

**BURNLEY BOROUGH COUNCIL**

**ANTI SOCIAL BEHAVIOUR**

**POLICY and PROCEDURES**

**JUNE 2021**

**BURNLEY BOROUGH COUNCIL**

**ANTISOCIAL BEHAVIOUR POLICY**

**VERSION – JUNE 2021**

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## **1.1 Introduction**

Anti-social behaviour (ASB) covers a wide range of concerns and is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder that have an adverse effect on the quality of people's lives. These range from litter and vandalism, to public drunkenness or aggressive dogs, to noisy and/or abusive neighbours. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of different agencies, most notably the police, the council and social landlords. This policy and procedure document sets out Burnley Borough Council's (the Council) approach to tackling ASB, and how it works in partnership with other statutory agencies.

Burnley Borough council is committed to creating a safer, stronger and healthier city, where residents can live free from ASB and have the opportunities to live their lives well. The purpose of this statement of policy and procedure is to set out how the Council in partnership with other agencies, will work to prevent and tackle anti-social behaviour that occurs within the borough.

## **1.2 Policy statement and Customer Commitment**

The Council is committed to continuously improving the quality of life and experiences of people, who live, work, invest, study and visit the Borough. The implementation of this ASB policy and use of its procedures will be part of providing safer, stronger and more resilient communities in the Borough by taking positive action in conjunction with partners, to deal with, and prevent, all forms of anti-social behaviour and to ensure that residents are able to enjoy peace, quiet and security in their communities.

This policy sets out the Council's commitment to reducing ASB, improving the quality of life for local people and reducing crime and fear of crime within our communities. The Council is committed to promoting understanding, tolerance and respect within our communities. The Council encourages residents to resolve issues themselves wherever possible. Where problems escalate into more serious and wide spread issues, the Council will proactively work with partners and residents to tackle ASB. The Council is committed to tackling anti-social behaviour in a solution focused approach by:

- Ensuring evidence is collated in relation to the victim, perpetrator and location.
- Attempting to address the root causes of ASB.
- Applying the appropriate tools and powers proportionately and as quickly as possible.
- Working with complainants to keep them informed about action being taken and help them to understand the processes involved and support them through this.
- Where safe and appropriate to do so, meeting with the complainant to understand the problems and the impact
- Where safe and appropriate to do, meeting with the alleged perpetrator before we take any action

- Working with other agencies and stakeholders to share information, develop joint approaches to addressing problems and share best practice

The policy contributes towards the Council's Community Strategy by supporting vulnerable people in our communities to live their lives well, enabling and supporting more people to live independently and safely, and working with residents to make our towns and communities great places to live by reducing crime, anti-social behaviour and the fear of crime. The Council will;

- Respond to reports of anti-social behaviour within 1 to 5 working days either by telephone, visit or in writing as appropriate, dependent upon the urgency of the incident.
- Respond within 1 to 3 working day of receiving complaints of hate crime.
- Discuss the problem, give an explanation of all available options and agree a course of action.
- Provide regular updates on progress made at intervals agreed at the outset.
- Provide a named officer and contact number throughout the investigation.
- Offer referrals to support service for residents who may benefit.
- Take appropriate action against individuals engaging in antisocial behaviour.
- Offer support through any legal process and beyond (Victim Support Policy)
- Where appropriate, provide a partnership response to deal with the ASB.
- Communicate clearly about how and when the case closed.

## CUSTOMER COMMITMENT



## LISTENING TO OUR CUSTOMERS



When nuisance and ASB escalates it can cause untold misery for everyone involved.

We are committed to improving the wellbeing and quality of life for the residents of Burnley Borough. We will do this by listening to you.



We are supporting our teams to develop their skills and have better conversations so we can work with you and negotiate the most effective way to resolve the situation.



Before we agree what to do next we will listen to everyone involved, the person reporting the nuisance as well as the person causing the nuisance. We do this so we are clear about the situation from everyone's perspective.



When exploring how to proceed:

- Be open minded about how the nuisance might be resolved.
- Be ready to share your ideas and avoid ultimatums.
- Is there anything you are doing or not doing that could be contributing to the situation.

## NEXT STEPS



Informal approaches are almost always the best way to respond to nuisance and ASB. We know from experience that jumping straight to warnings and suggesting enforcement often results in escalation of the situation.



