

# ANTI-SOCIAL BEHAVIOUR POLICY

## CONTENTS

	PAGE
INTRODUCTION	2
POLICY STATEMENT	2
EQUALITY AND DIVERSITY	2
ANTI-SOCIAL BEHAVIOUR DEFINITION	3
REPORT INCIDENTS OF ANTI-SOCIAL BEHAVIOUR	3
ASB REPORT CATEGORISED AND PRIORITISED	5
RESPONDING TO ASB REPORTS	5
ASB ENFORCEMENT	10
COMMUNITY TRIGGER	18
CASE CLOSURE	19
MULTI AGENCY WORKING	19
INFORMATION SHARING AND CONFIDENTIALITY	20
MONITORING THE SERVICE	21
COMPLAINTS	22
PERFORMANCE MONITORING	22

## **INTRODUCTION**

Brent Council recognises need to challenge any form of Anti-Social Behaviour (ASB) in an effective robust and proportionate manner. Resident have a right to a quiet and peaceful enjoyment of their environment which they live in making sure cases are resolved through effective intervention and support services.

Brent Council ASB policy applies to all residents – Homeowners, Private renting tenants, Council tenants and leaseholders and other tenants of Registered Social Leaseholder.

### **Brent Anti-Social Behaviour Team (ASB), Community Protection**

The Brent ASB Team (Community Protection) is a multi-agency Team comprising of Head of Community Protection, ASB Nuisance and Crime Manager, 5 dedicated anti-social behaviour localities officers.

## **1. POLICY STATEMENT**

Brent Council will not tolerate anti-social behaviour directed towards residents, or their visitors. This policy sets out:-

- Our pledge in tackling anti-social behaviour;
- The approaches we will use to tackle anti-social behaviour.

We will ensure 3 key approaches are used in tackling all cases of ASB

- Early intervention and prevention to resolve the problem as quickly as possible;
- Partnership working with appropriate agencies;
- Enforcement using the full range of non-legal and legal tools available.

## **2. EQUALITY AND DIVERSITY**

Brent Council is committed to promoting equality within the delivery of its services to ensure all resident are treated with respect, dignity, fairness and above all not discriminated against.

The Equality Act 2010 provides a framework to ensure Council services are not provided in a discriminatory manner ensuring approach to be taken when considering legal action against an individual who is disabled. This means under this policy the council will:-

- demonstrate that we have considered any vulnerability identified within the Act when deciding to proceed with legal action;
- have concluded that legal action is needed due to the effect of the anti-social behaviour on either the health of the victim and/or the perpetrator;
- ensure that the proposed legal action is a proportionate response to the anti-social behaviour.

### 3. ANTI-SOCIAL BEHAVIOUR DEFINITION

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.

#### **Hate Related Incidents/Reports**

A hate incident is *any behaviour* that is perceived by the victim or any other person as being motivated by prejudice or hostility based upon the victim's real or perceived:-

- Race / Ethnicity – including ethnic origin, skin colour, nationality, culture, and/or language;
- Sexual orientation / Homophobia;
- Faith, religion or belief;
- Disability;
- Transgender / Gender identity.

All ASB incidents and reports which involve a hate-related element will be processed as an urgent enquiry and will be responded to within 1 working day in accordance with the ASB Team service standards.

### 4. REPORT INCIDENTS OF ANTI-SOCIAL BEHAVIOUR

The Council may take the lead in investigating the reports of anti-social behaviour in the following circumstances:-

- When the person experiencing and / or perpetrating anti-social behaviour is a Council tenant, or if the ASB is perpetrated by another person when visiting a Council tenant and such ASB is within the Medium or High category;
- When both the person experiencing and the person perpetrating anti-social behaviour are owner occupiers or reside in privately rented accommodation;
- When the ASB is taking place in any public place or place to which the public have access.

When either the person experiencing ASB or the perpetrator of ASB is a tenant of another social landlord or lives in a property managed by Tenant Management Organisation (TMO) the report of ASB should be made to the relevant social landlord or TMO.

Anti-Social Behaviour involving criminal conduct should be reported to Police by calling 101 or 999 in an emergency.

#### **How to report ASB**

Reports of ASB can be made to Brent ASB Team Community Protection by:-

- Completing the Online application form;

- Council Tenant(s) and Leaseholder(s) can complete the Brent Housing Management on line allocation form;
- ASB Team can also be contacted on 0208 937 1058, Monday to Friday (8am to 6pm).

You can report antisocial behaviour to the police on the following telephone numbers:-

- Non-emergency number – 101
- Crimestoppers – 0800 555 111
- If there is an immediate risk – 999.

### **Types of Reports investigated**

Brent ASB Team will typically deal with anti-social behaviour which could include (but is not limited to) those listed below:-

- Street drinking;
- Drug dealing;
- Drug taking / Substance misuse;
- Brothel;
- Prostitution / Soliciting / Kerb Crawling;
- Harassment / Intimidation;
- Suspected Cuckoo;
- Nuisance Premises;
- Vulnerable Individual causing ASB;
- Anti-Social Shisha Venue;
- Neighbour disputes;
- Groups or individuals making threats;
- Rough sleeping;
- Begging;
- Travellers Encampments.

