



Corporate Anti-Social Behaviour Policy

February 2021

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Author(s)	Leanne Thornton	Policy Lead Officer	Leanne Thornton

Summary Sheet



Purpose of this document:

This document sets out the Council's policy on Anti-Social Behaviour (ASB) and the procedures to be followed on receipt of a complaint of ASB to Tendring District Council.

It explains what is meant by 'anti-social behaviour' and sets out the guiding principles for those officers in the Council who deal with ASB.

The Council recognises the importance of providing an excellent standard of customer service to our residents and this is central to this policy and in particular the resolution of ASB complaints. The Council is not always the most appropriate agency to deal with some complaints and this document aims to provide guidance on which agency residents should direct complaints to in order to avoid unnecessary delays in resolving their issues/concerns.

Document owner / prepared by:

Tendring District Council, Safer Communities Team.

Leanne Thornton, Safer Communities Manager.

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1. Policy Statement

Tendring District Council recognises the need to tackle ASB as it can have a detrimental impact upon our residents, communities and visitors to the District. We will work in partnership with other agencies to support those experiencing ASB.

2. Definition of Anti-Social Behaviour

It is not always easy to pinpoint exactly what is, and what is not, ASB. People's judgement and tolerance may differ about what is acceptable behaviour.

The Government defines ASB in the Crime and Disorder Act 1998 as:

“Behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household as the perpetrator.”

In order to ensure that the Council provides the appropriate level of service to complainants the focus needs to be on those behaviours that have a significant, negative impact on others' quality of life, but does not necessarily take the form of criminal behaviour such as drugs, criminal damage, assault etc.

In order to assist in determining whether a complaint meets the threshold, ASB includes, but is not limited to, the following:

- Being threatening, intimidating or verbally abusive
- Persistent nuisance behaviour
- Environmental issues including fly-tipping, vandalism, dog fouling, graffiti, fly posting etc.

Behaviour which results from different lifestyles or which would not generally be considered unreasonable is not ASB. As mentioned earlier it is important to be tolerant of other people's lifestyles.

The Council will not usually take action in circumstances such as the following:

- One-off noisy party within reasonable times
- Normal living noises, such as walking across the floor, closing doors, flushing the toilet etc
- Noise from children playing
- Personal differences/family disputes
- Disagreements about parking
- Civil disputes such as boundary issues
- Groups of young people gathering who are not acting in an intimidating manner

3. Who is responsible for dealing with Anti-Social Behaviour?

It is important that complainants initially contact the authority/agency with the most appropriate powers to resolve the matter to ensure that action is taken without any unnecessary delays caused by reporting to the wrong agency. Call takers and investigating officers must work within the definition provided in this document to assess whether ASB is being committed in the first instance and what, if any, response is required. Once this has been established the complaint should then be referred to the appropriate service area for investigation.

Where the call taker is unclear on who should investigate, the complainant should be directed towards completion of the ASB reporting form. All reported incidents will be recorded on the ASB Case Management System (STOBI)

SERVICE	RESPONSIBILITIES / AREAS COVERED
Building & Public Realm	<p>Building and Surveyors / Engineering / Public Realm / Sea Fronts / Waste Management Services / Assets</p> <p>Waste Management / Flytipping / Dog related issues / Grafitti on Council Land / Misuse of beaches, promenades, general areas, all public conveniences and Council owned Car Parks / Misuse of Open Spaces including playgrounds, children's play areas, parks and ornamental gardens</p>
Housing & Environment	<p>Housing and Homelessnes / Environmental Health Services / Climate Change</p> <p>Tenancy Management, nuisance neighbours / youths, neighbour disputes, ASB in relation to Council tenancies, tenants or property / Private Sector Housing ASB issues, Gypsy and traveller incursions, illegal eviction and harrassment (landlords evicting tenants without proper notice or court order), Disrepair in private rented housing, problems with multiple occupancy properties ie: HMO's and licensed HMO's, could be both from tenant behaviour and landlords</p> <p>Environmental Health / statutory noise nuisance, smoke, bonfires, Food Hygiene issues, animal licenses, Covid 19 Regulations, breaches</p>
Partnerships	<p>Community Partnerships (including Community Safety / Licensing / Customer & Commercial / Jaywick Neighbourhood Team / Community Ambassadors)</p> <p>Safer Communities Team / Corporate ASB - Coordinate where a multi-agency response is required, Generic Problem solving, ASB street patrols and surveys / Departmental Cross Cutting ASB issues (ie: Summertime Plan)/ ASB Case Management (record and manage cases on STOBI Case Management App) / Joint Problem Solving (JPS multi - agency meeting and associated Task & Finish Groups).</p> <p><i>The Safer Communities team will work to the 3 P's - Problems, Prevention & preparedness, using appropriate powers when required</i></p> <p>Licensing and regulations (management of breaches) / Community Engagement / Community Ambassadors / Test and Trace</p>
Planning	<p>Planning Enforcement (ASB in relation to planning enforcement issues)</p>
Economic Growth & Leisure	<p>Economic Growth / Sport / Leisure / Tourism / Heritage and Culture</p>

Where incidents include acts of a criminal nature such as drugs, assault or serious violence, the complainant should be directed to Essex Police.

Equally where the Council is not the landlord the complainant should be directed to the housing provider.

Reported incidents involving overlapping issues will require a joint or coordinated response. Assistance in these cases may be sought from the Safer Communities team.

In October 2015 the Restorative Justice Hub was launched in North Essex based at the office of the Police, Fire & Crime Commissioner. The hub offers mediation for neighbour disputes and low level ASB as well as referrals for Restorative Justice. Therefore investigating officers should consider offering mediation when appropriate and refer cases to the Hub. For further information there are two Restorative Justice Champions within the Council. They are:

Matthew Wicks	Tenancy Management	mwicks@tendringdc.gov.uk	01255 686483
Leanne Thornton	Safer Communities	lthornton@tendringdc.gov.uk	01255 686353

For all Housing related queries relating to ASB please refer to Tendring District Council – Housing Anti-Social Behaviour Strategy 2016 - 2021

Landlord Obligations

The Council has its own housing stock and is responsible for reminding tenants and leaseholders of their responsibilities and obligations outlined within their tenancy agreement and resolving low level problems at the earliest opportunity, through established tenancy management processes, preventing unnecessary escalation.

Issues that could reasonably be resolved through tenancy management processes through the provision of appropriate advice/instruction, partner liaison and independent mediation, as mentioned above, include (but are not limited to) those listed below;

- Noisy neighbours
- Car parking disputes – not Council owned public fee paying car parks – see Seafronts and Parking service
- Property/Boundary disputes
- Damage to property
- Untidy gardens
- High hedges/overhanging trees & shrubs (liaison with Planning Services)
- Uncontrolled animals/pets
- Dog fouling
- Inappropriate use of premises (car repairs, etc.)
- Abandoned cars
- Impeding access to communal areas
- Ball Games/Games in restricted areas

All tenants of the Council have signed a tenancy agreement, which sets out the rights and responsibilities of the Council and its tenants. The obligations of new tenants are emphasised to them during the tenancy sign up process. The Council also makes use of introductory and demoted tenancies, to emphasise further the importance of tenancy terms.

However, as mentioned earlier there are a number of housing providers in the District who will have their own tenancy agreements and processes in place which will equally advise tenants of their rights and responsibilities. Complainants should be directed to their housing provider for assistance.

Essex Police

Essex Police have recently reviewed their policy on dealing Assistant Chief Constable (ACC) Andy Prophet has taken the lead on ASB for Essex Police as well as being the lead for ASB nationally.

Where ASB enquiries include reports of criminal offences for which an individual could be charged and prosecuted, the matter should be referred to Essex Police to determine whether it would be more appropriately investigated by them.