Misunderstanding and miscommunication is the main barrier to resolving such situations. When emotions are running high and people feel angry, anxious or frustrated they are less able to communicate well.



Some of the most effective ways of responding include facilitated conversations with our skilled team, independent mediation with our partners at Smile Mediation, support through our multi-agency partnerships and specialist services.



When it is appropriate, we will take legal and enforcement action utilising the wide range of tools and powers available. We will work with social landlords such as Calico and the Police if this becomes necessary.

## KEEPING YOU INFORMED



We will keep in regular contact with you:

- respond to reports of nuisance & ASB within 5 working days (or sooner if it is a hate crime) and agree frequency of contact whilst the case is ongoing.
- give you the name and contact details of the person coordinating your case.



Sometimes we cannot take formal or legal action. This could be because there is not sufficient evidence or we simply do not have the powers available to us.

When we offer informal approaches it is because we know from experience that it works.



Even some of the most serious allegations can be resolved through informal approaches combined with enforcement action. We will work with you to agree the best way forward.



The case will be closed when the situation has been resolved. However, if we offer an informal approach (that we know from experience is likely to succeed) and you decline, we may still close the case and we will explain our decision.

## SUPPORTING INFORMATION

Partners	Legislation	Contact Us
<ul style="list-style-type: none"><li>• Burnley, Pendle, Rossendale Council for Voluntary Services (CVS)</li><li>• Residents Groups</li><li>• Town &amp; Parish Councils</li><li>• Smile Mediation: info@smile-ltd.co.uk</li><li>• Calico Homes</li><li>• Lancashire Police</li><li>• Lancashire Fire &amp; Rescue</li></ul>	<ul style="list-style-type: none"><li>• Anti-Social Behaviour Act 2003</li><li>• Environmental Protection Act 1990</li><li>• Anti-Social Behaviour Crime &amp; Policing Act 2014</li><li>• Crime &amp; Disorder Act 1998</li><li>• Housing Acts 1985, 1996 &amp; 2004</li><li>• Local Government Act 2000</li><li>• Clean Neighbourhoods Act 2002</li><li>• Human Rights Act 2000</li><li>• Data Protection and GDPR 2016</li></ul>	<ul style="list-style-type: none"><li>• Telephone 01282 425011</li><li>• Website - <a href="http://www.burnley.gov.uk">www.burnley.gov.uk</a></li><li>• In writing - Town Hall, Manchester road, Burnley BB11 9SA</li><li>• Via a third party, for example your local councillor or a support worker</li></ul>

### 1.3 Definition of ASB

The updated legal definition of ASB can be found in Anti-social Behaviour, Crime and Policing Act 2014:

“conduct that has caused, or is likely to cause, harassment, alarm or distress to any person, or conduct capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises, or conduct capable of causing housing-related nuisance or annoyance to any person”.

### 1.4 Examples of ASB and/or nuisance

The subjective and constantly evolving nature of ASB makes it difficult to compile a definitive list however some common examples are:

- The misuse of public spaces - including urinating in public, setting fires, inappropriate use of fireworks, throwing missiles and climbing on buildings
- Persistent noise nuisance
- Rowdy, aggressive or threatening behaviour or language
- Continuous nuisance from pets such as barking, lack of control, dog fouling and aggressive dogs. Feeding pigeons in the town centre and excessive noise and odours from animals including wild animals attracted to a garden to feed.
- Property damage and vandalism
- Environmental issues including fly-tipping, vandalism, graffiti, fly posting,
- Acts of violence (domestic and non-domestic)

- Hate crime
- Anti-social behaviour as a result of misuse of drugs or alcohol
- Irresponsible use of off-road vehicles.

There are often occasions where the involvement of an agency such as the local Council or Police can cause any dispute to escalate. Persons being complained about can take offence at the involvement of officials and this can exacerbate the matter, causing the loss of proportionality and perspective.

The Council's approach will mean that with some less serious types of behaviour, parties should, wherever possible and practicable, seek to resolve the matter themselves peacefully and through positive communication or mediations. Some types of behaviour would not constitute ASB.