We expect a reasonable level of tolerance among people and will seek to make a fair evaluation on whether complaints made are reasonable. Brent ASB Team will therefore not investigate the following:-

- Actions that are considered to be normal everyday activities or household noise;
- Complaints which are not a breach of the terms of tenancy, for example Neighbours staring at you or you don't like the way you were spoken too;
- Actions which amount to people not being pleasant to each other but are not sufficiently serious to likely cause harm to justify our involvement;
- Complaints about other people having lifestyles that offend others, for example, who people socialise with, how people dress or what they do in their own homes;
- Fly tipping, overcrowding and disrepair. These will be referred to other departments within the Council responsible for investigating these types of problems.

Brent ASB Team will investigate an anonymous report if the concerns can be verified. The council will wish to have contact with the individual experiencing antisocial behaviour to seek appropriate intervention to stop the perpetuating of the ASB.

## 5. ASB REPORT CATEGORISED AND PRIORITISED

Reports of ASB can be classified Low, Medium or High risk. ASB localities officers will contact the complainant to ask series of questions to assess the potential risk of harm caused by the ASB.

If the ASB involves the use or threat of violence or there is a significant risk of harm for example, a hate crime / incident, an officer will aim to contact the complainant within 1 working day. For all other reports of ASB, an officer will aim to contact the complainant within 5 working days.

## 6. RESPONDING TO ASB REPORTS

### Enquiry handling

Full details of any report of ASB, however it is received, will be recorded by the ASB Localities Officers on the council's casework management system.

Council officers receiving a verbal report (via telephone or face-to-face) will make a detailed record of incidents. A risk assessment form will also be completed to categorise effectively the severity of the case.

For all cases which score "high risk" on the referral form, the case officer will contact the complainant/referring agency, by telephone or face-to-face visit within -	<b>1 working day</b>
For all cases which score "low" or "medium risk" on the referral form, the case officer will contact the complainant/referring agency by telephone or face to face visit within -	<b>3 to 5 working days</b>

### Case Investigation

Brent ASB Team recognises that the complexities involved in investigating ASB cannot be readily mapped out as a "one size fits all" process.

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. Victim contact, Risk & Vulnerability Assessments;
- ii. Accused contact & Vulnerability Assessments;
- iii. Evidence collation & statement taking;
- iv. Accused interventions;
- v. Partnership Working & ASB Panels;
- vi. ASB Enforcement.

## Victim Contact & Vulnerability Assessments

Unless contact or a visit has already taken place during the initial response to the incoming enquiry / referral, the investigating case officer will contact or arrange to visit the complainant/victim(s) within 10 working days of the initial response to fully explain the investigative process and manage expectations.

During the initial contact or visit to named victims, the case officer will ensure that all actions outlined in the following checklist are carried out:-

<b>Case officers Initial Contact Checklist (Victims/Complainants)</b>	<input type="checkbox"/>
Introduce themselves to the victim and provide their contact details should the victim need further information or wish to report further incidents.	
Explain the purpose of and complete a Victim Vulnerability risk assessment and equality monitoring data form.	
Obtain as much detail as possible about the alleged ASB including where appropriate photographic evidence of any reported damage.	
Establish whether any other professional body / solicitor / Councillor / MP has been contacted or is already involved in this case.	
Agree with the victim how the case will be investigated, discussing with the victim their expectations in relation to the case.	
Advise the victim on how the case may progress and what options are available at this stage, including independent mediation.	
Fully explain not only what the customer can expect from us, and what we will require from them.	
Advise the victim that the accurate completion of ASB diary sheets will form a vital part of the evidence-gathering process, noting that if ASB diary sheets are completed correctly and are of good quality, with detailed evidence of recent incidents, only a few should be required.	
Ensure that the victim understands that should the ASB Team decide to take legal action, it may be necessary for the victim to provide evidence at a court hearing later in the case	
Identify any risk factors, which would prevent the victim giving evidence at court.	
Obtain consent of the victim to approach the accused. Advise the victim that whilst their identity will not be disclosed to the accused (unless they have given consent that they are happy for their identification to be disclosed) they may be identified to the accused through the disclosure of specific incidents or, if legal proceedings are scheduled, (given the legal requirement to disclose evidence to the defence) through the evidence provided to the court.	
Provide the victim with leaflets and information relating to currently available support services/organisations that may be able to assist the victim.	

Advise that all victims will be offered a referral to Victim Support, who, once involved, will continue to liaise with the case officer to advise of any vulnerability issues or additional support needs.	
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### **Alleged Perpetrator Contact & Vulnerability Assessments**

Contact or interviews will be arranged with the alleged perpetrator within 10 days of case creation, unless the nature of reported incidents indicates victims/witnesses/communities may be at risk though disclosure of allegations. Where swift action is needed to protect victims, the ASB Manager may authorise action to be taken 'without notice' being given to the alleged perpetrator.