Essex Police and Tendring District Council will work to 5 key points in relation to ASB

- Keep Listening / Caring
- Respond to ASB incidents in line with Covid 19 challenges
- Build and strengthen partnerships in relation to ASB
- Focus on victims (including repeat victimisation and community triggers)
- Raising Awareness of ASB issues both locally and nationally

The overarching objectives are:

- Engage
- Encourage
- Enforce

Tendring District Council and Essex Police will work together to manage cases when consideration is being given for issuing a Community Protection Warning (CPW) / Community Protection Notice (CPN)

Victim Support

Victim Support is an independent UK charity which helps people cope with the effects of crime. They provide free and confidential advice and support to help victims, witnesses and their families.

4. Reporting incidents of anti-social behaviour

Reported allegations of ASB can be made to the Council through the following routes:

Telephone	
Safer Communities	01255 686359
Tenancy Management	01255 686482
Environmental Health	01255 686774
Street and Seafronts	01255 686969
Open Spaces	01255 686647
Private Sector Housing	01255 686617
Planning	01255 686150
Website	www.tendringdc.gov.uk
Email	asb@tendringdc.gov.uk
Post	Tendring District Council Town Hall

	Station Road Clacton on Sea Essex CO15 1SE
In person	Pier Avenue - Safer Communities Team

All cases will be recorded on the ASB Case Management system – all Council teams will migrate to the STOBI APP to enable consistent recording and assessment of cases.

Other routes could include:

- Contacting the appropriate landlord or letting agency who will have their own ASB policy and procedure in place.
- Through Hate Crime Reporting Centres (HIRC's) – Town Hall & Pier Avenue Offices
- At hostels and other temporary accommodation.
- Through Essex Police on the non emergency number **101**.

Complaints can be reported by:-

- The victim
- The victim's family
- Friends of the victim
- Witnesses of an incident
- Councillors/Members of Parliament
- Other relevant agencies

5. Operational Procedures

Enquiry handling

However reported, Council officers receiving a report of ASB from residents will take a detailed account of reported incidents, where information is immediately available, to ensure good quality information is obtained from the complainant and any potential vulnerability issues identified, from the outset. The officer will log details on the Council's ASB case management system (STOBI) and allocate to the appropriate officer or service area to assess and deal with the complaint. The resident

(complainant) will expect to receive a minimum standard of service from the Council (see below).

Where reports of Anti Social Behaviour are received by officers/teams that are not able to deal with the enquiry, the complainant should be asked to complete the form attached at Appendix D which will enable the Safer Communities Manager to assist, where applicable, in signposting the complainant to the appropriate route.

Minimum Standards of Service

- record complaints
- categorise the actions to be taken
- plan their investigations
- build profiles on subjects/perpetrators
- select suitable, proportionate and effective enforcement action
- keep complainants and victims informed

Anonymous reports will not be accepted.

Case Investigation

The Council recognises that the complexities involved in investigating ASB cannot be readily mapped out in a one size fits all process but call handlers and investigating officers must refer to the definition used within this document.

Whilst each case will require a tailored and proportionate response there are up to six strands of activity that need to be considered/followed in tandem to ensure investigations are thorough and effective;

- i) Risk Assessment (automated STOB Risk Assessment)
- ii) Evidence collation & statement taking
- iii) Tenancy Enforcement
- iv) Interventions
- v) ASB Enforcement
- vi) Partner agency liaison / Safer Communities JPS Referral

Council managers/supervisors will conduct regular case reviews to ensure investigating officers utilise all problem solving opportunities and consider appropriate legal interventions where necessary.

Contact with the Complainant

The investigating officer will ensure that all actions outlined in the following checklist are carried out or that their own departmental policies are complied with.

Where it transpires that reported behaviour may include criminal incidents the complainant will be encouraged to report the matter to Essex Police, to keep a record of incident numbers and retain the name/details of the attending officer.

ASB Investigating Officers Initial Contact Checklist (Complainant)	Completed
Introduce themselves, providing the complainant with their contact details should the complainant need further information or wish to report further incidents.	
Fully explain not only what the complainant can expect from us, but what we will require from them and record on the Uniform System.	
Explain the purpose of, and complete an automated STOBi Risk Assessment	
Obtain as much detail as possible about the alleged ASB including if appropriate photographic evidence of any reported damage.	
Establish whether any other professional body/solicitor/Councillor or MP has been contacted or is already involved in this case.	
Agree with the complainant how the case will be investigated, discussing with the complainant their expectations in relation to the case.	
Advise the complainant on how the case may progress and what options are available at this stage including independent mediation/restorative justice.	
Advise the complainant that the accurate completion of diary sheets will form a vital part of the evidence gathering process noting that if they are completed correctly and of good quality with detailed evidence of recent incidents, only a few should be required.	
Explain that if as a result of preventative interventions the alleged behaviour ceases, the case may be closed and no further action taken.	
Ensure that the complainant understands that should the Council decide to take legal action, it may be necessary for the complainant to provide evidence at a court hearing later in the case	

<p>Obtain consent of the complainant to approach alleged perpetrators, advising the complainant that whilst their identity will not be disclosed to alleged perpetrators (unless they have given consent that they are happy for their identification to be disclosed) they may be identified to the alleged perpetrator through the disclosure of specific incidents or should legal proceedings be scheduled, (given the legal requirement to disclose evidence to the defence) through the evidence provided to the court.</p> <p><i>Where possible verbal consent will be obtained – consent status will be recorded on the case record, safeguarding issues will also be considered. If consent to share information is refused this will be recorded by the investigating officer on STOBI ASB case management system and the complainant informed that appropriate resolution may not be possible without this consent</i></p>	
<p>Identify any risk factors which may deter the complainant giving evidence at court.</p>	
<p>Provide the complainant with leaflets and information relating to currently available support services/organisations that may be able to assist the complainant.</p>	
<p>Advise the complainant that if they feel their case has not been dealt with to their satisfaction and they meet the threshold they may request a review of their case using the ASB Case Review process.</p>	

Risk Assessments

Each report will be assessed and dealt with by the investigating officer in accordance with the risk status after completion of the automated Risk Assessment (in STOBI) (See appendix A)..

The RA determines risk based on a points system taking into account the history of the complaint, vulnerability of the complainant and support available to the complainant.

The RA enables the investigating officer to include a professional assessment based on experience which allows flexibility in determining risk level. The investigating officer will complete the list of actions and support recommendations based on the risk

assessment outcome on the STOBI case management App and the reasons why they have been implemented or disregarded.

Vulnerabilities will be reassessed at regular intervals throughout the investigation to re-assess support needs in response to ongoing incidents, changes in personal circumstances and any significant case actions i.e. legal notices served.

All Safeguarding referrals will be notified to the Council’s safeguarding lead or, in their absence, the nominated deputy.

Reports of Child Protection or safeguarding issues, Hate, Race or Domestic Abuse will always be referred to the police dedicated liaison officer whether consent is granted or not and a record made of the name/rank/collar number of the officer reported to. All referrals will be in writing and a record kept on the STOBI ASB case management system.

If the complaint is of a simple nature and dealt with at first point of contact through advice or sign-posting there will be no need to complete a RA.

Contact with the alleged perpetrator

Once all details are obtained of the alleged complaint from the complainant contact should be made with the alleged perpetrator.

Investigating officers should ensure the following checklist is adhered to when contacting the alleged perpetrator or that their own departmental policies are complied with.

Case Officers Initial Contact Checklist (Perpetrators)	Completed
Explain the role of Tendring District Council and the purpose of the interview/meeting.	
Inform the alleged perpetrator of the allegations made and obtain their version of events/incidents, noting any admission or counter allegation.	
Advise the alleged perpetrator on how the case may progress and what options are available at this stage including mediation (if not already considered).	