The following examples of behaviour are where the Council would not encourage complaints nor expect to investigate every report and these include:

- Everyday activities or household noise (e.g. washing machines, hoovers, use of stairs etc), including children playing.
- Children playing ball games or congregating with no associated ASB
- People staring at others with no other associated offending
- People perceived as being unreasonable or unpleasant without significant harm
- Vehicles that are parked legally
- Disputes between neighbours over private matters e.g. parking of vehicles or boundary lines
- Cases of illegal drug use, production or supply when there is no associated ASB. Residents will be advised to report such issues to Lancashire Constabulary.
- Environmental or other Housing issues such as commercial noise nuisance, fly tipping, overcrowding and disrepair. Other Council departments are responsible for investigating these types of problems and reports can be made via the Council's website [www.Burnley.gov.uk](http://www.Burnley.gov.uk) or contact centre

Whilst some of the above, if undertaken in the extreme, can cause significant harassment, alarm or distress, in the majority of cases, the Council would be unlikely to conduct any formal investigation nor explore use of legislative powers in these circumstances.

When determining if a report is considered to be anti-social behaviour or not, officers will exercise professional judgement. If an officer determines that the complaint does not constitute anti-social behaviour they will inform the complainant at the earliest opportunity, advising them that no ASB action will be taken. The officer will provide advice and sign posting information if appropriate.

### **1.5 Statutory duties, responsibilities and powers**

Our ASB policy and procedures are compatible with our statutory duties and responsibilities. Together with our partners, we will make full use of the powers available to us under relevant legislation, including the following Acts of Parliament:

- Anti-Social Behaviour Act 2003



- Environmental Protection Act 1990
- Anti-Social Behaviour, Crime and Policing Act 2014
- Crime and Disorder Act 1998
- Data Protection Act 2003 and General Data Protection Regulation (GDPR) 2016
- Equalities Act 2010
- Housing Acts 1985, 1996 and 2004
- Clean Neighbourhoods Act 2002
- Human Rights Act 1998
- Local Government Act 2000

The above Acts contain both civil and criminal offences, both of which require different standards of proof. Civil offences are tried on the balance of probabilities, whereas criminal offences are tried beyond reasonable doubt. The standard of evidence gathered by the Council, before formal action can be taken will depend on the ASB in question and what is deemed to be the most appropriate course of action. To assist in the Council's investigation of a complaint, the complainant will be required to provide evidence detailing what they have witnessed and/or experienced.

### **1.6 Approach to Tackling ASB**

The Council will continue to work with partner agencies to prevent, and where appropriate, tackle ASB by using a wide range of measures. The measures to tackle ASB include both informal and formal action. Wherever possible and practicable the Council will seek early intervention to prevent escalation of ASB such as; warning letters, Acceptable Behaviour Contracts (ABCs) and mediation.

Formal action such as; Civil Injunctions, Community Protection Notices (CPNs), Public Spaces Protection Orders (PSPOs), Criminal Behaviour Orders (CBOs) and Closure Orders may be used for recurring and/or more serious issues.

### **1.7 Managing Cases and Assessing Risk**

Effective case management underpins the successful resolution of ASB. This starts from when a complaint is received until the matter is resolved. The welfare, safety and well-being of victims, whose complaints form the basis of any action, are the main consideration at every stage of the process. The Council will use its electronic case management systems, relevant to the department leading the response to the case, to keep a full and accurate record of the initial complaint and any subsequent actions, communication and outcomes connected to it.

Assessing the risk of harm to the victim is also an important part of case management. It is important to identify the impact ASB is having on the victim, particularly if repeated incidents are having a cumulative effect on their well-being. A continuous and detailed risk assessment helps to identify cases that are causing, or could result in serious harm to the victim, either as a one-off incident or as part of a targeted and persistent campaign of ASB against the victim.

The Partnership will agree timescales and create an action plan for responding to each reported case of ASB. It will also:

- Offer support to victims of ASB.
- Treat all reports as confidential until sharing is agreed with the complainant, unless it is considered that the information should be shared for safeguarding purposes, or to prevent crime and disorder or where it is in the public interest
- Share information only with other relevant organisations that can help with the problem and will observe data protection laws in accordance with the appropriate Information Sharing Protocol
- Ensure that the Police are notified of any criminal activities.
- Fully investigate the complaint in accordance with relevant policies and appropriate legislation
- Close cases with providing reasons for closure and giving appropriate feedback

### **1.8 Working Together and Sharing Information**

The Council's Community Safety Partnerships team, together with other relevant departments, such as Environmental Health, will lead the Council's work in preventing and tackling ASB.