Case Officers will undertake an investigation in response to the nature and severity of the allegations or any concerns arising from the accused's previous contact history, to minimise any potential risks relating to interviews with alleged perpetrators.

Wherever practicable, subject to any known or identified risks, interviews with alleged perpetrators will be pre-arranged by telephone/ email to minimise the potential for failed appointments. Where time permits, scheduled interviews should be confirmed in writing. As with arranging meetings with victims, it may be necessary to meet with alleged perpetrators away from their home or at a neutral venue.

Where contact with alleged perpetrators is likely to take longer than 10 working days after the initial enquiry response, the case officer will advise the victim of the reasons for this.

During the initial visit to/meeting with the alleged perpetrator, the case officer will ensure that all actions outlined in the following checklist are carried out:-

<b>Case Officers Initial Contact Checklist (Accused)</b>	<input type="checkbox"/>
Explain the role of ASB Localities Officers and the purpose of the interview / meeting.	
Inform the alleged perpetrator of the allegations made and obtain their version of events / incidents, noting any admissions or counter allegations.	
Explain the purpose of, and endeavour to identify any vulnerabilities or support needs that may have a bearing on their behaviour, giving due consideration to what support can be provided.	
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. Record on Action Plan.	

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 and signpost to the Brent Housing Management.	
Advise the alleged perpetrator that their individual support needs and vulnerabilities will be assessed and re-assessed throughout the investigation, taking account of any change in circumstances, formal warnings and escalation of incidents.	

Where allegations are received pertaining to the behaviour of children under the age of 18, the alleged perpetrator will be interviewed with their parent(s) or appropriate adult present. Where children are known to attend full-time education interviews will, where practicable, be arranged to take place out of school hours.

All interviews, discussions and or attempted discussions with the accused, including instances where the alleged perpetrator fails to attend or refuses to discuss any allegation, will be recorded as evidence of attempts made to conduct an impartial and balanced investigation. A written record will be kept of all interviews and agreed actions will, where appropriate be confirmed in writing where it is reasonable to do so.

Following the initial visit or contact, the case officer will (unless emergency legal action is to be taken without notice to the alleged perpetrator) continue to liaise with the alleged perpetrator throughout the investigation to discuss further evidence obtained, to consider appropriate interventions, and/or to reiterate any conditions / sanctions the alleged perpetrator is expected to adhere to.

The alleged perpetrator vulnerability assessment and resulting support provision will be reviewed when appropriate to ensure support is effective and remains relevant to the accused's needs.

Where the alleged perpetrator either in person or through their solicitor, denies all allegations, the case officer will discuss the case with the ASB manager to evaluate the strength of the evidence against that individual and agree how to progress. All requests from solicitors acting on behalf of the accused will be responded to and confirmed in writing by the ASB Nuisance and Crime Manager.

### **Evidence Collation**

Case officers will ensure all investigations are thorough and all avenues of potential evidence are explored to determine the most effective means to resolve complaints of ASB. Sources of evidence include, but are not restricted to:-

- Anti-Social Behaviour (ASB) Diary Sheets;
- Statements taken during interviews with case participants (see below);
- Personal observations during visits;
- Photographs;



- Professional evidence (Police, Out of Hours Response Officers, Housing Officers etc.);
- Professional witnesses;
- Fraudulent documents / records;
- Visits to neighbours and wider area;
- Hearsay;
- Shared intelligence;
- CCTV;
- Section 115s.

### **ASB Diary Sheets**

Where victims report regular incidents of nuisance or anti-social behaviour, ASB diary sheets can be issued to victims and appropriate witnesses, with clear guidance provided as to how to record incidents they witness (times, type and nature of incidents, duration and details of all involved, other witnesses etc.). Each incident should be signed and dated.

If the victim has problems completing the form, the case officer will consider what other forms of help/assistance could be available and ascertaining whether a relative/friend could assist.

All nuisance diary books issued by case officers should be returned within 20 working days in accordance with service standards. Diary sheets can be returned via email to [community.safety@brent.gov.uk](mailto:community.safety@brent.gov.uk) or to the Community Protection Team, Brent Civic Centre, 5<sup>th</sup> Floor North, Wembley HA9 0FJ.

### **Statements**

Where victims are able to provide a witness account of incidents observed (as logged within ASB diary sheets) or reported to them (hearsay) a witness statement will be taken to support any legal proceedings. Statements should be a signed, contemporaneous and accurate account of events as witnessed by the complainant (written in their own words) and include comment on how those events made them feel. Handwritten notes used to prepare a typed statement will be retained on file.

### **Surveillance**

Where surveillance operations are to be used to obtain covert CCTV evidence of incidents of ASB, an appropriate RIPA authorisation should be sought.

Responsibility for completing a RIPA application rests with the case officer who will submit the application to the ASB Nuisance and Crime Manager for approval prior to it being authorised by the Head of Community Protection. The application will then be presented to the Magistrates Court where a decision will be made.

