

# ***‘Out of Order’***

learning lessons from  
complaints about antisocial  
behaviour

August 2023



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# Ombudsman's Foreword



One of the challenges in tackling antisocial behaviour (ASB) is defining what it actually is, and which organisation is best placed to respond to reported issues.

The [Anti-social Behaviour, Crime and Policing Act 2014](#) is the basis for the powers at councils' disposal. It describes antisocial behaviour as conduct which causes 'harassment, alarm, distress, nuisance or annoyance'. Few would disagree with this, but its broad definition does little to capture the real experience of those who suffer from it.

Antisocial behaviour may be something annoying or upsetting, like littering, dog fouling or inconsiderate parking. It may significantly impact someone's quality of life, such as late-night loud music from a neighbour. At its most serious, it can leave people in fear for their safety, suffering sustained harassment, intimidation and criminal damage.

The cases of Fiona Pilkington, who killed herself and her daughter after suffering a campaign of abuse from local youths, and Matthew Boorman, stabbed to death by a neighbour who had terrorised his community for several years, stand in stark and sobering testimony.

While no agency has the power to simply stop antisocial behaviour from happening, councils do have a broad range of tools and tactics available to them. When used properly, these can have a profound effect, both in terms of taking enforcement action against perpetrators and providing support to victims. And, while the courts have stronger powers to take action against those who commit ASB, with the serious delays and backlogs currently seen in the court system, councils have an increasingly vital role in providing relief to victims in the shorter term.

Unfortunately, in the investigations we carry out, we frequently find councils have failed to grasp the problem presented by antisocial behaviour, and their own powers to do something about it. This can leave people suffering the effects for longer than necessary. In the 2022/23 year, we upheld 74% of detailed investigations about antisocial behaviour.

The faults in these cases highlight a range of problems. There are sometimes long delays in councils responding to complainants, or acting on information they have received. We see cases where officers appear to lack the confidence to make decisions, despite having apparently compelling evidence to justify taking enforcement action – dragging matters out and leaving antisocial behaviour unchecked.

We see councils referring people to the police, believing antisocial behaviour is purely a police matter and they have no duty to act. We also see examples where councils have accepted a case for investigation but failed to liaise properly with the police, or other agencies, despite there being an obvious benefit to information sharing. And councils will often approach reports of ASB as separate episodes to be addressed on an individual basis, without considering how these episodes fit into an ongoing pattern of behaviour.

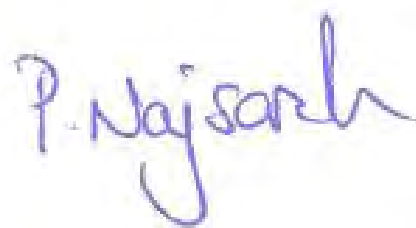
We also see cases where councils could have thought more creatively about the resources available to them. As potent as the powers in the 2014 Act can be, councils have informal tools and other support available within its other departments. For example, a council's adult care services may be able to help if someone's behaviour is caused by an unmet need.

Most consistent of all though, are the problems we see with the Anti-social Behaviour Case Review, commonly called the Community Trigger. This process was introduced by the 2014 Act, and allows repeat ASB complainants to request a multiagency review of their case, to determine what, if anything, more can be done to tackle the problems they are experiencing.

In 2016, the advocacy charity ASB Help published a damning report on the Community Trigger, which showed how, in most areas, it was poorly publicised and made inaccessible by unnecessary bureaucracy. And, in some cases, even local authority officers were only dimly aware of the Community Trigger process, despite being responsible for implementing it. Few complainants had successfully activated the Trigger, and those who had often found it unhelpful. Sadly, in our experience, little has changed in the intervening seven years.

In its recently published ASB Action Plan, the Government has promised a raft of new measures to help relevant agencies. The Plan touches on many of the same issues we seek to highlight in this report, recognising the weaknesses and the dysfunctionality in some of our systems for dealing with antisocial behaviour.

It remains to be seen how effective the Plan will be. But, for it to bring about meaningful change, those at the frontline of tackling antisocial behaviour must fully embrace their role and powers. As the stories that follow will show, all too often that is not happening yet.



**Paul Najsarek**  
**Local Government and Social Care**  
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**August 2023**

# Background and legal context

## Formal powers

Councils have a range of powers they can use to tackle antisocial behaviour which are set out in the Anti-social Behaviour, Crime and Policing Act 2014. They include the power to:

- > issue a community protection notice (CPN);
- > make a public spaces protection order (PSPO);
- > close premises for a specified period of time; and
- > apply to the courts for a civil injunction.

The 2014 Act also gives the police the power to disperse groups or individuals from specific locations. The Government's recently published [ASB Action Plan](#) proposes this power be extended to councils as well, but at the time of publication this change is yet to be implemented.

## Community protection notices

A community protection notice (CPN) can be used to stop someone committing ASB which spoils the community's quality of life.

It is particularly suited to environmental issues such as noise nuisance, litter on private land and graffiti. The council must first give the perpetrator a written warning. If they fail to stop the behaviour, the council can issue a CPN. The notice should explain what the recipient needs to do to avoid continuing to cause ASB. It can include things they must do and behaviour they must avoid. Failure to comply with a CPN is a criminal offence and the council can consider prosecuting the offender.