There is an important reliance on working with partner agencies including:

- Lancashire Police and Lancashire Fire and Rescue Services
- Registered Social Landlords such as Calico
- National Health Service
- Registered Charities and the Voluntary sector
- Residents Associations and Community Interest Groups
- Lancashire County Council – including Safeguarding teams
- Town and Parish Councils

All these, and others, have a significant role to play and by working together we will ensure the community is safer and stronger. The partners bring a range of expertise, experience and additional powers that can assist in resolving issues more effectively. As part of this collaborative approach an information sharing protocol has been developed to ensure that appropriate information is exchanged between partners quickly to expedite the resolution of the issues.

### **1.9 ASB and Young People**

Young people who perpetrate ASB may have many complex support needs. The Council will strive to ensure that any actions taken against juvenile perpetrators comply with responsibilities under the Children Act and other relevant legislation. The Council will seek to address any support needs identified through available and appropriate partnership activities, which may be commissioned by a variety of funders, with a focus on early intervention and diversion.

### **1.10 Vulnerable People**

A person may be vulnerable for a variety of reasons, e.g. mental illness, learning disability, drug or alcohol dependence, physical disability, sensory impairment, ethnicity. If a person is deemed to be vulnerable, interventions are made as soon as possible to prevent further problems

Every effort is made to work with vulnerable people to try to resolve the issues. However, any enforcement action taken by the Council will be proportionate to the risks posed and the seriousness of their behaviour. As far as the law allows, the Council will take into account the circumstances and attitude of the individual when considering what action to take.

### **1.11 Rehabilitation of perpetrators and support for vulnerable groups**

The Council recognises that in some cases the perpetrators of ASB may require specialist support to address problems and behaviours which are impacting on the wider community. These may include perpetrators with drug and alcohol dependency, mental and physical health needs, young people at risk of offending or further offending, gang members and families in need of support. The positive impact of such support can often play a critical role in protecting neighbours and the wider community from ASB.

We will have due regard to the particular circumstances and vulnerability of perpetrators when considering the most appropriate form of intervention and support. However, we will also take enforcement action, including possession action, where this is proportionate and reasonable, and where all other avenues have been exhausted.

### **1.12 Hate Crime**

Hate crime is defined as ‘any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic’.

There are five strands of hate crime, monitored nationally:

- Race or ethnicity
- Religion or beliefs
- Sexual orientation
- Disability
- Transgender identity.

Hate crimes are a subset of notifiable crimes that are recorded by the Police. All complaints of hate crime will be taken seriously and will be forwarded to the Police, unless they have been made maliciously. The Council will work in partnership with the Police to resolve the complaint and will be prioritised accordingly any action taken.

### **1.13 Sharing information with the public**

By publicising successful action against the perpetrators of ASB the Council can help encourage more effective enforcement as well as reassuring the community that action is being taken to protect it. The Council appreciates that publicity may also deter other potential perpetrators from ASB. Human rights law requires that we consider and balance the rights of those subject to enforcement action as well as the community, particularly those who have been victims of ASB.

Publicity may be by various means including a press release aimed at the general public or a newsletter targeted, for example, at residents on a specific estate. The content of the publicity may be specific and include the name or even a photograph of the perpetrator or very generalised, by, for example, simply advising the public that the Court has granted an injunction against a well known perpetrator of ASB in the area. Any publicity must be necessary and proportionate to the aims it seeks to achieve.

The Council must also consider the non-disclosure rules of the Data Protection Act, where relevant, and must pay particular attention where young persons are involved. All publicity is dealt with on a case by case basis in liaison with the Council's Corporate Communications Team. In some instances, the press may, of their own volition, report on enforcement cases heard in open court. We have special arrangements for publicising injunctions and Closure Orders, which take into account the public interest in such matters.

### **1.14 Training of ASB Officers**

We believe that the learning and development of our staff is key to providing a high quality service to residents now and in the future. Learning and development enables our staff to be competent at their jobs in order to meet organisational objectives and to enhance their personal development. We provide regular training for all staff on topics such as equalities, health and safety, dealing with violence and aggression. In addition, specialist courses are run on a wide variety of community safety related subjects including enforcement legislation, ASB policy, procedures and case management.