All collated evidence will be recorded on Brent ASB Team's case management system. All documents/evidence including statements will be copied, scanned and uploaded, and 'originals' returned to the author.

### **Alleged Perpetrator interventions**

ASB Case officers will identify and liaise with partner agencies to establish any support mechanisms and/or interventions already in place with the alleged perpetrator. Case officers will then consider whether those interventions could contribute to resolving identified ASB issues.

Case Officers will consider those supportive and diversionary interventions and referrals that are appropriate to the alleged perpetrator's tenure, age, and support needs, balancing the support needs of the alleged perpetrator against the seriousness of the ASB and the need to protect victims and witnesses.

Interventions used could include diversionary activities and or pre-enforcement contracts and agreements, including referrals to support and intervention providers such as Youth programmes, Families Front door, Drug programmes, Housing advice, Homelessness charities etc.; referrals to intervention panels; use of verbal and written warnings (Acceptable Behaviour Agreements (ABA's).

Where accused individuals are engaged with supportive or diversionary interventions, case officers will consult with service providers to assess the impact of engagement against reported behaviour, recognising the potential to undertake enforcement action in conjunction with on-going intervention and support where appropriate.

### **Community Remedy**

Where low level ASB has occurred, and is admitted to, Brent ASB Team will work with its police partners to consider whether a community resolution is appropriate.

The community remedy document is prepared by the local policing body in conjunction with the Police and Crime Commissioner (PCC), and can be revised at any time.

The community remedy document is a list of actions which might be appropriate to be carried out by a person who has engaged in anti-social behaviour or has committed an offence and is to be dealt with without court proceedings – either as part of an informal community resolution or a more formal conditional caution.

## **7. ASB ENFORCEMENT**

Where it is deemed that interventions are unlikely to resolve reported problems or indeed the on-going ASB warrants a more formal response to protect victims and witnesses, ASB Nuisance and Crime Manager's approval will be sought to proceed to enforcement action.

The ASB Nuisance and Crime Manager will provide appropriate advice and guidance with regards to appropriate legal measures, taking full account of the accused's age and tenure, and reflecting the nature and the seriousness of the ASB.

Once enforcement options have been approved, the case officer will compile a full case file with all documentary evidence obtained during the investigation (photographs, statements, letters, ABA's, cautions, CCTV evidence etc.) and follow

the enforcement protocols under the ASB, Crime and Policing Act 2014 (ASBCPA 2014).

Enforcement tools used by Brent ASB Team will primarily fall under the ASBCPA 2014, which seeks to ensure legislation is victim-centred, easy to use and dependent upon local decision-making.

### **Power of arrest**

The court can attach a power of arrest to any prohibition in the injunction, but not to a positive requirement.

The court can only attach a power of arrest if:-

- the anti-social behaviour in which the respondent has engaged, or threatens to engage, consists of or includes the use, or threatened use, of violence against other persons; or
- there is a significant risk of harm to other persons from the respondent.

### **Acceptable Behaviour Agreements**

These are written agreements between an individual (and a responsible adult if they are under 18), Brent ASB Team and the Police. Although not legally binding, the agreement is a promise that the individual will not carry out certain acts, which could be seen as anti-social. The agreement may include support for the individual in tackling the behaviour. Agreement terms will be agreed with accused through face-to-face meetings, where behaviours are fully discussed and their impact recognised.

It is not always necessary to use an ABA before taking other action (e.g. where the behaviour is very serious) but it is a step that would be considered in most cases involving young people.

### **Community Protection written warning**

A Community Protection Warning (CPW) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible. A written warning must be issued to the person/s or group/s committing anti-social behaviour. The written warning must make clear to the individual that if they do not stop the anti-social behaviour, they could be issued with a Community Protection Notice (CPN). This can be issued by the Police or authorised officers within the Council.

### **Community Protection Notice**

If the CPW is breached a full CPN must be issued to the person/s or group/s committing anti-social behaviour. The notice must make clear to the individual that they have breached the CPW and highlight the nature of the on-going problem, requesting them to stop, and informing them of the consequences of continuing.

The CPN can then be issued, where it is satisfied on reasonable grounds that the conduct of the individual, business or organisation;

- is having a detrimental effect on the quality of life of those in the locality;

- is persistent or continuing in nature; and
- is unreasonable.

The CPN can also include requirements to ensure that problems are rectified.

### **Breach**

Failure to comply with the requirements of a Community Protection Notice will make one liable on a summary conviction:-

- To a fine not exceeding level 4 on the standard scale, in the case of an individual;
- To a fine, in the case of a body.

If the terms of the Community Protection Notice are not complied with, and the land is open to air, Brent Council may have work carried out to ensure that the failure is remedied. For premises other than land open to air, where a CPN is issued which specifies work intended to ensure that the failure is remedied, Brent Council may have the work carried out if the necessary consent is given.