Explore with the alleged perpetrator any options to prevent further ASB through diversionary and/or supportive interventions, and voluntary agreements and/or contracts.	
Where the alleged perpetrator is under the age of 18, discuss the allegations with the parent/guardian, seeking an assurance of support to ensure no further ASB is perpetrated.	
(Council tenants) Advise the alleged perpetrator of the consequences of further ASB resulting in a breach of tenancy and any potential actions against the named tenant.	

Counter allegations

Where an alleged perpetrator makes a counter allegation it should be treated seriously, logged as a new enquiry on STOB I App by the receiving officer and processed in accordance with agreed procedures to agreed service standards.

A manager/supervisor will depending upon the complexity of the case, determine whether any counter allegation case is investigated by the Officer dealing with the original case or whether it needs to be passed to a second officer for investigation.

Evidence collation & statement taking

It is important that throughout the process of investigating reports of ASB all information is recorded properly and formally. This means that accurate, clear and objective records must be kept.

The records include details of meetings, discussions, telephone conversations and file notes, e-mails and letters.

This forms an essential part of the information gathering exercise and ensures the highest degree of professionalism required to achieve a successful outcome.

When incidents are reported to a particular service area it may be the case that ASB case management is not an area that is usually undertaken by the officer. For example ASB within our parks should therefore be referred to the appropriate officer based within the Public Realm team. Officers receiving such complaints should always consider a referral to the Safer Communities Joint Problem Solving (JPS) Meeting for additional support and assistance. The JPS is a forum that meets monthly to discuss cases of Safer Communities / ASB or Hate Crime. They also act as the review panel

for all ASB Case Reviews. However, ownership of the case will remain with the service area.

Evidence can take the form of witness statements, CCTV footage, letters of complaints, reports to police, intelligence reports, previous convictions, previous interventions. In some cases hearsay can be used, however, this should be supported by corroborative professional evidence to give greater credibility.

In many instances the investigation of a complaint will require the completion of ASB diary sheet as mentioned above. Diaries provide a clear audit trail by complainants and witnesses of contemporaneous notes of alleged anti-social behaviour. The diaries themselves can, if necessary, be presented to a court to support the accuracy of the evidence being presented.

Consideration should be given to the use of other means of evidence which can include:-

- Overt CCTV (refer to CCTV Operations Officer for installation and signage).
- Covert CCTV. The legal requirement for a directed surveillance authority under The Regulation of Investigatory Powers Act 2000 (RIPA) as amended by Protection of Freedoms Act 2012 must be followed prior to deployment.
- Still photographs. Statements will be required from person taking and images secured and exhibited to the required court standard.
- Video evidence from witnesses or complainants – as above
- Evidence from other agencies e.g. housing officers, environmental health officers, police staff and other professional witnesses.
- Prior enforcement action e.g. Acceptable Behaviour Contracts, Injunctions, cautions, warnings, criminal convictions
- Medical evidence regarding the health and impact upon the victim and or the physical or mental health of the perpetrator (where permission is given by the victim to contact the perpetrator)
- Community Impact statements
- Evidence of other agency involvement
- Intervention methods previously offered or implemented and outcome
- Historic evidence of any other previous incidents

Interventions

Complainants will be contacted within 10 working days from initial reporting of ASB to advise of the next steps, if any. If the matter is taken forward and once the investigation has been completed, a proportionate response should be identified and the complainant informed of the proposed action to be taken and the period of time it will happen in. They should have the opportunity to comment on the proposed action and raise any issues or concerns on how it may affect them. The proposed action may have to be altered to accommodate concerns expressed by the victim/witness. All complainant contact and responses will be recorded on the ASB case management system.

With the agreement of the complainant the investigating officer will contact the perpetrator and give them the opportunity to explain any of the allegations made. It must be explained that failure by the complainant to give permission for the perpetrator to be contacted could hinder any action being considered.

Details of the complainant(s) will never be disclosed (either directly or indirectly) to the perpetrator without their consent. However, if Court action becomes necessary the Council may have to disclose complainant's details or in some circumstances the complainants may be required to give evidence at Court.

The Council will consider all supportive and diversionary interventions and referrals that are appropriate to the perpetrators tenure, age, and support needs, balancing the support needs of the perpetrator against the seriousness of the ASB and the need to protect victims and witnesses.

Interventions used will include both diversionary activities and pre-enforcement contracts and agreements including, referrals to intervention providers (YOS, Council projects, drug programmes, Housing advice, Homelessness etc), verbal and written warnings, Acceptable Behaviour Contracts (ABC's), Good Neighbour Agreements, and Noise Abatement Notices, Community Protections Orders, Injunctions and Criminal Behaviour Orders, and/or tenancy enforcement including eviction in the most serious cases.

Where perpetrators are engaged on supportive or diversionary interventions, Case Officers will regularly consult with service providers to assess the impact of

engagement against reported behaviour recognising the potential to undertake enforcement action in conjunction with ongoing intervention & support where appropriate.

Appendix C sets out the powers available regarding ASB and where the authority to use those powers sits. For Tendring District Council, the specific officer delegation is also included in the Council's Scheme of Officer Delegation under the Constitution.

The available powers are as follows:

Acceptable Behaviour Contracts

Written contracts between an individual (and their parent/carer if they are under 18), the Council or Housing Provider, and the Police. Although not legally binding, the contract is a promise that the individual will not carry out certain acts which could be seen as anti-social. The Contract may include support for the individual in tackling the behaviour.

Contract terms will be agreed with the perpetrator through face to face meetings at which behaviours are fully discussed and their impact recognised. It is not always necessary to use an ABC before taking other action (e.g. where the behaviour is very serious) but it is a step that would be considered in most cases.

Parenting Contracts

In some cases it may also be appropriate for the parent to enter into a Parenting Contract, where the parent agrees to certain measures to try and stop the anti-social behaviour being caused by their son/daughter.

Noise Abatement Notice

Where an Officer is satisfied that that a noise problem amounts to a statutory nuisance an abatement notice, under Section 80 of the Environmental Protection Act 1990 shall be served on the person responsible for the nuisance or the landlord/owner of the property within 7 days of the nuisance being witnessed.

The notice will require the person to stop causing a disturbance and may also require works to achieve this to be carried out within a specified time

ASB Case Review

The purpose of the ASB Case Review is to give victims and communities the right to request a review of their case and bring agencies together to take a joined up, problem solving approach to find a solution. Responsible Authorities and other relevant bodies are responsible for taking the problem solving approach. The threshold for an ASB Case Review is three complaints in the previous six month period (*See Appendix B*).

When a request to use the ASB Case Review is received, the Single Point of Contact (SPOC) which in Tendring's case is Leanne Thornton, Safer Communities Manager, must meet with the other agencies and they must decide whether the threshold has been met and communicate this to the victim.

If the threshold is met, a case review will be undertaken. Agencies will share information related to the case, review what action has been previously taken and decide whether additional actions are possible. The local ASB Case Review procedure should clearly state the timescales in which the review will be undertaken. The review encourages a problem-solving approach aimed at dealing with some of the most persistent, complex cases of ASB.

The victim is informed of the outcome of the review. Where further actions are necessary an action plan will be discussed with the victim, including timescales.

A case review can be requested by a victim of ASB or another person acting on behalf of the victim such as a carer or family member, MP or Councillor. The victim can also be an individual, a business or a community group.

Community Remedy

The Community Remedy give victims a say in the out-of-court punishment of perpetrators for low-level crime and ASB.

The Act places a duty on the Police and Crime Commissioner to consult with members of the public and community representatives on what punitive, reparative or rehabilitation actions they would consider to be on the Community Remedy Document. A Restorative Justice (RJ) Hub was rolled out in the Tendring area in October, all referrals to the RJ Hub should go through the Safer Communities Team at the Council. Further information is available on the Police, Fire and Crime Commissioner's website at www.essex.pcc.police.uk

The Injunction to Prevent Nuisance and Annoyance (IPNA)

A civil power to stop individuals engaging in ASB by quickly, nipping problems in the bud before they escalate. Various agencies including Local Councils and Police can apply for an IPNA. The test is that it is based on the balance of probabilities, behaviour likely to cause harassment, alarm or distress (non-housing related ASB) or conduct capable of causing nuisance or annoyance (housing-related ASB) and just and convenient to grant the injunction to prevent ASB.

