

Corporate Anti- Social Behaviour and Hate Incident Policy

2021-2025

Charnwood Borough Council

Introduction

Charnwood Borough Council recognises that residents are entitled to live in a quiet and peaceful environment free from anti-social behaviour (ASB) and hate incidents.

For the vast majority of residents, ASB is not an issue. However, where it does occur, ASB can have a devastating impact on the quality of life for residents if not dealt with.

Whilst the Council aims to resolve ASB through informal action, the safety of residents is taken very seriously, and the Council will tackle anti-social behaviour effectively, using court proceedings where it is appropriate to do so to protect our residents. The Council will take a risk-based approach, with resources targeted at those cases which carry the greatest risk of harm to individuals and communities.

The Anti-Social Behaviour, Crime and Policing Act 2014 introduced new powers to tackle ASB and provide better protection for victims and communities. This included faster routes to gaining possession of a property where serious ASB has occurred and extended the use of civil injunction to minors.

This Policy will ensure that the full range of legal remedies is available to the Council when tackling ASB and will place victims and communities at the heart of its response. This approach is in line with the intention of the legislation.

In managing ASB and hate-related incidents, a firm but fair, transparent and consistent approach will be adopted. The needs and circumstances of vulnerable residents and perpetrators will be taken into account and, where appropriate referrals for support will be made.

1. Executive Summary

Charnwood Borough Council has the highest population of any district in Leicestershire outside of the City of Leicester and is estimated to be 180,000.

Loughborough is a university town, and therefore, has a high student population. The Council works in partnership with the University to deal with incidents of anti-social behaviour and nuisance involving students, as both potential victims and / or perpetrators.

The Council owns and manages approximately 5,500 rented homes, 310 leasehold flats and 21 leased shops, and has a responsibility to investigate anti-social behaviour, and enforce conditions of tenancy by all legal means possible.

The Council's Corporate Strategy 2020-24 incorporates three themes; one of which is "Healthy Communities". The Strategy states that:

We will continue to work with partners to make our towns and villages safer places to live, work and visit. We will support our communities by delivering a range of services which not only help residents, but also empower them to make a positive difference in their local areas. Community cohesion will remain a priority.

The Council works in partnership with both statutory and non-statutory agencies in order to resolve ASB at the earliest opportunity, protecting individuals and communities, stopping and changing the offending behaviour where possible, and keeping an emphasis on the complainant or victim.

The definition of ASB contained in the Anti-Social Behaviour, Crime and Policing Act 2014 is used by this policy. ASB can cause distress and can affect the quality of life for residents. This Policy outlines the Council's approach to taking effective action both to prevent and tackle ASB.

The Council has a duty of care to victims of crime and ASB and is required to meet regulatory and legislative guidance.

2. Scope and purpose of this document

This document sets out the Council's responsibilities and how it deals with ASB.

This document does not say how the Council will deal with ASB on a day-to-day basis. This is explained in the following Policies (and any accompanying Procedures) which should be read alongside this document.

- Charnwood Community Safety Partnership Plan 2020-23
- Charnwood Borough Council Corporate Enforcement Policy
- Regulatory Services Enforcement Policy
- Private Sector Housing Enforcement Policy
- Houses in Multiple Occupation Licensing Scheme Conditions (Borough wide)
- Selective Licensing Scheme Conditions (Hastings and Lemyngton wards only)
- Service Level ASB Procedures

This Policy specifically focuses on anti-social behaviour and does not include issues investigated under other legislative frameworks.

3. What is Anti-Social Behaviour?

The Anti-Social Behaviour, Crime and Policing Act 2014, defines ASB 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.*

ASB can affect different people and communities in different ways. Actions that may seriously distress one individual or community may not affect or bother another individual or community at all. Incidents of ASB will, therefore, be considered and dealt with on a case-by-case basis.

Types of anti-social behaviour are wide ranging and can take many forms. Examples include (but are not limited to):

- Alcohol/ drugs related incidents
- Misuse of shared areas and public spaces
- Failing to keep control of dogs and other pets
- Nuisance from vehicles
- Litter, rubbish, fly-tipping
- Harassment
- Verbal and physical abuse and Intimidation
- Damage to property, including graffiti and vandalism
- Hate related incidents
- Noise (music, shouting, arguing, slamming of doors, rowdy and inconsiderate behaviour)
- Offensive behaviour

Abusive language and the use of or threatened use of violence against any Council officers, councillors or agents also falls within the definition of ASB.