Brent Council will issue a Fixed Penalty Notice under Section 52(1) of the Anti-social Behaviour, Crime & Policing Act (ABC&PA) 2014, for breach of a CPN which gives the opportunity to discharge any liability to prosecution by payment of the fixed sum of **£100** within fourteen (14) days of the date of the Fixed Penalty Notice, or the discounted sum of **£75** within ten (10) days. If an individual pays one of these two amounts within the period specified, they will not be prosecuted for the offence.

### **Non Payment of fines**

Failure of an individual or business to pay the Fixed Penalty Notice within 14 days will result in legal proceedings being issued by the London Borough of Brent's Legal Team. Failure to pay the notice may result in prosecution, the penalty for which at a Magistrates Court is a fine not exceeding £2500 in the case of an individual. There is no limit to fines for a body.

### **Appeals**

Anyone issued with a CPN has the opportunity to appeal it. Appeals are heard in a magistrate's court. The CPN includes details of the process and how an individual can appeal.

An appeal can be made on the following grounds:-

- The behaviour did not take place;
- The behaviour has not had a detrimental effect on the quality of life of those in the locality;
- The behaviour was not persistent or continuing;
- The behaviour is not unreasonable;
- The individual cannot reasonably be expected to control or affect the behaviour;
- Any of the requirements are unreasonable;
- There is a material defect or error with the CPN;
- The CPN was issued to the wrong person.

## **Civil Injunction**

Civil injunctions can be applied for under Part 1 of the ASB Crime and Policing Act 2014 to stop a person's anti-social behaviour escalating and to set a clear standard of expected behaviours. The injunction is designed to offer fast and effective protection for victims and communities.

To meet the threshold for an injunction under Part 1 of the 2014 Act, the behaviour must have caused, or be likely to cause, harassment, alarm or distress.

ASB in a non-housing related context would affect any person and would occur in a public place, such as a town or city centre, shopping mall, or local park. This type of ASB does not affect the housing management functions of a social landlord or people in their homes.

ASB in a housing context affects persons in relation to their occupation of residential premises.

Applications where the defendant is aged between 10 and 17 will be applied for through the Youth Court; applications for defendants aged 18 and over will be applied for through the County Court.

Injunctions will include appropriate prohibitions to stop the ASB, but can also include positive requirements to help the individual deal with the underlying cause of their behaviour. The lead officer **must** liaise with Brent's Youth Offending Team for applications where the defendant is under 18, to ensure positive requirements are both appropriate and achievable.

Prohibitions or requirements in the injunction can be for a fixed or indefinite period for accused adults. In the case of under 18s, prohibitions and positive requirements must have a specified time limit, the maximum term being 12 months.

Brent ASB Team recognises that making the public aware of the accused and the terms of the order helps local people to identify and report breaches, but can also reassure communities that action is being taken in response to reported anti-social behaviour.

Unless the court has made a section 39 order under the Children and Young Persons Act 1933, which prohibits publication, the decision to publicise injunctions will be taken by the police or council through its regular communications processes.

### ***'Without notice' applications***

Some injunctions may be applied for without notice being given to the accused, where there is a concern or belief that disclosure could put the victim or witnesses at further risk. The notification and consultation requirements that apply to 'with notice' applications do not apply to 'without notice' applications.

### ***Interim injunctions***

If a 'without notice' application is successful, the court will grant an interim injunction. An interim injunction may also be granted where a standard application is adjourned. Interim injunctions can only include prohibitions, not positive requirements.

### ***Variation and discharge of injunctions***

Where a person's behaviour improves and Brent ASB Team (through its review process) deems it appropriate to vary or discharge an injunction, it can apply to the courts or advise the accused to apply. Where an application is made by Brent ASB Team, it will notify the people and organisations that were consulted as part of the initial application process.

If the court dismisses an application to vary the injunction, the relevant party is not allowed to make a further application without the consent of the court or the agreement of the other party.

### **Criminal Behaviour Orders**

A Criminal Behaviour Order (CBO) can be applied for on conviction, in order to tackle the most persistently anti-social individuals who are also engaged in criminal activity. This includes a wide range of anti-social behaviours, for example threatening violence against others in the community, being persistently being drunk and aggressive in public or causing criminal damage. (A CBO does not require there to be a link between the criminal behaviour which led to the conviction and the anti-social behaviour for it to be issued by the court). Orders can include both prohibitions and positive requirements.

Prosecutions will usually be brought by the Crown Prosecution Service (CPS), but in some cases, Brent Council may apply for the CBO after the offender has been convicted of a criminal offence. The CPS can apply for a CBO at its own initiative or following a request from a council or the police. The CBO hearing will occur after, or at the same time as, the sentencing for the criminal conviction

Orders will be granted where the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person, and where the court considers that making the order will help prevent the offender from engaging in such behaviour.

Where an offender is under 18, the Brent ASB Team will consult with the local youth offending team (YOT) and ensure consultation with other local organisations that may be in contact with the individual, such as schools and colleges, providers of probation services, social services, mental health services, housing providers etc.).