Issued by the County Court and High Court for over 18's and the Youth Court for under 18's. Injunction will include prohibitions and can also include positive requirements to get the perpetrator to address the underlying cause of their ASB.

Breach of the injunction is not a criminal offence, but breach must be proved to the criminal standard, that is, beyond reasonable doubt.

Criminal Behaviour Order (CBO)

A Court Order to tackle ASB which is applied following a conviction for any criminal offence can include prohibitions and positive requirements. The ASB does not need to be part of the criminal offence. If the Court is satisfied beyond responsible doubt that the offender has caused or is likely to cause harassment, alarm or distress to others and the CBO will help prevent it.

Dispersal Powers

A Police power requiring a person committing or likely to commit ASB, crime or disorder to leave an area for up to 48 hours if authorised by a police inspector or above.

Community Protection Notice (CPN)

To stop a person aged 16 or over, business or organisation committing ASB which spoils the community's quality of life. Council Officers, Police Officers and other designated Officers can issue a CPN. The test is that the behaviour has to have a detrimental effect of the quality of life of those in the locality, be of a persistent or continuing nature and be unreasonable.

A warning is issued first informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing.

A CPN (Notice) will be issued including requirement to stop things, do things or take reasonable steps to avoid further ASB. This can allow Councils to carry out works in default on behalf of a perpetrator.

Breach of the CPN is a criminal offence, a fixed penalty notice may be issued if appropriate.

Public Spaces Protection Orders (PSPOs)

The ASB Crime & Policing Act introduced PSPOs which are designed to protect public spaces from persistent anti-social individuals or groups. For example: persistent dog fouling in an area or street drinking in a town centre. They are designed to stop individuals or groups committing ASB in a public space.

Councils issue a PSPO after consultation with the Police, PFCC and other relevant bodies.

The behavior being restricted has to be having, or likely to have, a detrimental effect on the quality of life of those in the locality, be persistent or of a continuing nature and be unreasonable.

There will be restrictions and requirements set by the Council, these can be blanket restrictions or requirements or can be targeted against certain behaviors by certain groups at certain times. Can restrict access to public spaces where that route is being used to commit ASB.

Breach of the PSPO is a criminal offence, and could result in a fixed penalty notice. A fine can be issued up to level 3 on prosecution.

Absolute Ground for Possession

A power which offers protection and faster relief to victims by quickly evicting the most anti-social tenants. It can be used by the landlord (Council, Housing Provider, Private Landlords) on a premises where ASB is causing nuisance or disorder such as noisy premises, environmental pollution, drug/alcohol related ASB.

Closure Power

To allow the police or council to quickly close premises which are being used, or likely to be used to commit nuisance or disorder.

Power to close premises for up to 48 hours out of Court (Closure Notice) or up to 6 months via the Court (Closure Order)

More information on all of the above powers can be found in the “Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. Statutory guidance for frontline professionals – July 2014. Updated December 2019.

Tenancy Enforcement

The Council will adhere to agreed processes for dealing with ASB related to secure tenancies.

Enforcement measures used for tenancies are:

- Written warnings
- Notice to Quit
- Notice of Seeking Possession
- Housing Injunction

Injunctions under s.153 Housing Act 1996.

An injunction is a court order prohibiting a person from committing certain acts. If any injunction is breached, this will be contempt of Court, and the council can apply for this contempt to be punished by a fine or committal to prison.

It may also be possible to obtain a power of arrest and exclusion zone (including exclusion from someone’s home), as part of the injunction if the individual has used or threatened violence or there is a significant risk of harm to victims.

In very serious cases it may be possible to apply for an injunction without telling the perpetrator that the council is applying to court for an order.

Injunctions for trespass

The Council can send a prohibition letter banning individuals from entering council owned property. If the letter is ignored this will be trespass and the council can apply for an injunction banning the individual from continuing the trespass. In the case of schools, the law requires the parent of a child to be consulted before such a ban is made against them.

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. These can be used to deal with problems such as drug dealing, begging or prostitution.

Tenancy Enforcement – Introductory Tenancies

The Council will adhere to the legal process set out for dealing with ASB related to Introductory Tenancies.

Enforcement measures used for Introductory Tenancies are:

- Extension of Introductory Tenancies
- Termination of Introductory Tenancies
- Final Warnings
- Possession

Safer Communities Problem Solving Referrals

Safer Communities Joint Problem Solving Meeting is a multi-agency problem solving meeting attended by practitioners from the Council, Essex Police, Prolific Offenders Team, Housing Providers, Youth Offending and other interested parties.

Referrals can be made by any practitioner who has a role in tackling anti-social behaviour in the District. The JPS takes place monthly.

Each referral will be discussed and actions allocated to appropriate officers. The case will be formally reviewed each meeting where actions will be determined until a successful resolution has been achieved.

All parties attending the JPS must sign a confidentiality statement.

Resolution

A case can be resolved at any stage. Resolution means an outcome that has been implemented after careful and thorough investigation. It may not be the outcome that the complainant wants.

Outcomes are often reached more by intervention, prevention and diversion than enforcement actions. However a twin track approach of enforcement and support are also effective.

The investigating officer must ensure that the ASB case management system is updated and the case will not be closed before being reviewed and authorised by the line manager.

6. Staff Training

The Council places a high importance on training of staff and will deliver training to staff at regular intervals to ensure staff are fully informed of any changes to procedures, processes and legislative tools and powers.

It is recommended that staff dealing with ASB Case Management / Investigations will undertake Community Safety Accreditation Training (CSAS) and also undertake any appropriate internal training such as Statement Writing, Case preparation, CPW's / CPN's and issuing of Fixed Penalty Notices.

The Council will in addition update its partners on any changes to practice, legislation and continually raise awareness of anti social behaviour strategies and procedures.

7. Data Protection and Confidentiality

The Council needs to process personal data and private information in order to deliver many of its services.

Confidentiality

In accordance with the Data Protection Act the Council adopts the general principle that information should only be disclosed to individuals with a legitimate and reasonable right to that information.

In general, all information received from victims and witnesses of ASB will be treated as having been given to Tendring District Council in confidence, and will not be disclosed to third parties unless those providing the information have agreed that we may do so.

We will treat every case in confidence and officers will do all they can to protect the identity of victims and witnesses.

We will advise witnesses that:

- Their information will be treated as confidential and not be disclosed without their permission, and that we will do all we can to protect their identity when we speak to other people.
- We will not disclose their details, but advise them that it may not always be possible to prevent their identity from becoming known (for example, if there are specific details in the allegations put to alleged perpetrators).
- Officers will conduct their enquiries in a way that reduces to a minimum any opportunity that will lead to the identification of victims and witnesses.

Sharing information with our partners

The Council and our Safer Communities partners use an agreed Information Sharing Protocol created under the Crime and Disorder Act, 1998. This has been updated in light of the GDPR regulations.

We may share information with these other agencies for the purpose of preventing ASB or crime.

Sharing information with tenants and the community

The Council works proactively with the media to publicise successful actions to prevent or tackle ASB.

The Council regularly communicates with its tenants and residents on a variety of matters, including anti social behaviour.

Recording of decisions made under delegated powers

The Openness of Local Government Bodies Regulations, which came into force on 6 August 2014, requires local authorities to record and publish certain significant officer decisions made under delegated powers.

There are exemptions to the Regulations and officers should refer to guidance available on the staff intranet or their line manager to ensure they comply with the Regulations and record appropriate decisions.

For example, if an officer seeks to use the Public Spaces Protection Order this should be recorded on the Delegated Decision Record Sheet, and published.

