not be immediately investigated. Where a significant and repetitive problem develops further action may be taken.

#### **4. A PARTNERSHIP APPROACH**

It is accepted fully by the Council that a multi-disciplinary or ‘partnership’ approach is both necessary and appropriate to tackle ASB effectively. We will therefore work closely with all partners who can assist in solving or reducing ASB in an area. We will also be committed to working with affected neighbourhoods and communities to support and assist them in tackling ASB in their area.

The Council will liaise directly with the Neighbourhood Policing Officers through the South Notts Community Safety Partnership, Local Delivery and Tasking Group. Front line officers of the Council and its partners, including Neighbourhood Policing Officers, will meet up and liaise through the Anti Social Behaviour Working Group which meets on a monthly basis. The Council's Investigating Officers may also attend the Neighbourhood Policing tasking meetings as deemed appropriate and within resources available to the Council.

## **5. THE INCREMENTAL APPROACH TO ENFORCEMENT**

The varied nature of ASB combined with the personal perception of severity requires the Council to use an incremental approach to interventions. A report of ASB made to the Council will be prioritised based on the severity and the likelihood of achieving a successful intervention. For example, a severe incident with no information on the perpetrator may be considered a lower priority than a less severe incident where reliable intelligence about the perpetrator is available. Clearly, having reliable information about the perpetrator is essential if successful action is to be taken by the Council or its partners.

The order in which the Council will generally approach reported incidents of ASB is as follows:

- (i) Warnings
- (ii) Support
- (iii) Legal Action

### **Warnings**

In many cases the first action that will be taken by the Council is to bring the incident to the attention of any known perpetrator whilst at the same time warning them about their behaviour and the consequences of it. Warnings may be in writing or verbal but in all cases they will be recorded on the appropriate computer system for future reference. Warnings may also be issued to parents or guardians where the perpetrator is under the age of 18 and / or the circumstances of the case are such as to require it.

### **Support**

Support may be given to individuals who have been found to be engaging in ASB through various mechanisms e.g. Acceptable Behaviour Contracts (ABC's), Mediation, or referral to other agencies. This type of action inevitably requires the co-operation of the perpetrator and a willingness to want to change their behaviour. It may also be necessary to offer support to parents or guardians of the perpetrators of ASB and this can be provided through a variety of mechanisms e.g. Parenting Support Classes.

### **Legal Action**

Appropriate legal action will be taken against individuals who have failed to respond to the warnings given or support offered. The first two stages of intervention may be bypassed and legal action sought as the first intervention in cases where the nature of the ASB is so severe that it warrants immediate action e.g. closure of a crack house. The legal powers available to the Council are wide ranging and may include the use of Anti Social Behaviour Orders (ASBOs), Injunctions, Criminal Prosecution, or issuing of Fixed Penalty Notices. Any decision regarding the taking of legal action will be made after full consideration of the available evidence and will be in accordance with the principles set out in the Council's Corporate Enforcement Policy.

## **6. RECORDING OF INCIDENTS**

The Council will record all incidents reported to it on the appropriate database and any actions taken in response to the incident. The Council will also record information about

individuals who are allegedly involved in acts of ASB. Information relating to individuals will be held on the Uniform database.

## 7. CASE INVESTIGATION AND LEAD AGENCIES

Where it is necessary to do so the Council will refer incidents and / or individuals to partner organisations for investigation. Referrals will take place and be based upon the individual merits of the case in question. Once again, because of the varied nature of ASB, it is not possible to specify the types of cases which will be investigated by the Council and those which will be investigated by other organisations.