Not all reports of noise can be deemed to be ASB. Those noises that arise out of the ordinary and reasonable use of a property are neither breaches of tenancy nor likely to constitute a statutory nuisance. They therefore cannot be subject to enforcement action unless they are specifically precluded by the terms of the tenancy agreement or lease or the noise is considered unreasonable for other reasons.

Examples of behaviours that are unlikely to fall within the definition of ASB may include (but are not limited to):

- Normal everyday activities or household noise.
- Parking with no other associated anti-social behaviour.
- General talking
- Moving furniture, banging doors, and running up and down stairs
- DIY and car repairs unless they are taking place at unsocial hours (e.g. late at night or early hours)
- Toilets flushing
- Using a washing machine or vacuum cleaner
- Crying babies
- Children playing
- Groups of people in the street or in parks, unless they are being rowdy, abusive, causing damage or committing other crimes.
- Cooking odours

It may not be reasonable/possible to take enforcement action against children playing ball games unless the children are engaged in behaviour including (but not limited to), verbal abuse, criminal damage, damage to Council landscaping or / property or more serious nuisance.

When determining if a report is considered to be anti-social behaviour or not, officers will exercise professional judgement. If an officer determines the complaint does not constitute anti-social behaviour they will inform the complainant at the earliest opportunity.

All complainants have a responsibility not to make malicious complaints about their neighbours, visitors or anyone engaged in lawful activity around their property.

The Council takes malicious complaining very seriously and will usually take appropriate and proportionate action against anyone found to be doing so.

The Council defines a victim of ASB as follows:

The particular person who (reasonably) seems to have been affected, or principally affected, by the perpetrator's anti-social behaviour.

The Council defines a repeat victim of ASB as follows:

A person is a repeat victim if, within the last six months - they (as an individual) have complained to the Council, Police or a Registered Providers (formerly known as Housing Associations) about three separate incidents of ASB within the Charnwood area.

4. Definition of a Hate Incident

The Council defines a hate incident as any non-crime incident which is perceived by the victim or any other person, to be motivated by hostility or prejudice on the grounds of:

- race
- religion
- sexual orientation
- disability
- transgender identity
- any other perceived difference

An incident or / offence may be physical, verbal or written and can take many forms including:

- Physical attack, such as, physical assault, damage to property, offensive graffiti
- Threat of attack including offensive letters, abusive or obscene calls or texts
- Verbal abuse or insults
- Offensive leaflets and posters, hate mail, abusive gestures, or dumping of rubbish outside homes
- Harassment, bullying and victimisation

5. The Council's ASB responsibilities

The Council has a wide range of responsibilities to tackle ASB, including:

The Council's role as part of the Community Safety Partnership

Under the Crime and Disorder Act 1998, the Council must work with the Police and other agencies to reduce crime and anti-social behaviour in Charnwood. The Community Safety Partnership seeks to identify and prioritise the community safety issues that affect our communities and has a duty to formulate and implement a strategy to prevent crime and disorder.

The Council will investigate ASB and hate-related incidents.

The Council's role in investigating nuisance and protecting the environment

The Council has a range of responsibilities to deal with noise, nuisance and environmental ASB including noise, dog control, graffiti, litter, dumped rubbish, abandoned vehicles, noise, accumulations, bonfires, dust, smoke, odour, light, house and vehicle alarms, poor state of premises and kept animals (this list is not exhaustive). These responsibilities arise from a number of Acts and local byelaws, but in particular from the Environmental Protection Act 1990 and the Anti-Social Behaviour, Crime and Policing Act 2014.

The Council as a social landlord

As a landlord, the Council has a duty under the Anti-Social Behaviour Act 2003 to have a published statement of policy and procedures in relation to ASB.

Under its Conditions of Tenancy, the Council manages ASB and hate related incidents where the complainant/victim or perpetrator is a tenant or Leaseholder of Charnwood Borough Council and/or where the Council's housing management functions are affected by the behaviour. The Council's landlord duties and powers are different from, and usually act in addition to, the duties and powers to take action against those causing ASB under the Anti-Social Behaviour, Crime and Policing Act 2014.