8. Protection of Staff

The Council has a policy on violence at work to protect its staff. Risk Assessments required under the Management of Health and Safety at Work Regulations 1992 are carried out in respect of staff with duties to undertake anti-social behaviour work.

All staff must adhere to their departmental Risk Assessment requirements during the Covid 19 Pandemic.

9. Complaints

We are committed to giving you the best possible service at all times, but sometimes we make mistakes. If this happens, we want you to contact us and let us know.

Where complaints cannot be resolved by local managers, complaints will be referred to the performance core for further review and response.

If you have a complaint, compliment or a comment about the council, you can talk to the member of staff concerned or their manager, you can:

Phone us on

01255 686580

Use the online form on the Council Website at www.tendringdc.gov.uk

Email us at asb@tendringdc.gov.uk

Write to us at: Tendring District Council
 People, Performance and Projects
 Council Offices
 88 – 90 Pier Avenue
 Clacton on Sea
 Essex
 CO15 1TN

10. Media Strategy

The Council will wherever appropriate seek to publicise its work to promote positive case outcomes and provide reassurance to residents in its ability to tackle anti-social behaviour.

All news stories resulting from the Council's casework and initiatives in the District will be processed through the Council's Communications Team.

The use of Social Media is increasingly important to promote good news stories and other ASB related information. The Safer Communities will make use of the Councils and Safer Communities Social Media accounts wherever possible.

11. Policy & Procedure Review

This document will be reviewed on a triennial basis, however it will be updated if there are any significant changes to legislation or policy.

The overarching Governance arrangements for this Policy will be through the Corporate Enforcement Group

The screenshot shows a web browser window with the URL <https://apps.powerapps.com/play/310bc56b-89d7-461f-a3ff-21fae952932a?tenantId=85a13c52-693e-4c39-bdfa-85c3a9047d15&sourc...>. The application is titled 'STOBI Enforcement' and is accessed by 'Leanne Thornton'. The main header of the form is 'Record A New Problem', with sub-headers 'Add Issue' and 'Add Evidence'. The primary section is 'Risk Assessment'.

Left Navigation Panel:

- STOBI Enforcement
- Work Queue
- Problems
 - Work Queue
 - Create Problem
 - Archives

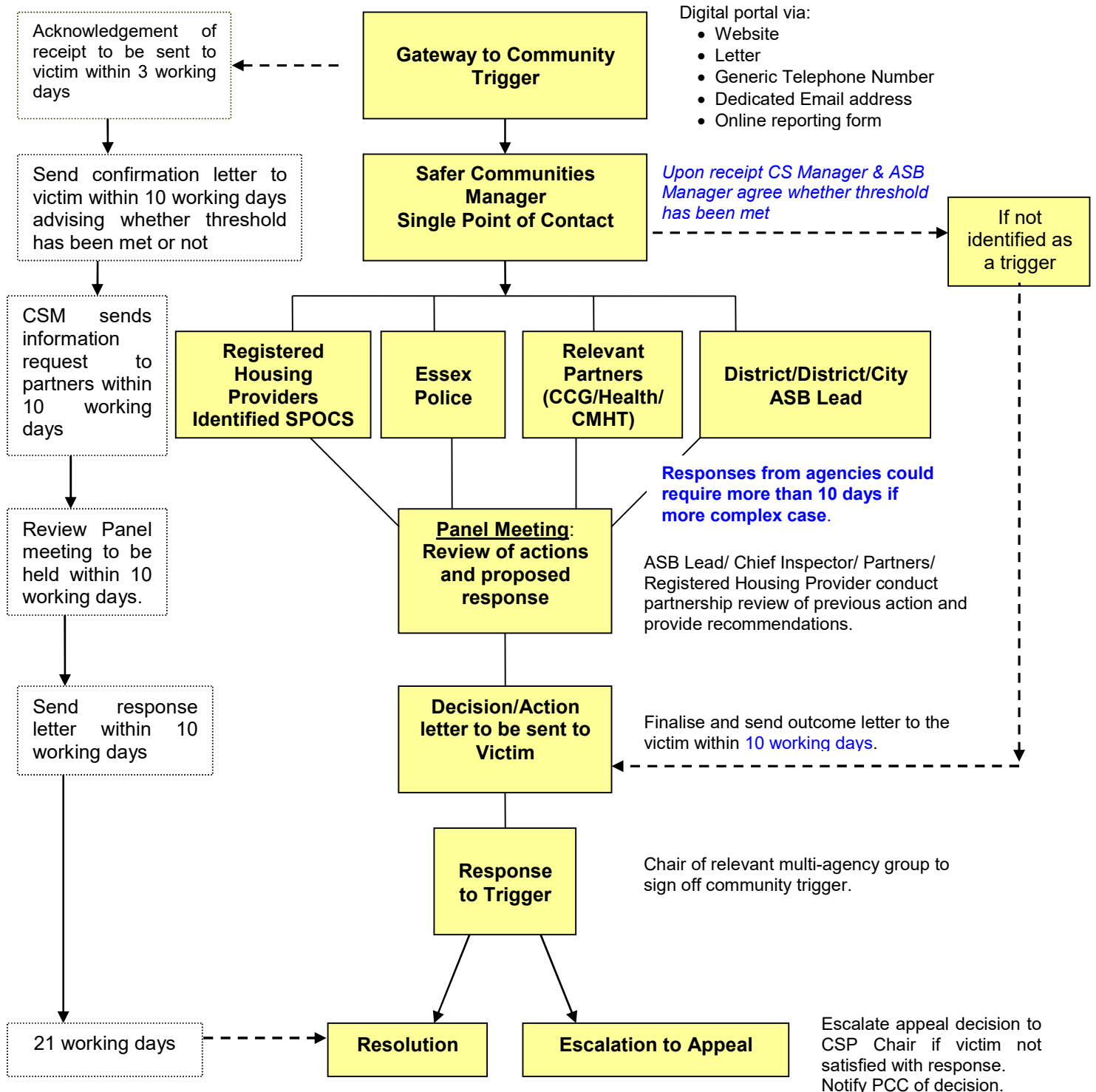
Risk Assessment Form Fields:

Who is affected by the problem? Reporter	Affcted Notes
Has someones physical or mental health been affected by the problem? <input type="checkbox"/> No	
Is there a future risk to someones health? <input type="checkbox"/> No	
Does this problem interrupt your daily life? <input type="checkbox"/> No	
Is this a targeted problem? <input type="checkbox"/> No	
Do you have a support network (if needed)? Not required	

The Windows taskbar at the bottom shows several open applications: 'STOBI Enforcement - Power ...', 'RA STOBI - Word', and 'Corporate ASB Policy Amend...'. The system clock indicates the time is 14:41.

ESSEX COMMUNITY TRIGGER MODEL

Threshold: ASB reported 3 times in the previous 6 months period and the victim feels that there has been no action taken, unless defined as Hate Crime where trigger will be activated if ASB reported 1 time in the previous 6 months and the victim feels like no action has been taken.