It is only possible to generalise about the investigation of cases except where a specific duty has been placed on the Council to deal with certain matters e.g. abandoned vehicles or noise nuisance. The table below sets out who will generally lead in the investigation of cases, however, the specific detailed nature of the case will be the main factor affecting which organisation actually takes the lead.

| Type of ASB                       | Lead Agency            | Additional Notes                                     |
|-----------------------------------|------------------------|--|
| Abandoned Vehicles                | Rushcliffe BC          | RBC is under a legal duty to take action             |
| Animal related problems           | Rushcliffe BC          | May involve Police or Registered Social Landlord     |
| Begging                           | Police                 | May be a homelessness issue                          |
| Criminal Damage / Vandalism       | Police                 | With support from partner agencies                   |
| Drug / substance misuse & dealing | Police                 | Clearance of drug paraphernalia may involve RBC      |
| Fly Tipping                       | Rushcliffe BC          | May be referred to the Environment Agency            |
| Graffiti                          | Rushcliffe BC          | Close work with the Police to apprehend perpetrators |
| High Hedges                       | Rushcliffe BC          | Legal duty to investigate falls to the Council       |
| Hoax calls                        | Agency affected        | May require specialist assistance                    |
| Intimidation / harassment         | Police / Rushcliffe BC | Can be 'civil' as well as a 'criminal' offence       |
| Kerb Crawling                     | Police                 | Support agencies may be involved                     |
| Litter / rubbish                  | Rushcliffe BC          | May require PCSOs to support in hot spot areas       |
| Noise                             | Rushcliffe BC          | RBC may be under a legal duty to take action         |

| <b>Type of ASB</b>                                   | <b>Lead Agency</b>     | <b>Additional Notes</b>  |
|--|------------------------|--|
| Prostitution   | Police                 | Support agencies may be involved   |
| Rowdy behaviour                                      | Police / Rushcliffe BC | Lead authority often determined by location and cause of rowdiness e.g. Youth Services may lead where young people hanging around is the cause of the rowdiness. |
| Sexual Acts  | Police                 | Support agencies may be involved   |
| Street Drinking                                      | Police                 | The Council may help with DPPO's   |
| Unreasonable Behaviour                               | All agencies           | Very wide ranging behaviour types fall into this category  |
| Vehicle related nuisance & inappropriate vehicle use | Police / Rushcliffe BC | Lead agency depends on the type of ASB reported  |

Effective partnership working is reliant upon the most appropriate agency taking the lead in investigating a case with the support of others where possible and appropriate.

Some incidents may be resolved quickly and easily by the lead agency, falling neatly into their work area. However, the majority of ASB incidents are more complex, and can involve a number of types of ASB, the solutions for which require the input of a number of different agencies. In order to ensure that all relevant agencies are involved, and to maximise cooperation between partners, an Anti-Social Behaviour Working Group has been established. Acting as a sub group of the South Notts Community Safety Partnership, Local Delivery and Tasking Group, it meets on a monthly basis to review progress and agree actions against individual cases and hot spot areas. The membership of the group represents those agencies with a 'front line' function and interest in the cases on the agenda. The group is chaired and administered by the Environment and Waste Management Service.

Some cases may be more complex and involved in nature and where more detailed discussion is required, separate case conference meetings will be held involving all the relevant partners.

## **8. HOW WE RESPOND TO A COMPLAINT**

### **Stage One – Investigation**

The Council, once it has accepted a complaint, will begin its investigation. The initial stage will be focussed on the gathering of evidence and may include any of the following techniques:

- Taking witness statements
- Requesting diary sheets to be completed to log incidents
- Use of CCTV cameras
- Use of sound recording equipment
- Informal interviews
- Interviews under caution
- Site visits / inspections
- Case conferences

Investigations may be short lived or take a significant period of time depending upon a variety of factors e.g. frequency of the alleged occurrence, complexity of the evidence, availability of resources, co-operation of the perpetrators, willingness of witnesses. Investigating Officers will explain to complainants how an investigation is proceeding and keep them updated at a regular frequency throughout the course of an investigation. Complainants will be given the investigating officers direct phone number and will be able to contact him / her during normal working hours. If the investigating officer is unavailable then another competent officer may deal with a request although it has to be accepted that their knowledge of a particular case may be limited and if this is the case then they may not be able to comprehensively deal with a query immediately.