The Council's role as a local Planning Authority

The Council manages high hedge complaints under the 2003 Anti-Social Behaviour Act. The law requires that people take all reasonable steps to try to settle their high hedge dispute for themselves before making a complaint. The Council will determine whether, in the words of the legislation, the hedge is adversely affecting the reasonable enjoyment of the complainant's property and find a balance between the competing interests of the complaint and the hedge owner, as well as the interests of the wider community.

The Council has legal powers available to control the tidiness/appearance of land and buildings, but this would usually be a last resort after attempting to reach a resolution with the landowner first. If a resolution still cannot be achieved the Council may take enforcement action through the planning process. The Council can serve an Untidy Site Notice (also known as a Section 215 notice) on the owner or occupier when the poor condition and appearance of the building or land have a detrimental effect on the surrounding area or neighbourhood.

Inter-agency relationships and a joined-up approach are critical to the successful delivery of ASB services. The Council works in partnership with other agencies including (but not limited to) Leicestershire Police, other local authorities, Social Services, mental health teams and other areas of the National Health Service, and a range of non-statutory services where necessary.

6. The Council's objectives

The Council will put victims and communities at the heart of its response to dealing with ASB and hate related incidents and will support residents to live peacefully in their homes without unreasonable disturbance from ASB.

This will be achieved by:

- Playing a full part as a key member of the Charnwood Community Safety Partnership.
- Participating in relevant strategic or preventative initiatives.
- Adopting a multi-agency approach.
- Discouraging ASB through preventative measures including partnership working, CCTV, and door entry systems (for Council tenants only) and using a range of early intervention tools and techniques to prevent ASB from escalating and to resolve cases quickly.
- Explaining reasons should the Council choose to take no action and advise on self-help or other alternative courses of action whenever it is possible and appropriate to do this.
- Using any of the tools and powers available to the Council under the law and Council Policy, according to officers' professional judgement.
- Referring cases to a mediation service where appropriate.
- Monitoring complaints around the services that the Council provides. These will be reviewed, and the Council will use feedback to contribute to the process of continual learning.
- Working with residents, partner agencies, elected members and the Community Safety Partnership to identify ASB hotspots. The Council will use this information to target resources; for example, by setting up or attending a working group to deal with individual and / or location-based issues and address community concerns.
- Providing regular updates to communities about actions taken to tackle anti-social behaviour. In particular the Council will publicise, where permitted, enforcement actions.
- Providing residents with a swift and simple means of complaining, through the ASB Case Review / Community Trigger process, if victims feel effective action has not been taken by local agencies through existing channels, to tackle issues of anti-social behaviour.
- Providing support and assistance to help victims and witnesses of anti-social behaviour, having particular regard for those identified as being vulnerable. Where appropriate the Council will make referrals for support to victims, witnesses and perpetrators of ASB.
- Taking complaints of anti-social behaviour seriously; recording and investigating them all, providing updates to all involved parties. In all reported cases a threshold assessment will be made based upon both the necessity and proportionality of any proposed intervention.
- Whilst addressing community concerns, the Council will work with partner agencies to access appropriate support to help perpetrators address their behaviour, and to support those affected by unacceptable behaviour, leading to the best possible outcome for all.
- Prioritising cases that carry the greatest risk of harm.

7. The Council's approach to dealing with ASB

Charnwood Borough Council adopts an incremental approach when dealing with ASB. The purpose of the incremental approach is to manage ASB in a consistent and proportionate manner. The incremental approach is summarised at Appendix 1.

Action will be decided based on the circumstances of each case and will be proportionate to the behaviour exhibited and risk of harm, taking into account any vulnerabilities.

The Council will refer hate related cases to the Joint Action Group for multi-agency problem solving. Hate related graffiti will be removed within 24 hours of receiving the report.

The Council will aim to resolve the majority of ASB cases through non-legal means, and may use a range of early intervention tools and techniques to prevent ASB from escalating and to resolve cases quickly.