### **Dispersal powers**

The dispersal power is a flexible police power, authorised by an officer of at least the rank of inspector that can be used in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. The authorising officer must consider the impact on the local community before using the dispersal power.

The power allows police officers in uniform, as well as Police Community Support Officers (PCSOs) if designated by their chief constable, to deal instantly with someone's behaviour and nip the problem in the bud before it escalates.

In areas where there are regular problems, Brent police will inform the BCPT when a dispersal has been implemented.

### **Public Spaces Protection Order (PSPO)**

A Public Spaces Protection Order (PSPO) is an order intended to protect public spaces from anti-social individuals or groups, who create a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life. This might include individuals allowing dogs to roam without a lead and foul, drinking alcohol or engaging in drug use.

A PSPO can be made by the council if they are satisfied on reasonable grounds that the activities carried out or likely to be carried out in a public space:-

- have or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable and
- justifies the restrictions imposed.

Before making a PSPO, the council must consult with the local police. This should be done formally through the Police and Crime Commissioner, but details could be agreed by working level leads. This is an opportunity for the police and council to share information about the area and the problems being caused as well as discuss the practicalities of enforcement. In addition, the owner or occupier of the land should be consulted.

The council must also consult whatever community representatives they think is appropriate. This could relate to a specific group, for instance the residents' association, or an individual or group of individuals, for instance, regular users of a park or people who participate in specific activities such as busking or other types of street entertainment. Before the PSPO is **made**, the council also has to publish the draft order in accordance with regulations published by the Secretary of State.

Where an individual breaches the conditions of a PSPO (e.g. allowing dog to roam without a lead, dumping rubbish, consuming alcohol) and is witnessed doing so by a Police officer, designated PCSO or Council officer, their behaviour will be challenged. The individual might be asked to leave the area, hand over alcohol or put dog on a lead.

If the individual refuses to comply with the instruction, they will be committing an offence, for which they could be issued with a fixed penalty notice (Local Authority FPN) that can be issued by a Police officer, designated PCSO or Council officer. A more serious breach could on conviction result in a court-imposed fine.

## **Closure Power**

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder.

The power comes in two stages: the closure notice and the closure order. The closure notice can be used by the council or the police out of court. Following the issuing of a closure notice, an application must be made to the magistrates' court for a closure order, unless the closure notice has been cancelled.

A closure notice can be issued where the council or police officer (of at least the rank of inspector) is satisfied on reasonable grounds:-

- that the use of particular premises has resulted, or is likely soon to result, in nuisance to members of the public; or
- that there has been, or is likely soon to be, disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

The closure notice can be issued in the first instance for 24 hours or extended up to a maximum of 48 hours by the council's chief executive officer (head of paid service) or designate thereof, or by a police superintendent.

The closure notice should:-

- identify the premises;
- explain the effect of the notice;
- state that failure to comply with the notice is an offence;
- state that an application will be made for a closure order;
- specify when and where the application will be heard;
- explain the effect of the closure order and
- give information about the names of, and means of contacting, persons and organisations in the area that provide advice about housing and legal matters.

A closure order can subsequently be issued to close the premises for up to 3 months, if the court is satisfied:-

- that a person has engaged, or is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or
- that the use of the premises has resulted, or is likely to result, in serious nuisance to members of the public; or
- that there has been, or is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

A closure notice cannot prohibit access of anyone who routinely or regularly lives at those premises. However, a closure order, granted by the court, can prohibit access to those who routinely live at premises.

In prohibiting access through a closure notice, it will be important to consider who is responsible for the premises and who may need access to secure a premise. This might not always be the owner, for example a managing agent.



Breaching a closure order is a criminal offence carrying a penalty of either imprisonment for a period of up to six months or an unlimited fine, or both.

A closure notice cannot be appealed. A closure order can be appealed, as long as appeals are made to the Crown Court within 21 days beginning with the date of the decision to which the appeal relates.

### **Absolute Grounds for possession**

As outlined within the ASB Procedure document, prevention and early intervention is at the heart of our approach to dealing with anti-social behaviour.

In some persistent or serious anti-social behaviour cases, it may become necessary to seek possession. Brent Housing Management (BHM), when responding to the most serious cases of anti-social behaviour, will consider new absolute ground for possession included within the ASBCPA 2014, designed to speed up the possession process in cases where anti-social behaviour or criminality has been already been proven by another court.

The court must grant possession (subject to any available human rights defence raised by the tenant, including proportionality) provided the landlord has followed the correct procedure and at least one of the following five conditions is met:-

- the tenant, a member of the tenant's household, or a person visiting the property has been convicted of a serious offence;
- the tenant, a member of the tenant's household, or a person visiting the property has been found by a court to have breached a civil injunction;
- the tenant, a member of the tenant's household, or a person visiting the property has been convicted for breaching a criminal behaviour order (CBO);
- the tenant's property has been closed for more than 48 hours under a closure order for anti-social behaviour; or
- the tenant, a member of the tenant's household, or a person visiting the property has been convicted for breaching a noise abatement notice or order.