### **1.15 Accident, Incident and Abusive Behaviour reporting**

Any member of staff who is threatened or abused, either verbally or physically, or who suffers an accident at work is required to report the incident. We have an 'Accident and Incident' on-line reporting tool. Managers are required to review all incidents and implement further controls where necessary to prevent reoccurrence.

In some instances, individuals will be risk assessed and 'flagged' with a risk flag on our housing management database, to record their address and the potential risk they pose to staff. The Council ensures that reports are followed up where appropriate in case there is a need for changes to our health and safety policies or procedures.

### **1.16 Protection of staff**

In delivering services to the community, the Council expects that members of the public will treat their employees with courtesy and respect. Exposure to violence and assault is not an acceptable part of an employee's everyday working life and the Council will take all reasonably practicable measures to prevent or reduce the risk of such exposure.

The Council has accordingly developed policies to protect staff in accordance with their duties under common law and statute. As well as a general health and safety policy we have developed compatible policies, procedures and training, covering a variety of issues. These include:

- Lone working procedure
- Accidents, incidents and 'near misses' reporting procedure
- Risk assessments procedure
- Stress at work policy
- Managing violence and aggression in the workplace procedures
- 'Sharps' awareness training
- Zero tolerance policy for verbal and physical abuse

### **1.17 Monitoring and Review of the Policy**

The Policy will be monitored by quality reviews to ensure that the procedure for case management is being followed appropriately and that records are detailed, appropriate and accurate. This Policy will be reviewed no less than once every 3 years to ensure that any changes in legislation or best practice are included and updated. The Council will also consult with staff, internal and external partners in the review. The Council will maintain procedural documents for the use of ASB enforcement powers and this will be subject to scrutiny and monitoring by the appropriate Council Scrutiny Committees.

Under the Council's Scheme of Delegation the Chief Executive and Head of Streetscene have a number of enforcement powers, particularly in relation to the Anti social behaviour Crime and Policing Act 2014 and for proceedings for breaches of Environmental Protection Act 1990. Any changes to this Policy will be subject to approval by the Streetscene Portfolio Holder.

The Statement of policies and procedures is intended to demonstrate our commitment to dealing properly and effectively with ASB. The Policy section aims to give readers an overview of the principles underlying our approach to ASB. The statement on procedures provides information on how reports of ASB are processed and on the range of options available to tackle ASB. It outlines the processes we will generally follow and the advantages and disadvantages of selecting any specific resolution.

## 1.18 HARASSMENT POLICY

The Council is committed to stamping out all forms of harassment to ensure that our residents enjoy their homes in peace. Our ASB policies and procedures are key tools in achieving this aim.

### Equality Act 2010

Under the Equality Act, the Council has duties in three areas. These are: as a service provider to our residents, as an employer and as a procurer of goods and services. The Equality Act introduced the term “protected characteristic” and the ‘public sector duty’. Protected characteristics describe the nine groups that are protected by law.

These are: Gender Disability Gender reassignment Race Sexual orientation Marriage and civil partnership Pregnancy and maternity Age Religion or belief. The public sector duty requires the Council to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act Definition of harassment.

Harassment is defined by the impact of the behaviour on the victim, not the intention of the perpetrator. As a guide, we consider harassment to include:

- any behaviour that is unreasonable, unwelcome and offensive
- any deliberate act to interfere with the peace, comfort or safety of any other person or persons because of a characteristic such as those listed above, or any other personal characteristic Harassment is also a criminal offence. Some forms of harassment are referred to as hate crime.

These are crimes that are targeted at a person because of hostility or prejudice towards that person's:

- disability
- race or ethnicity
- religion or belief
- sexual orientation
- transgender identity

This can be committed against a person or property. A victim does not have to be a member of the group at which the hostility is targeted. In fact, anyone could be a victim of a hate crime.

With regard to racial harassment the Council uses the Stephen Lawrence Inquiry Report definition of a racist incident, which is: ‘A racist incident is any incident which is believed to be racist by the victim or by any other person.’