Some of the options available to the Council when dealing with ASB include, but are not limited to, the following:

Non-Legal Stage

- Advice - verbal and written
- Warnings - verbal and written
- Community Protection Warning Letters
- Acceptable behaviour contracts
- Good neighbour agreements
- Parenting contracts/agreements
- Mediation

Legal Stage

- Civil Injunctions
- Civil Penalties
- Community Protection Notice
- Closure Order
- Criminal Behaviour Order
- Parenting contracts and parenting order
- Possession proceedings and eviction (for Charnwood Borough Council Tenants)
- Public Spaces Protection Order

- Demoted tenancy (for Charnwood Borough Council Tenants)
- Abatement Notice
- Prosecution
- Seizure of items or equipment
- Fixed Penalty Notices

In certain circumstances, another agency may be better placed to deal with the behaviour. Examples may include (but are not limited to) where there is a criminal element and the Police would be best placed to lead. The Council will support our partners in their investigation and action in these instances.

Criminal behaviour, damage and vandalism cases may be referred to the Police. Where the perpetrator is known, the Council may pursue the costs of repair to Council owned properties and buildings through legal action if necessary.

This Policy commits the Council to dealing with ASB in the Borough of Charnwood in a way that will always be fair and, in all important respects, consistent across cases of a similar kind. However, each ASB case the Council deals with is likely to be unique in some or other aspect and the Council therefore reserves the right where appropriate and proportionate to do so to take immediate legal action, including (but not limited to) cases of assault against staff or contractors.

In cases where complainants will not or cannot provide relevant details, for example, details of perpetrators, evidence, or where complaints are anonymous, this is likely to limit the Council's ability to respond effectively. Cases will be closed where there is insufficient evidence on which to base further action.

Investigations may require (for example) discussions with other agencies, such as Leicestershire Police, in order to try to identify perpetrators.

The Council will share and seek information with / from partner agencies in accordance with data protection legislation to support a holistic approach to the prevention and management of ASB.

8. Reporting ASB, and Support for Complainants/Victims, and Witnesses

The Council will provide a variety of methods for people to report incidents of ASB and hate related incidents. This includes:

- By telephone via the Council's Contact Centre
- In person
- Email or letter
- On-line form

The contact details for the Council's ASB services can be found on the Council's website.

The Council will respond to reports of ASB in line with the timescales detailed in its procedures.

The Council will assess victim and overall case risk throughout the life of a case. The Council will consider factors including (but not limited to) the threat of or actual violence, whether the case is hate related, vulnerability, repeat victimisation, mental health, disability, and substance misuse. The Council will consider the context of the case and the impact of the behaviour on victims and communities. It is recognised that vulnerable victims are less resistant to ASB, and the Council will consider the accumulative impact of persistent ASB and its impact upon the harm index of a case. High risk cases will be prioritised.

The Council will take appropriate action to mitigate risk. The Council will refer victims to specialist victim support services where appropriate. If the complainant/victim/witness is a Charnwood Borough Council tenant where appropriate, the Council may provide tenancy related support through the in-house Tenancy Support Team. Where appropriate the Council will refer victims to support agencies including (but not limited to) Supporting Leicestershire Families, The Bridge Housing Services, Social Services, drug and alcohol, and mental health services.

Where the Council's witnesses attend court, the Council will endeavour to accompany them, and where appropriate the Council will liaise with the courts to minimise any distress and associated risks. The Council will cover any reasonable expenses incurred by its witnesses attending court.

Where appropriate the Council will provide additional security to residents experiencing ASB and/or a hate related incident/s. This may be subject to assessment and recommendation by representative from Leicestershire Police or equivalent.

9. Support for Vulnerable Perpetrators of ASB

Whilst the needs of victims and witnesses come first, the Council will seek to identify perpetrator vulnerabilities and needs. The Council may work in partnership with specialist external agencies to achieve this.

The Council recognises that factors including mental health and substance misuse may be linked to the ASB. Perpetrators will be referred to an appropriate support agency, statutory agency (e.g. Social services or Health), or support provided by the in-house Tenancy Support Team (the support from the in-house Tenancy Support Team is only available to Charnwood Borough Council tenants).

The Council will use its *Alternative Incremental Process* to identify and recognise the support needs of young people with developmental difficulties, including, but not limited to autism. The Council will adapt its approach in response to the needs of these young people.

The Council will take enforcement action where perpetrators fail to engage with support services and/or where behaviour does not improve to an acceptable level.