The offence or anti-social conduct must have been committed in, or in the locality of, the property, affected a person with a right to live in the locality of the property or affected the landlord or the landlord's staff or contractors.

BHM has well-established working relationships with the police, Brent ASB Team and council departments, and other local agencies that will ensure the landlord is always aware when one or more of the triggers for the new absolute grounds has occurred.

### **Possession Proceedings**

The council can consider eviction where the person accused of anti-social behaviour is a council tenant or someone living with or visiting a tenant, and the behaviour complained of is a breach of the terms of the tenancy agreement, or, in the case of secure tenants, one of the grounds for possession as defined by the Housing Act 1985. The grounds for possession include where the tenant or a person living with or visiting the tenant is guilty of anti-social behaviour.

The type of tenancy held determines the course of legal action. When an application is made to court for possession of an Introductory Tenancy, the Court should grant possession, as long as BHM have correctly followed the council's introductory tenancy procedures.

When the tenant is a secure tenant the court must also be satisfied that it is reasonable to evict the tenant on the basis of the anti-social behaviour that has been evidenced.

Examples of cases where eviction would be considered include:

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

### **Demoted tenancies**

A demoted tenancy is a less secure form of tenancy. A secure tenancy can be demoted where there is anti-social behaviour, and is done by serving a Demotion Notice and making a court application for a Demotion Order. The court must also be satisfied that it is reasonable to demote the tenancy.

Once the tenancy is demoted to a less secure form of tenancy, any future request for possession of that property would follow a similar procedure to that for introductory tenancies. Demotion generally lasts for a period of 12-18 months.

### **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 viewed as trespassing 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.

## **8. COMMUNITY TRIGGER**

The Brent ASB Team has established a Community Trigger mechanism introduced within the ASB, Crime and Policing Act 2014.

The community trigger provides victims of ASB with the ability to hold agencies dealing with their reports to account. Where a resident has made 3 reports relating to the same issue within the last six months to either the council, police or a registered housing provider (social landlord) and believes no action has been taken, they can request a review under the community trigger.

Where a review meets the community trigger threshold, partners and involved agencies must submit their actions to a formal review meeting.

## **9. CASE CLOSURE**

Cases can only be closed by the Anti-Social Behaviour Localities Officers once it has been determined that the investigation has found insufficient evidence to warrant further investigation, reported problems have been satisfactorily resolved or have abated, and/or following the expiry/execution of a legal order.

ASB Localities Officers may also close a case where the issues are centred around a one-on-one dispute with no wider community involvement and no risks to either party, where an offer or mediation has been offered to both parties but has been declined by the complainant.

In some cases, where reported problems have been significantly resolved but residual tenancy issues prevail, it may be appropriate to refer the case back to the appropriate property owner, for additional tenancy action and/or monitoring.

Owner-occupiers may be advised to consult their own solicitor about taking private action where the reported problems fall outside of the scope of ASB.

Victims and those agencies involved in the initial referral of enquiries will always be contacted and advised of the reasons for case closure prior to case closed.

The accused will also be informed of the decision to close cases prior to case closure.

## **10. MULTI AGENCY WORKING**

Dealing with anti-social behaviour cases sometimes requires involvement from statutory and non-statutory partnership agencies working closely with enforcement agencies such as the police and registered social landlords have access to a more appropriate enforcement action within tenancy breaches. We acknowledge sometimes both complainants and perpetrators may be vulnerable thus may benefit referring appropriate to support services.

Reports of anti-social behaviour are discussed at multi-agency forum to ensure that a coordinated response is taken involving the relevant partners to resolve the anti-social behaviour problem. The Forums are:-

- Brent Joint Action Group
- Brent Community MARAC

### **Brent Joint Action Group**

Referrals can be made to Brent Joint Action Group (BJAG) to deal with anti-social behaviour in Brent's hotspot areas and persistent ASB perpetrators. BJAG cover all wards in Brent and are managed by the ASB Localities Officers. These meetings are

held monthly and look at ASB data provided by the BCPT Crime Analyst, as well as referrals by partner agencies.

Deployable CCTV camera applications are also considered at the BJAG to deter and monitor areas of crime and antisocial behaviour.

### **Brent Community MARAC**

The Brent Community MARAC (Multi Agency Risk Assessment Conference) is a process where professionals share information on high risk cases of vulnerable individuals whose personal safety is at risk and put in place a risk management plan.

The aim of the process is to address the safety and protection of the individual and to review and co-ordinate a case management plan. Examples of vulnerable individuals that can be referred to the panel are those who are victims of ASB, victims of hate crime, those at risk of fire related incidents and those at risk of financial abuse/fraud.

The meetings are held monthly and managed by the Community MARAC coordinator with the ultimate aim of reducing the risk of harm for individuals referred.

### **Publicity and Media Strategy**

Brent Communications Team will wherever appropriate, liaise with Police press offices to publicise its work, to promote positive case outcomes and provide reassurance to residents in its ability to tackle and prevent anti-social behaviour.