This principle may be applied to all forms of harassment. Our key priorities in tackling harassment and hate crime are:

- a firm commitment to eliminating harassment and hate crime
- dealing with reports quickly and effectively

- providing support to victims
- taking action against perpetrators
- working with other agencies

### **1.19 DOMESTIC VIOLENCE AND ABUSE POLICY**

The Council and its partners have published a Domestic Abuse Strategy using the following definition of domestic violence: “Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality”.

The Home Office introduced a new definition of domestic violence and abuse. The change came about following earlier consultation which showed 17 widespread support for changing the definition to capture those aged 16-17 and for reflecting ‘coercive control’ in the wording.

Accordingly, the Home Office definition of domestic violence and abuse now states: “Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional

“Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

“Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.”

Domestic Violence/Abuse includes physical, psychological/emotional, mental, verbal, financial and/or sexual abuse as well as social isolation and is often a combination of them all. It is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by an individual/s within a relationship: this includes family relationships as well as heterosexual, lesbian, gay, bisexual and transgender people and vulnerable adults.

Female genital mutilation, forced marriage and violence often described as honour-based are all forms of domestic violence/abuse. Our policy takes a non-judgemental, victim-centred approach at all times. All cases are dealt with in the strictest confidence.

When dealing with domestic violence and abuse, we will:

- Make it as easy as possible for victims to report domestic violence and abuse

- Interview victims who present at our offices immediately, and aim to see them within one working day in all other circumstances
- Make sure victims are safe and know what to do if the situation changes
- Give victims full contact details of our service and housing manager dealing with the case, and those of any emergency out-of-hours service.
- Give victims details of STAYSAFE
- Encourage victims to prepare a Safety Plan
- Talk to victims about their housing options if they are ready to do so.
- Provide support for as long as it is needed.
- Take action against alleged perpetrators of domestic violence and abuse where possible

Information will only be forwarded to other agencies with consent or if required by law. The one exception to this is where there are concerns that a child is in need, for example if abuse or neglect is taking place, in which case officers have a duty to inform Children's Services. Information on domestic violence and abuse, including support agencies, is available online via the Council's website.

In order to improve support for high risk victims of domestic violence and abuse, the Council and partners have adopted a joint case management approach known as MARAC – Multi Agency Risk Assessment Conference. The key elements of the MARAC are:-

- A process for assessing the risk to victims of domestic violence and abuse, and identifying the highest risk cases
- A monthly meeting where agencies can discuss high risk cases in order to improve the safety of victims and their families
- A range of enhanced interventions for those victims identified as at high risk of further harm



## **ANTI SOCIAL BEHAVIOUR PROCEDURES**

### **2.0 Reporting Anti-Social Behaviour**

2.1 The Council may take the lead in investigating reports of ASB in the following circumstances;

- When either the person experiencing or 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 a social landlord or lives in a property managed by an Arm's Length Management Organisation (ALMO) the report of ASB should be made to the relevant social landlord or ALMO.

Serious ASB involving criminal conduct should be reported to Lancashire Constabulary by telephoning 101 or 999 in an emergency.

2.2 Reports of anti-social behaviour to the Council can be made in any of the following ways;

By telephone 01282 425011

On Line - [www.burnley.gov.uk](http://www.burnley.gov.uk)

In Writing – The Town Hall, Manchester Road, Burnley, BB11 9SA

Reports of ASB can be made by a third party, for example by a Local Councillor, Member of Parliament, or social worker. If a report is made via a third party we will seek the consent of the reporter to communicate and share information with the third party. We do not accept reports of ASB by Social Media, e.g. Twitter or Facebook

2.3 The Council always prefer to have direct contact with the person experiencing the ASB to understand the problems they are experiencing, offer appropriate support and provide updates regarding the investigation. Officers will investigate an anonymous report if the report can be substantiated and will make reasonable attempts to substantiate the report.

2.4 Reports of ASB are prioritised at point of contact. This involves confirming the allegation and asking a series of short questions to assess the potential risk of harm caused by the ASB. Reports of ASB are then allocated to a named Investigating Officer. If the ASB involves the use or threat of violence or there is a significant risk of harm i.e. a hate crime/incident, an officer will aim to contact the reporter within 1 working day. For all other reports of ASB an officer will aim to contact the reporter within 5 working days.