10. Publicity

Publicity is an essential part of tackling ASB in terms of:

- Reassuring the community, complainants and witnesses that the Council and partners work together, take reports of anti-social behaviour seriously, and that successful action has been taken.
- Publishing individual cases so that breaches of orders obtained can be reported to the relevant organisation
- Making it clear to perpetrators that the Council will not tolerate anti-social behaviour and will take action to protect others.

In circumstances when a Court has not imposed reporting restrictions, and the Council considers it to be necessary and proportionate, enforcement action may be publicised.

The decision to publicise will be considered carefully based on the facts of each case.

11. Training and powers for Council officers responsible for dealing with ASB

Officers directly involved in dealing with ASB will be provided with training on policies, procedures, and legislation, as appropriate to their role. Officer learning and development will form a solid foundation for the delivery of high quality ASB services.

Council officers undertaking enforcement activity will be duly authorised under the Council's scheme of delegation.

12. Complaints

The Council aims to provide an efficient and good quality ASB service to all its customers, but on some occasions, people may be dissatisfied.

The Council has a complaints procedure which should be the first point of call for people that are dissatisfied with the service they receive. More information about the Council's complaints procedure can be found on the Council's website.

At any time, a person can refer a complaint to their local Councillor.

13. ASB Case Review / Community Trigger

Introduced through the ASB, Crime and Policing Act 2014, the ASB Case Review / Community Trigger is a process that gives victims and communities the right to request a review of actions taken, where they believe an ongoing problem has not been adequately addressed.

The ASB Case Review / Community Trigger is not a first port-of-call; it is only to be used if the complainant believes that there has been a failure to respond adequately to the complaint.

More information around the ASB Case Review Community Trigger, including how to activate it can be found on the Council's website.

14. Information Sharing and Confidentiality

The Council complies with the requirements of data protection legislation in force and has a data protection policy which can be found on the Council's website.

The Council will share information in line with legislation between partners to adopt a multi-agency approach to tackling ASB; to identify vulnerability and reduce risk, threat and harm to individuals and communities.

There may be circumstances where the Council cannot preserve confidentiality, even when the data subject has requested that we do so. Examples may include (but are not limited to) where a criminal offence has been committed, where someone is a risk to themselves or others or where safeguarding concerns have been identified. When Court proceedings are issued the information will be in the public domain and therefore confidentiality cannot be preserved.

15. Equality and Diversity

The Council will treat all customers with fairness and respect. The Council has an ethical and legal duty to advance equality of opportunity and prevent discrimination.

Before taking significant legal action, the Council will undertake an *Equality Act 2010 Pre-Action Checklist*. This will ensure that discrimination does not occur and that interventions are appropriate, necessary, in pursuit of a legitimate aim, risk is considered and appropriately managed and relevant support provided. The principals of the Equalities Act 2010 will be applied in all Council led action.

All information about the Council's services can be made available in a variety of formats, and translated in to relevant community languages on request.

The Council has an easy read diary sheet which can be issued to people who are unable to complete the standard diary sheets and in certain cases a Dictaphone can be provided if there are issues with reading and writing. Mobile technology may also be used where appropriate.

The Council will participate in the countywide hate incident monitoring scheme, seeking to identify patterns in hate incidents and trends.

The Council will comply with its Equality Strategy which is available at www.charnwood.gov.uk/plansandpolicies.