## **11. INFORMATION SHARING AND CONFIDENTIALITY**

Information sharing should not be seen as a barrier to successful action. In cases where informed consent is not given (i.e. a request for information is done without the subject's knowledge or consent), for the prevention of crime and disorder or to protect vulnerable people, lack of consent should not be seen as a barrier to action.

Brent ASB Team treat all information received with the strictest of confidence. At times it is imperative to understand that in certain circumstances we may have a legal obligation to share relevant information with other statutory agencies especially where there is need of prevention and detection of crime or safe guarding concerns.

We have a duty to share information with partnership agencies as defined in the Crime and Disorder Act 1998 and also in accordance with the Data Protection Act 1998 and data sharing protocols.

### **Crime and Disorder Act 1998**

Section 115 of the Crime and Disorder Act 1998 allows for the exchange of information where the disclosure is necessary or expedient for the purposes of any provision of the Crime and Disorder Act 1998, or amendments to that legislation.

The information whether from a private individual or member of a public body can be disclosed to a relevant authority or a person acting on behalf of such an authority.

Under the Act and Community Safety Partnership information sharing protocol, 'relevant authority' for the London Borough of Brent means:-

- Chief Executive, London Borough of Brent;
- Borough Commander, Brent Borough, Metropolitan Police;
- Borough Commander, Brent Borough, London Fire Brigade;
- Chief Executive, Brent Clinical Commissioning Group;
- Chief Probation Officer, National Probation Service (Barnet, Brent and Enfield);
- Assistant Chief Officer, London Community Rehabilitation Company (Barnet & Brent LDU).

### **Data Protection Act 1998**

The non-disclosure provision of the 1998 Data Protection Act does not apply where a disclosure is for the purposes of (section 29):

- the prevention and detection of crime, or
- the apprehension or prosecution of offenders,
- where failure to disclose would be likely to prejudice those objectives in a particular case

In order to satisfy these terms, any request for personal information where the purpose is the prevention or detection of crime should specify as clearly as possible how failure to disclose would prejudice this objective.

For example, if a social landlord wanted information from the police to assist them in civil proceedings their request should make clear why the proceedings are and how a successful action could prevent crime.

### **Human Rights Act 1998**

Article 8(1) of the Human Rights Act 1998:

- "Everyone has the right to respect for his private and family life, his home and his correspondence."
- This right is not absolute – interference can be justified in the interests of the prevention of disorder or crime.

## **12. MONITORING THE SERVICE**

### **Case Supervision**

The ASB Nuisance and Crime Manager will conduct monthly reviews of ongoing case work to assess progress/identify any barriers to progress, providing further direction and guidance to case officers through scheduled supervisions.

ASB Nuisance and Crime Manager conducting reviews of cases will check that:

- Service standards have been/are being adhered to
- All actions arising during the course of the case investigation are accurately recorded.
- All avenues of investigation have been explored, with all witnesses contacted and any problem solving opportunities considered.

- All documents, letters, statements and evidence have been scanned in and attached to the case, and all hard copy documents retained for future legal file creation.
- All guidance and direction previously provided to the investigating officer has been actioned and cases are progressing in accordance with any planned timescales.

All staff will also be subject to regular supervision and appraisals in accordance with corporate HR policies. Supervisions will be conducted on a monthly basis whilst appraisal will be carried out annually but reviewed every six months.

### **13. COMPLAINTS**

Brent ASB Team is committed to providing the best possible service at all times, but sometimes mistakes are made. If this happens, we want customers to contact us and let us know.

Where complaints cannot be resolved by local managers and exhaust the council's complaints procedure, complainants will be referred to either the Local Government Ombudsman, dependent upon the case issues and the complainant's tenure.

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

- Contact us on: **0208 937 1058 or 0208 937 1234**
- Use the online form on the Council - Website at [www.brent.gov.uk](http://www.brent.gov.uk)
- Email us at: [community.safety@brent.gov.uk](mailto:community.safety@brent.gov.uk)
- Write to us at: Brent Community Safety and Public Protection Team

Brent Civic Centre  
Engineers Way  
Wembley  
Middlesex  
HA9 0FJ

### **14. PERFORMANCE MONITORING**

Brent's BCPT analyst performance team is responsible for all ASB performance measurement and will collate regular quantitative and qualitative performance data at weekly, monthly and quarterly intervals, providing advice and guidance to senior managers in respect of any fluctuations in performance or any identified issues.

The analyst will ensure that all collated performance data is purposeful and adds value to the work of Brent ASB Team in so far as it ensures senior managers and key partners are fully informed of ASB performance and can be used to influence procedural improvements.

Data relating to enquiries and cases logged within Brent ASB Team's case management systems will be extracted through tailored reports for performance measurement, management purposes and corporate monitoring.

**ASB Procedure and Policy Review**

This document will be reviewed as a minimum, on an annual basis to ensure it remains relevant and up to date.