### **3.0 REFERRALS TO OTHER AGENCIES**

Investigating Officers will make referrals to other Council departments or agencies as appropriate in the course of their investigation. Any referrals made will involve the Investigating Officer seeking

consent from the individual concerned, unless there is an overriding safeguarding concern in relation to a vulnerable adult or child.

#### **4.0 ANTI SOCIAL BEHAVIOUR INVESTIGATION**

4.1 When a report of ASB is made, the Investigating Officer will interview the complainant to confirm all relevant facts and an action plan will be discussed. As part of the action plan the complainant will be expected to keep an accurate record of any further incidents of anti-social behaviour and report any further incidents to the Investigating Officer. The officer will attempt to complete an ASB Vulnerability Risk Assessment with all complainants (not acting within their professional capacity e.g. police officer) to assess the reporter's vulnerability to the ASB they are experiencing.

4.2 Investigating Officers will usually conduct a wider investigation which may involve contacting other potential reporters or witnesses, in addition to making enquiries with any relevant Council departments or partner agencies such as the police.

4.3 During most investigations (except where certain legal action is being considered) contact will be made with the alleged perpetrator. The alleged perpetrator will be given a fair opportunity to respond to the anti-social behaviour allegations. The Investigating Officer will explain the consequences of perpetrating anti-social behaviour and summarise the next steps in the investigation.

4.4 If there are counter allegations Investigating Officers will conduct a proportionate investigation into any counter allegation that is considered to be anti-social behaviour. Feedback will be provided to the person making the counter allegation.

#### **5.0 ANTI SOCIAL BEHAVIOUR ACTIONS**

5.1 Most anti-social behaviour investigations take place within a civil law framework which means a civil standard of proof is applicable, "on the balance of probabilities". The Investigating Officer needs only to be able to demonstrate that the incident(s) is more likely than not to have happened. When civil legal action has been taken and a Court Order has been disobeyed i.e. breach of an Injunction order, Closure Order or prosecution for breach of a Community Protection Notice; the criminal standard of proof applies. This means that the Investigating Officer will need to demonstrate that the incident(s) happened "beyond reasonable doubt".

5.2 There may be a number of reasons why an Investigating Officer cannot take action. These reasons may include;

- Establishing that the incident did not happen
- Not having enough evidence to prove the matter to the relevant standard of proof
- Finding the issues reported to be not what the Council considers as antisocial
- Not being able to investigate fully due to non-cooperation of the reporter / witness

- The ASB has stopped and the likelihood of further ASB is low The Investigating Officer will inform the reporter at the earliest opportunity if they determine that they cannot take action or further action and will close the case.

### 5.3 Determining Appropriate Anti-Social Behaviour Actions

The Investigating Officer will assess each case on the information available and the actions taken will be proportionate and bespoke to the circumstances of each case. Typically Investigating Officers will start by using informal action to try to resolve a report of anti-social behaviour. However, in priority or high risk cases, such as when there has been a use or threat of violence, legal action may be the first course of action.

### 5.4 Informal Action

As a first step, the council encourages residents who are experiencing problems with neighbours to try and settle the dispute amicably. Often people do not realise that they are causing an annoyance. By involving the Council straight away, this may make the neighbour feel threatened and may lead to a worsening situation. However, the Council would not expect anyone to take this step if they feel intimidated or uneasy about approaching the neighbour directly.

Once an issue is reported to the Council every effort will be made to resolve the problem as swiftly as possible. Some actions to achieve this may include:

**Diversionary Activities:** Targeted work with alleged perpetrators of ASB will be attempted to divert them away from negative behaviours and engage them in more positive activities. Examples of which would be organised youth groups involving activities and sports.

**Support:** Some ASB can be caused as a result of unmet support needs; therefore work with families and individuals to address needs will be undertaken to help reduce ASB and improve the health and wellbeing of those affected.

**Referrals to other agencies:** Where specialist support is required referrals may be made to other agencies to support individuals and families to meet their needs. Acceptable Behaviour Contracts / Undertakings A perpetrator may be invited to voluntarily enter into a written agreement with the council setting out how the perpetrators' behaviour will need to be modified. Whilst this has no legal basis, it demonstrates a willingness to resolve matters without resorting to enforcement.