### **Stage Two – Taking Action**

Once evidence has been gathered a decision will be taken on the most appropriate course of action. The response must be proportionate to the severity of the behaviour and the quality of the evidence obtained. Actions may include any of the following:

- No action e.g. where insufficient evidence is obtained
- Issuing of a warning letter
- Service of a formal notice
- Issuing of a Fixed Penalty Notice e.g. dog fouling, fly posting
- Arranging a voluntary agreement e.g. an Acceptable Behaviour Contract
- Applying for a formal court order e.g. eviction, injunction, anti-social behaviour order
- Prosecution e.g. breach of a noise abatement notice
- Referral to another agency

Decisions on the most appropriate course of action to take will not always be made in isolation and may well involve partner(s) input. Complainants will be advised of any action that is taken when it is appropriate and legal to do so. Some cases involving minors may restrict what information if any can be released to the public.

### **Stage Three – Monitoring Activity**

Once a course of action has been taken, the Council will monitor activity levels to see whether or not the situation is improving. Complainants will also be asked to monitor the situation and report any activity to the Investigating Officer so that appropriate action can be taken to enforce any formal court orders, statutory notices, or voluntary agreements. Monitoring may reveal that the problem has stopped, reduced, continued, or got worse. Depending on the findings of the monitoring exercise a decision will be

made on the most appropriate course of action and this may be to do nothing or escalate the action e.g. decision to prosecute for breach of an ASBO.

#### **Stage Four – Closing a Case**

The Council will close cases once action has been taken which has effectively reduced the ASB to an acceptable level. In some cases this may require a complete elimination of the behaviour whereas in others a reduction in the activity may be sufficient e.g. it is generally accepted that a complete elimination of littering is not possible. When a case is closed the Council will write to you advising that the case is being closed and at this stage you are able to make representation to the Council if you want the case to remain open. Usually further evidence will be required if a case is to be kept open.

### **9. CUSTOMER FEEDBACK**

When a case is closed, the Council will send out a customer feedback questionnaire to the complainant asking for their opinion about the quality of the service they received. It will ask them to indicate whether or not they felt the problem got better, stayed the same, or got worse, as a direct result of the Council's activity. In order for the Council to improve its ASB investigation service it is vitally important that it receives feedback from those that have used the service and complainants will therefore be encouraged to complete the questionnaire in an open and honest manner.

In addition to the customer feedback questionnaire feedback can be sent at any stage of an investigation by using any of the following:

- our online Official Complaints Form at [www.rushcliffe.gov.uk](http://www.rushcliffe.gov.uk)
- e-mail to [customerfeedback@rushcliffe.gov.uk](mailto:customerfeedback@rushcliffe.gov.uk)
- our Customer Feedback form available through the Customer Services Centre, Civic Centre, Pavilion Road, West Bridgford, Nottingham, NG2 5FE
- by letter to the Neighbourhood Manager, Civic Centre, Pavilion Road, West Bridgford, Nottingham NG2 5FE
- call our Customer Services Centre on 0115 9819911
- in person at the Customer Services Centre, Civic Centre, Pavilion Road, West Bridgford
- get someone else, for example, your local councillor or Member of Parliament to send us feedback on your behalf.

### **10. COMMUNICATION**

Keeping the public informed of action that has been taken is recognised as a vitally important element of reducing the fear of ASB and promoting parity between perception and reality of ASB in the minds of the public. The Council will use the most appropriate manner of publicising issues and actions to maximise positive impact within affected communities. This may include any or all of the following:

- Articles in Council and Parish Council publications
- Leaflet drops in targeted areas
- Door to door communication
- Use of appropriate websites and forums

- Email and SMS (text) alerts through suitable media e.g. Ringmaster
- Poster campaigns
- Press releases
- 1 to 1 meetings
- Public meetings

The list is not exhaustive and the critical point is that the most appropriate method of communicating is used. This decision will be made on a case by case basis and in line with any guidance issued e.g. "Publicising Anti-Social Behaviour Orders" – Home Office March 2005. Where partners are involved then they too will be consulted to ensure that where possible all communication needs are met. The Council will consult its Public Relations Officer (or equivalent) for advice on communication issues where it is appropriate to do so.

The Council also recognises the South Notts Community Safety Partnership's Communications Strategy and will contribute to the development and implementation of that strategy whenever it is reasonably practicable to do so.