Delegation of ASB Powers

Intervention / Order	Who is Responsible
<p>Acceptable Behaviour Contracts (written contract between an individual and the Council, (Only Housing Provider – when housing related) and the Police)</p> <p>Page 15 of ASB policy</p>	<p>Tendring District Council Assistant Director Housing & Environmental</p> <p>Housing Providers Essex Police</p>
<p>Parenting Order (as above – but agreed measures to try and stop the ASB being caused by their son/daughter)</p> <p>Page 16 of ASB policy</p>	<p>Tendring District Council Assistant Director Housing & Environmental</p> <p>Housing Providers Essex Police</p>
<p>Noise Abatement Notice (Section 80 of the Environmental Protection Act 1990)</p> <p>Page 16 of ASB policy</p>	<p>Tendring District Council Assistant Director Housing & Environmental</p>
<p>ASB Case Review (formerly Community Trigger)</p> <p>Page 16 of ASB policy</p>	<p>Tendring District Council Corporate Director Operations & Delivery</p> <p>Safer Communities Manager (SPOC)</p>
<p>Community Remedy Referral to Restorative Justice Hub</p> <p>Page 17 of ASB policy</p>	<p>Tendring District Council Safer Communities Manager</p>
<p>Injunction to prevent Nuisance and Annoyance (INPA)</p> <p>Civil Power</p> <p>Page 17 of ASB policy</p>	<p>Tendring District Council Corporate Directors AD Building & Public Realm AD Housing & Environment</p> <p>in consultation with Legal Services</p> <p>Housing Providers</p>
<p>Criminal Behaviour Order</p> <p>Crown Prosecution Service (CPS) following a request from Police or Council</p> <p>Page 17 of ASB policy</p>	<p>Tendring District Council Corporate Director Operations & Delivery</p> <p>Safer Communities Manager</p> <p>in consultation with Legal Services)</p>

<p>Dispersal Powers</p> <p>Page 18 of ASB policy</p>	<p>Essex Police</p> <p>Request can be made to Essex Police from Tendring District Council</p> <p>Corporate Directors</p> <p>Relevant Assistant Directors</p>
<p>Community Protection Notice (CPN)</p> <p>Page 18 of ASB policy</p>	<p>Tendring District Council</p> <p>Corporate Directors</p> <p>Relevant Assistant Directors</p> <p>In consultation with Legal Services</p> <p>Police</p> <p>PCSOs</p> <p>Social Landlords</p>
<p>Public Spaces Protection Orders (PSPO)</p> <p>Page 18 of ASB policy</p>	<p>Tendring District Council</p> <p>Corporate Director Operations & Delivery</p> <p>Safer Communities Manager</p> <p>In consultation with Legal Services)</p> <p>Essex Police</p> <p>Police Fire & and Crime Commissioner for Essex</p>
<p>Absolute Grounds for Possession</p> <p>Page 19 of ASB policy</p>	<p>Tendring District Council</p> <p>Assistant Director Housing & Environmental</p> <p>Housing Providers</p> <p>Social Landlords</p>
<p>Closure Power</p> <p>Page 19 of ASB policy</p>	<p>Tendring District Council</p> <p>Corporate Director Operations & Delivery</p> <p>Safer Communities Manager</p> <p>In consultation with Legal Services</p> <p>Essex Police</p>

Those with delegated responsibility must comply with the procedures set out in the “Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour power. Statutory guidance for frontline professionals – July 2014 / Updated August 2019

Tendring District Council ASB Reporting Form

Data Sharing Information

In order for agencies to consider your request to have your incident investigated, it is necessary for Tendring District Council to request information from housing providers, external agencies and external partners to share information with each other in order to conduct an investigation.

Please select "Yes" to confirm that you authorise Tendring District to obtain and share information in respect of your case.

- Yes
 No

Information about the incident (s)

Can you confirm that the incident (s) are in relation to:

- Anti-social
behaviour
 Hate Crime

Who have you reported this issue to:

Please provide names of organisations, contact name and any reference numbers in the box:

What has happened ?

Where have these incidents happened ? (location, street name, and/or postcode etc?)

Who was involved in these incidents and what was their role ? (witness, victim, perpetrator)

Has anyone else witnessed this ? (if so, please specify In box)

Does this issue affect more than one household or business premises ?

How are the incidents affecting you ?

Date(s) of incident(s)

Has previous action been taken ? (If yes, please give details in the box)

Please complete and return this form to:

Safer Communities Team
Tendring District Council
People, Performance and Projects
Council Offices
88 – 90 Pier Avenue
Clacton on Sea
Essex
CO15 1TN

Tendring
District Council



Fixed Penalty Notices – Operational policy

2021

Version	1	Status	Subject to SMT meeting
Implementation Date	2021	Review Date	February 2022
Author(s)	Leanne Thornton / Russ Cole	Policy Lead Officer	Leanne Thornton / Russ Cole

Summary Sheet

Purpose of this document:

Establish standardised fixed penalty procedures to be followed by all those with powers to issue fixed penalty notices for environmental offences

Document owner / prepared by:

Tendring District Council, Safer Communities Team.

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1. Who does this apply to?

Everyone in the council involved in the enforcement, prosecution and administration of such fixed penalty notices.

2. Introduction Statement

The Clean Neighborhoods and Environment Act 2005 extended and amended the powers available to local authorities to tackle environmental crime. In particular the Act extended the use of fixed penalty notices (FPNs) across a range of environmental offences with an increasing emphasis on their use as a key means of tackling such offences. FPNs provide a quick, visible and effective way of dealing with low-level straightforward environmental crimes, and an alternative to prosecution.

Also the Anti-social Behaviour Crime and Policing Act 2014 allows local authorities to tackle anti-social behaviour by the introduction of public spaces protections orders.

A fixed penalty is not a fine. Payment of the penalty by the recipient discharges their liability to conviction for the offence for which the FPN was issued. It does not constitute an admission of guilt, but removes the possibility of the creation of a record of criminal conviction.

It is very important that there is a framework in place to ensure that offenders will be prosecuted if they choose not to pay the fine. This gives a powerful message to the community that such crimes will not be tolerated. If there is a reluctance to prosecute, this will give out a negative message and will undermine the credibility of FPNs, and word will soon spread that the payment of FPNs are optional.

FPNs should not be used in isolation; they are just one method of enforcement which range from words of advice through to prosecution. Their use should be supported by

education and campaigning strategies, and they should be targeted appropriately. Targeting will achieve the best results in that it is more likely to catch offenders, create an improvement and attract public support.

The purpose of this guidance is to establish standardised fixed penalty procedures to be followed by all those with the power to issue fixed penalties. It has been prepared in line with guidance from DEFRA on the use of FPNs and complements the existing Enforcement Concordat and the council's overarching enforcement and ASB policy and its supplementary policies.

3. Working practises

Only officers who have been authorised in writing can issue FPNs on behalf of the authority. Such authorised officers must carry with them at all times the relevant authorisation/identification.

Whilst it is not a strict requirement, and whilst there may be occasions when 'covert' enforcement is appropriate, it is considered good practice that the issue of a FPN is by an enforcement officer wearing an identifiable item of clothing or uniform. This tends to legitimise what the enforcement officer is doing and visibly demonstrates to the community that the authority is tackling inappropriate behaviour.

The reassurance element of this should not be under-estimated.

Whether in uniform or not an enforcement officer should always identify themselves as such and be prepared to show their identification card and authorisation.

4. Relevant offences

At present there are eighteen different offences which can be dealt with by authorised officers.

A short description of these offences and the relevant legislation can be found at **Appendix 1.**

5. Grounds for issuing FPN's

It is not the intention of this policy to deal formally with each and every situation where an offence has been witnessed. Neither is it the intention of the policy to be prescriptive as to when a FPN should be issued.

Enforcement officers quite properly have discretion and must consider each set of circumstances when reaching a decision as to whether the issue of a FPN is appropriate.

The authority does not have a 'zero tolerance' approach, but neither will it be appropriate to simply advise all those who commit offences. Instead the authority relies upon the professional judgement of its enforcement officers to operate within the broad guidelines of this policy and to exercise a balance between engagement, education and escalation potentially through to enforcement.

An FPN may only be issued where an officer has reason to believe a person has committed a penalty offence and there is sufficient and appropriate evidence to a criminal standard of proof to support a prosecution in court, should the penalty notice go unpaid.

FPNs are designed to deal with low-level offending only. When the nature or extent of the offence is so serious that the issue of a FPN would bring the system into disrepute, then prosecution should be considered instead.

Normally offences resulting in an FPN will be witnessed directly by the officer, albeit that an officer may consider it appropriate to issue a FPN when they have not directly witnessed the offence but have reliable witness testimony.