**Mediation:** Residents will be encouraged to resolve their issues in an amicable and conciliatory manner whenever possible. Mediation will primarily be offered to address low level ASB, issues arising from incompatible lifestyles and instance where there are counter allegations made. If the perpetrator/s fail/s to engage with early resolution measures or does not support activity to alter their behaviour the council will progress with enforcement action at the appropriate level.

## 5.5 Formal Action

The Council may consider taking legal action when anti-social behaviour continues following an attempt to resolve the ASB informally. In priority cases involving the use or threat of violence towards person or property and or where there is serious risk of harm, we may not take any informal actions and instead take legal action in the first instance. Examples of legal actions that we may consider include;

**Injunction (including powers of arrest)** – An order that can be granted against an individual aged 10 or over. An Injunction is designed to stop or prevent individuals from acting anti socially, quickly nipping anti-social behaviour in the bud before it escalates.

**Criminal Behaviour Order** – An order that can be granted against an individual aged 10 or over upon conviction of a criminal offence. These orders are to tackle those who persistently engage in criminal anti-social behaviour.

**Community Protection Notices** – A Notice that aims to stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community's quality of life.

**Statutory Nuisance Abatement Notices** – A Notice that imposes positive requirements or restrictions to stop a Statutory Nuisance.

**Closure Order** – An order that can be granted to quickly close premises, restricting who can access a premises, which is being used, or likely to be used, to commit nuisance or disorder.

**Breach Proceedings** – Action to enforce the above powers. The Police and the Crown Prosecution Service take the lead in enforcing a breach of a Criminal Behaviour Order.

Any other legal action which could be taken with the support of the Police and /or the Crown Prosecution Service i.e. Restraining Order

We will also consider Public Space Protection Orders when it is considered the most appropriate tool to address a place based anti-social behaviour issue and work with Greater Manchester Police to consider other potential solutions such as use of the Dispersal Power or Restraining Orders. The Council has no basis to seek possession of a property where we are not the landlord.

The use of informal and legal action will be decided by the Council having considered the circumstances of each individual case and will be proportionate to the type of anti-social behaviour and risk of harm.

Generally, we would wish to obtain agreement with complainants about the particular actions to be followed. There may be occasions where the complainant would wish that the Council takes no specific action on their report. The situation may however be serious enough that we feel we have little option to pursue against their wishes. In such circumstances we will take appropriate measures to protect all those affected. In some circumstances and if the situation is appropriate the Council may be unable to progress an anti-social behaviour case if a complainant refuses early intervention actions. The Council will decide and take whatever action we consider to be most appropriate.

## **6.0 Case Closure**

6.1 ASB cases will be closed in the following circumstances;

- The complaint has been resolved to the victim's satisfaction.
- The behaviour of the perpetrator has been modified and no longer causes a nuisance.
- The perpetrator has moved out of the area.
- There is no evidence to support incidences of ASB or the Council is not provided with any evidence

Wherever necessary the complainant and all other relevant parties will be informed once a case has been closed and the issue resolved, or if no further action is going to be taken by the council and the reasons why.

## **7.0 Appeals and Complaints**

### **7.1 Making a Complaint**

If a customer is not satisfied with how an ASB case has been dealt with they may register a complaint directly with the ASB Team Manager or through the Council's formal Complaints Procedure. Customers who want to make a general complaint or comment about the ASB process can also use this procedure. Details are available from any Council office or online ([www.burnley.gov.uk](http://www.burnley.gov.uk)).

In line with this procedure, the initial complaint will be acknowledged in writing within two working days and information will be provided about who is dealing with the complaint. The Council will aim to respond within 10 working days. If the complaint is more complicated, it may take longer to sort it out but the complainant will be kept informed.

### **7.2 Contacting the Housing Ombudsman**

If customers remain dissatisfied with the outcome following the completion of the Council's complaint process, the case can be considered by the Housing Ombudsman who will ensure that the decision is in line with the principles set out within this policy.

### **7.3 Community Trigger**

Aside from making a formal complaint, any victim of ASB, who has made three or more reports within a six month period but feels they have not had a satisfactory response, can request a 'Community Trigger Review'. If the threshold is met, a review will be led by a local multi-agency panel which has the power to make recommendations to public bodies. More information on Community Triggers can found at

<https://www.burnley.gov.uk/residents/streetscene/community-safety-maps-and-anti-social-behaviour/anti-social-behaviour/community-triggers>