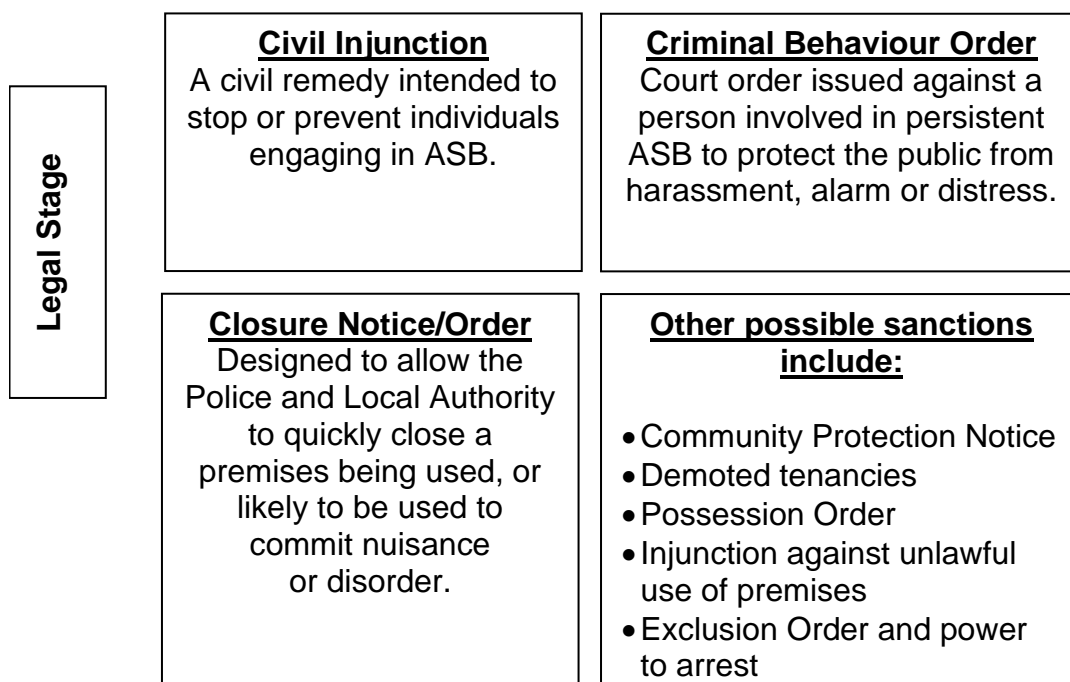
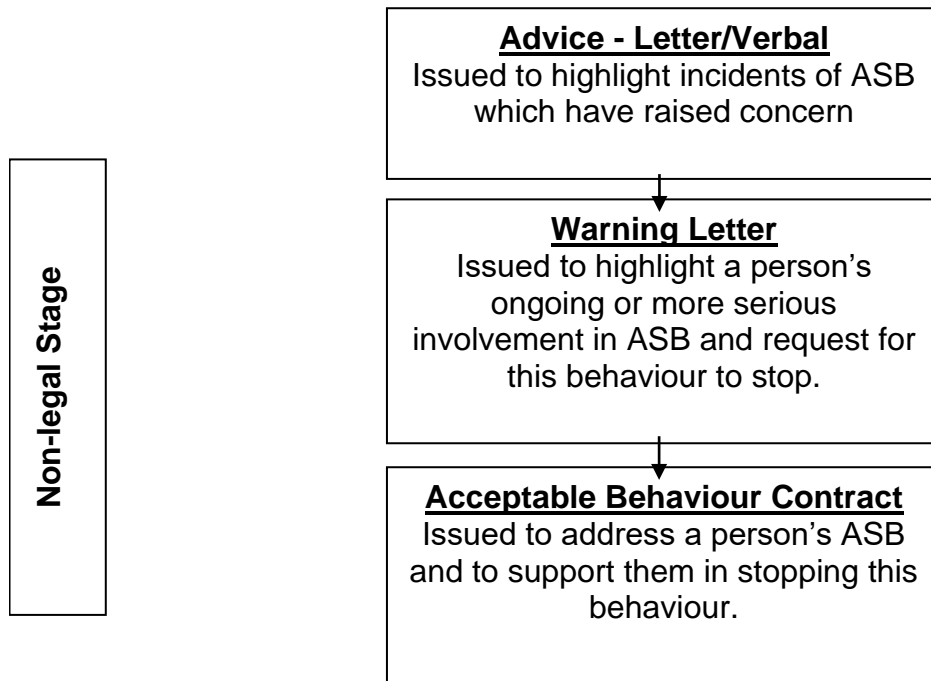
16. Best Practice and Policy Development

The Council will seek out best practice and will explore and utilise new technology where appropriate.

This policy will be reviewed every four years, or when there are significant changes in legislation or context.

Significant changes in legislation affecting this policy (and therefore the Council's response) will be adopted on a case-by-case basis where it is appropriate to do so (pending full review of this policy).

Appendix 1 - Summary of the Incremental Approach



N.B - A person can enter the incremental approach at any stage. The action taken will be decided based on the circumstances of each case. The actions listed at this appendix item are not intended to represent an exhaustive list.