Any interview and questioning must be consistent with the practice and procedures established by Code C of the Police and Criminal Evidence Act 1984.

6. Second offences

There will be occasions when those who have received an FPN fail to modify their behaviour and commit a further offence.

As one of the purposes of an FPN is to change offending behaviour, generally an FPN should be regarded as a 'once only offer'. In cases where an offender commits the same offence on a second occasion it is reasonable to argue that the original FPN has failed to have the desired effect and that prosecution is the most appropriate course of action.

As it can be difficult to access the required information, if any officer has reason to believe that an offender has been dealt with by way of an FPN on a previous occasion, the appropriate course of action may be to issue a Notice of Environmental Crime and thus allow the required checks to be carried out prior to the enforcement decision.

Notwithstanding the above it will be acceptable to issue an FPN to the same person on more than one occasion if the offences are different.

7. When a FPN is not appropriate

An FPN should only be issued where the alleged offender is compliant and able to understand fully what is going on and where there is sufficient evidence as to his identity and address.

Where a person is uncooperative, threatening, abusive or violent consideration should be given to alternative methods of disposal, (e.g. prosecution and/or police involvement).

If an offender gives false details, or they are suspected to be false, or refuses to give them and subsequently their identity is established, the offence should normally be pursued by prosecution, where practicable, rather than with an FPN.

Additionally an FPN will not be appropriate:

- Where there is insufficient evidence to support prosecution for the original offence in the magistrates' court should the FPN go unpaid.
- Where the offence that has been committed is considered to be too 'serious' in scale or effect to merit an FPN.
- Where the offence that has been committed is so small or trivial in its effect that action might not be in the public interest. It is often difficult for the enforcement officer

to make this decision 'on the ground' at the time of the offence. The Notice of Environmental Crime can be useful in such circumstances.

Additionally the 'Appeals and Payment Procedure provides an opportunity for the relevant service manager to address this point.

- Where the suspect appears to be unable to understand what is being offered to them or there is any doubt about their ability to understand English
- Where the suspect's behaviour suggests they have learning disabilities or a mental disorder
- Where the suspect is drunk or under the influence of drugs
- Where the suspect is a non-resident foreign national
- Where there is no satisfactory address for enforcement purposes, for example where the suspect is homeless.

8. FPN's and young people

The issuing of FPNs to young people below 18 years is not straightforward.

In law, a local authority FPN can be issued to anyone over the age of 10.

Parents and guardians are not responsible in law for paying FPNs issued to young offenders. However, a court can order the parent/guardian to pay any fine it may impose.

In dealing with an alleged young offender the name, address, age and date of birth of the person should be obtained, together with the name and address of his or her parents or legal guardian.

No interview should be undertaken of any young person under the age of 17 without the presence of a 'responsible' adult.

An FPN must not be issued to anyone who is under 10 years of age.

10-15 year olds - Where an offence is straightforward, for example a littering offence, and a formal interview is not required, an FPN may be issued, albeit that an FPN will not be issued 'on the spot' to an alleged offender within this 10 to 15 year old age group. Instead, an appropriate course of action will be decided following consultation with the Youth Offending Service.

In such circumstances it is extremely unlikely that an FPN would be issued for a first offence, as a warning would be the most likely outcome. In all instances, a young person's parents or legal guardian should be informed at the earliest opportunity of the circumstances and the action/consultation that is being taken. The council will take every effort to avoid the service of an FPN on a person in this 10 to 15 year old age band, and will only do so in extreme cases of persistent offending and where it is evident that there is little or no remorse.

16-17 year olds - FPNs can be issued to this age group using the same procedure as for adults. The Youth Offending Service will be notified in writing of the event. They will also be consulted if the youth has committed a second FPN offence prior to the consideration of prosecution. 9.6 There should be a multi-faceted approach to the problem of young offenders. An FPN is just one method of enforcement and consideration will be given to other areas such as education work in schools and initiatives such as litter picking.

9. Method of issue

FPNs may be issued on the spot by enforcement officers and indeed this is generally regarded as the preferred and the most appropriate method of issue. There may however, be occasions when the officer considers that this is not the most appropriate method, and on such occasions it is permissible to issue a Notice of Environmental crime.

This notice serves to inform an offender that they may receive an FPN by post. Such an approach:

- allows evidence to be checked before the notice is issued
- allows names and addresses to fully checked
- allows an opportunity to check for previous offences
- is less confrontational for the enforcement officer.

10. Evidence

An FPN should not be issued unless the issuing officer believes that there is sufficient evidence to support a successful prosecution. As such, the FPN and accompanying

statement should include all of the points required to prove the offence, should it end in the magistrates' court.

Any supporting evidence, not required at the time of submitting the officer's copy of the FPN, should be safely and securely stored.

Where the officer has issued a Notice of Environmental Crime they should complete Their witness statement in the same way as if they had issued an FPN.

Should a decision subsequently be made to issue an FPN, the copy FPN can then simply be linked to the Notice of Environmental Crime for evidential purposes.

Whilst there is a degree of debate as to when, or if, an offender needs to be cautioned in certain circumstances, enforcement officers should be mindful that if they wish to question an alleged offender over and above asking for name, address, date of birth and in the case of dog fouling, to confirm if a dog is with a particular person, and they may want to use any of the answers in any subsequent prosecution, then they must caution the person.

Other than in the most straightforward of offences, therefore, where the testimony of an enforcement officer who has witnessed the offence should be sufficient to support a prosecution, or when the alleged offender is under the age of 17 and any 'interview' should be in the presence of an appropriate (responsible) adult, it should be regarded as good practice to caution.

Obtaining the right identity of an alleged offender is key to the process of issuing a FPN. Under Section 7 of the Clean Neighbourhoods and Environment Act 2005 an authorised officer proposing to give a person an FPN may require the person to give him his name and address. A person commits an offence if he fails to give his name and address when required to do so, or he gives a false or inaccurate name or address.

Whilst this is a useful power, in practice it may be difficult for an enforcement officer to know when false details have been given, albeit that experience will usually alert an officer to this. It is good practice therefore to seek from an alleged offender some means of identification that supports the details they have given, albeit there is no

power to require that they produce this, and to only offer an FPN when as confident as is reasonably practicable that correct details have been provided.

If there is any doubt over someone's identity they should not be offered an FPN at the time. Rather, the enforcement officer should see if it is possible to verify the individual's identity. If, following further enquiries, it turns out that the alleged offender was providing the correct details then an FPN can be issued retrospectively. If it transpires that false details were provided and the enforcement officer is able to establish the correct identity then consideration will be given to prosecute the alleged offender for the original offence in addition to the offence of refusing to provide name and/or address or failing to provide accurate name and address details.

It is accepted that this approach means that some offences may go unpunished, but such a position is important if the integrity of the FPN process is not to be compromised.

11. Appeals and payment

Once an FPN has been issued, the recipient may decide to write in, email or telephone to plead mitigation or contest the FPN. The person should be advised that there is no obligation to pay the fine if he/she wishes to contest it.

However, as there is no formal appeals procedure the only appropriate place to challenge an FPN is the magistrates' court.

Notwithstanding the above and the fact that there is no appeals procedure, a service manager whose staff are authorised to issue FPNs may cancel any FPN following a review of the circumstances. Where an FPN is cancelled the service manager will write to the recipient of the FPN explaining why the notice is cancelled, and a copy of the letter and notice will be retained for audit purposes.

Prosecuting alleged offenders in court is expensive and as such high payment rates for FPNs is central to the success of their use. A paid FPN is always a better outcome than one that goes unpaid with the original offence then having to be prosecuted at court. Legislation allows those who have been issued with an FPN 14 days to pay.

However, this does not mean that late payment cannot be accepted; indeed in certain circumstances an alternative payment option can be advantageous if this works to secure payment and prevent a prosecution.

The general principle remains that an FPN must be paid within 14 days. However, the relevant service manager does have the authority to offer an alternative payment option. Any request for an alternative way of paying must be carefully considered on a case by case basis and the service manager will offer it only where satisfied that there are genuine reasons, and not routinely or as a matter of course.

Genuine reasons are likely to be:

- When it is a young person (aged under 18) who is not in employment, for example a student
- When someone is on benefits
- Where there is otherwise a proven case of hardship, an alternative payment option may be:
 - Payment by instalments or deferred payment

Where an alternative payment option is offered, the detail of it will be fully documented, and if it is subsequently disregarded, the original offence will be prosecuted in court.

Whilst there is no obligation to send a reminder to the recipient of an FPN, the reality is that on occasion a notice may not be paid within the 14 days. Where this is the case, prior to initiating court proceedings for the original offence, a letter will be sent to the alleged offender reminding them of the offence alleged and the action required of them to avoid a possible prosecution. This reminder will effectively give an alleged offender a further 7 days in which to pay the FPN.

12. Pursuing offences in court

The conclusion of any FPN that goes unpaid after the 14 day payment window has closed and after a reminder letter has been sent will be prosecution for the original offence in the magistrates' court, unless there is good reason not to.

13. Training and management systems

All staff who are responsible for the issue and progressing of FPNs will be fully trained in the appropriate procedures to follow. A list will be maintained of all individuals who are authorised to issue FPNs.

A system will monitor all FPNs from issue through to payment or prosecution. This system, maintained currently within the Community Safety team administration will maintain up to date records of enforcement activity, i.e. numbers of notices issued, how much money has been generated in receipts and the number of court prosecutions for non-payment. This information is legally required by DEFRA on a yearly basis.

14. Compliance

All FPNs issued will be monitored by the respective service manager; this will ensure that FPNs are being issued lawfully and that this policy is being followed.

Failure to follow this policy will have an impact in a number of areas. Failure to pursue unpaid notices through the courts will discredit the use of FPNs and will lead to declining payment rates. If the guidelines are not followed this may result in unsuccessful prosecutions through the courts, and may also result in the council acting unlawfully

APPENDIX 1

Levels of Fixed Penalty Fines

	Description of offence	Act	Amount of penalty	Maximum penalty on conviction	Notes (To be recorded on inside of the front cover of the booklets for officers guidance)
1	Fail to comply with Public Spaces Protection Order	Ss. 67 and 68 Anti-social Behaviour Crime and Policing Act 2014	£100	Max on conviction level 3 - £1,000	
2.	Failure to comply with Community Protection Notice	Ss. 48 Anti-social Behaviour Crime and Policing Act 2014	£100	Level 4 on standard scale - Individual - £2,500 Body - £20,000	
3.	Depositing litter	S.87 (leaving litter) Environmental Protection Act 1990 (as amended)	£75	Level 4 standard scale - £2,500	
4.	Abandonment of vehicle i.e. unauthorised dumping – and see 2(1)(b) – NOT a vehicle	S.2/2a Refuse Disposal (Amenity) Act 1978	£200	£2,500*	<p>1. Section 2A (10) provides for a reduced fee.</p> <p>2. S.2B – power to require name and address – offence to fail to do so or to provide false/inaccurate details. Summary conviction – fine not exceeding Level 3.</p> <p>3. S.2C – use of monies from FPNs restricted.</p> <p>4. * See 2(1) – penalty level 4 standard scale</p>

					but 2 nd or subsequent conviction level 4 and/or term not exceeding 3 months (check term for offences in mags)
5.	Nuisance parking i.e. exposing vehicles for sale; and - repairing vehicles on a road	S.3-9 Clean Neighbourhoods and Environment Act 2005	£100	Level 4 standard scale - £2,500	1. S.3 is "exposing vehicles for sale" – check all sections quoted. 2. S.4 repairing vehicles on road S.7 power to require name and address – failure to provide an offence
6.	Fly posting	SS. 131(2) & 132(1) Highways Act 1980 - S.224(3) Town and Country Planning Act 1990 - SS. 43 – 47 ASB Act 2003 as amended by Part 4, CNEA 2005 (which repealed S.43(10) and (11))	£100	£2,500	
7	Graffiti	S.1 Crim Dam Act 1971 and SS. 43 – 47 ASB Act 2003 as amended by Part 4 CNEA 2005 - SS. 54 and 54A ASB Act as amended by S.32 CNEA 2005	£100 *	£2500	* reduced to £50 if paid within 14 days. 1. S.43B – power to require name and address 2. S.43B(2) offence if fail to give name and address – summary conviction – level

					3 fine
8.	Cycling on a footpath	S.54 Road Traffic Offenders Act 1988 in respect of offence under S.72 Highways Act 1835 (riding on a footpath)	£30	£1,000	
9.	Possession of firework under 18	Fireworks Regulations 2004 under S.11 Fireworks Act 2003	£90	£5,000	
10.	Throwing fireworks	S.80 Explosives Act 1875 in a designated public place (CJ Police Act 2001)	£90	£5,000	
11.	Sale of alcohol to under 18 / for under 18 / delivery under 18	S.146(1) / S.149(3a) and S.151(1) Licensing Act 2003	£90	£200 or * unlimited at Magistrates' Court	*This relates to staff only-licensees should be subject of a summons according to the Sentencing Council
12.	Failure to produce waste documents	S.34(1-7) – Environmental Protection Act 1990	£300	Level 5 on standard scale - £5,000 / unlimited on indictment	1. S.34(1) & (1A) – requirements on “any person who treats or disposes etc. of controlled waste” S.34(2A) duty on householder to ensure waste removed by authorised persons 2. Penalty for s.34 (1), (1A) or (2A) {or any regs made under s-s(5)} on summary fine not exceeding statutory

					<p>maximum or on indictment a fine.</p> <p>3. S.34A(2) failure to produce waste transfer note</p> <p>4. power to issue FPN = S.34ZA for offences under S.34(6) relating to s.34(2A), i.e. householder,</p>
13.	Failure to produce authority to transport waste	S.5/5B Control of Pollution (Amendment) Act 1989 and S.34 Environmental protection Act 1990	£300	Level 5 on standard scale - £5,000	1. S.5C – use of monies for certain functions only – and see S.5C (3)(b) and (4).
14.	Unauthorised distribution of free printed material	Schedule 3A paras 1(1) and 7 – Environmental Protection Act 1990	£100	£2500	
15.	Failure to remove dog waste	S.4 Dogs (Fouling of Land) Act 1996	£75	£1,000	<p>1. DFLA 1996 repealed BUT where no “dog control orders” made this Act is still applicable</p> <p>2. Act does not apply to land with the following descriptions:</p> <p>(a) land used for agriculture or for woodlands;</p> <p>(b) land which is predominantly marshland, moor or heath; and</p> <p>(c) common land to which the public are entitled or permitted to have access otherwise than by</p>

					<p>virtue of section 193(1) of the Law of Property Act 1925 (right of access to common land), or (d) land comprised in or running alongside a highway which comprises a carriageway unless the driving of motor vehicles on the carriageway is subject, otherwise than temporarily, to a speed limit of 40 miles per hour or less.</p> <p>3. The Neighbourhoods & Environment Act 2005, s.61 gives a power to require name and address where notice given under s.59, i.e. the FPN. Failure to give details an offence, summary conviction, fine level 3 on standard scale.</p>
16.	Failure to display correct signage (smoking)	S.6(5) Health Act 2006 – smoke free legislation	£200	£1,000	
17.	Smoking in a smoke free place or vehicle	S.7(2) Health Act 2006 – smoke free legislation	£50	£20	
18.	Fly tipping	Part II EPA 1990 as amended by Part 5, Chap 2	£200	£1000	

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The financial amounts referenced in Appendix 1 of this policy are subject to statutory revisions and, as such, may be revised by the government from time to time. The actual specified amounts may therefore vary from this document, which were correct at the time of publishing