## Public Spaces Protection Orders

A council may make a public space protection order (PSPO) to stop individuals or groups committing ASB in a public space if it is satisfied the behaviour is having, or is likely to have, a detrimental effect on local quality of life. PSPOs are sometimes used to restrict begging, or to exclude dogs from certain areas, such as a children's play area. They are also used to prevent rowdy night-time behaviour by restricting alcohol consumption in a public space. A council can issue a fixed penalty notice for failing to comply with a PSPO.

## Closure notices and orders

A council can issue a closure notice requiring a premises to close for up to 48 hours. This means it can quickly close premises that are causing nuisance or disorder, or are likely to do so, to protect victims and communities. A closure notice prevents any person from accessing the premises, except those who normally live there. Within 48 hours of issuing a closure notice the council can apply to the magistrates' court to issue a closure order. An order can prevent access to all persons for up to three months. A failure to comply with a closure notice or order is a criminal offence.

## Injunctions

A council can apply to the courts for an injunction to stop individuals engaging in certain behaviour or requiring them to take certain action to address the underlying causes of their behaviour. If someone fails to comply with an injunction, the council may apply to court to issue a warrant for their arrest.

## Informal tools

Statutory guidance accompanying the 2014 Act sets out some other early and informal interventions which councils may use to address antisocial behaviour.

### A verbal or written warning

In deciding whether to use a verbal or written warning, the council should be satisfied there is evidence that ASB has occurred or is likely to occur. The warning should state the behaviour in question and explain why it is not acceptable, and the consequences of non-compliance.

### Mediation

Mediation can be an effective way of resolving an issue by bringing all parties together. It can be particularly helpful in resolving neighbour disputes. However, it is unlikely to be successful if it is forced on those involved. All parties should be willing to attend and support should be offered to those who are vulnerable. The mediator will facilitate a conversation between the parties, help them agree a solution and draw up any agreement reached for all parties to sign.

### Acceptable behaviour contracts

An acceptable behaviour contract (ABC) or agreement (ABA) is a written agreement between a perpetrator of ASB and the council whereby the recipient agrees to avoid, or to engage in, specific behaviour. There is no formal sanction for failing to comply with an ABC, but councils may use this as evidence to justify more formal action.

ASB cases can be complex, often involving a number of issues. Officers need to consider their full range of formal and informal powers and, where relevant, liaise with other departments within the council who have access to other powers. For example, environmental health powers where a complaint involves excessive noise or pollution, and licensing powers where a complaint is about rowdy behaviour in or around a licensed premises.

A council can also use the powers it has as a social landlord where the alleged perpetrator is a council tenant, although we have no jurisdiction to investigate complaints about this.

### ASB case review ('Community Trigger')

The 2014 Act provides a mechanism to review the handling of complaints about ASB. This is also known as the 'Community Trigger' process. When someone requests a review, relevant bodies (including the council, police and other agencies) should decide whether the local threshold has been met.

If the threshold has been met, the relevant bodies should undertake the review. They should share information, consider what action has already been taken, decide whether more should be done, and then inform the complainant of the outcome. If they decide to take further action, they should create an action plan. It is for relevant local bodies to agree their review threshold. But the ASB statutory guidance says to reach the threshold for considering the case, a complainant should not have to make any more than three reports of ASB within the last six months.

# Our role and experience

We make independent and impartial decisions on whether councils have properly investigated reports of antisocial behaviour.

Some of the issues we see include:

- > applying strict thresholds that a victim has to meet before the council will investigate, or 'gatekeeping';
- > failing to properly consider all options, including the full range of formal and informal powers available;
- > taking too long to respond to reports of ASB;
- > poor communication with complainants;
- > failing to liaise effectively with other bodies, such as the police;
- > officers lacking the confidence to make a decision despite having a significant amount of evidence, leading to a lengthy investigation with no resolution; and
- > problems with the ASB case review (Community Trigger) process, including a failure to signpost complainants to it, ignorance about the process and applying the wrong tests to applications.

Where we find fault by a council causing an injustice, we will make recommendations for it to put things right. We may recommend:

- > an apology;
- > the council investigates the issues complained of and takes action if necessary. This might involve carrying out a proper investigation of the complaints or reconsidering whether formal action should be taken; and/or
- > a symbolic payment to recognise distress and frustration caused by a delay in taking action.

We also recommend improvements to council policies and procedures to help avoid similar problems occurring in future. These 'service improvement' recommendations are mapped out for every council on the ['Your Council's Performance'](#) page of our website.

## Complaint statistics and trends

Last year (April 2022-March 2023) we carried out 69 detailed investigations regarding ASB. We upheld 51 of these investigations (74%) meaning we found fault in how the council had acted.

This report suggests ways councils can improve their service based on the learning from our casework. We also provide a set of questions to help councillors scrutinise their local authority's service in this area.

## The Housing Ombudsman Service

The [Housing Ombudsman Service](#) deals with all complaints about social housing. This may include complaints about antisocial behaviour involving residents and leaseholders of a council that is also a social landlord. We work with the Housing Ombudsman Service to share information and have the power to investigate complaints jointly if the issues in a complaint span the investigative powers of both ombudsmen.

The Housing Ombudsman has previously issued a [spotlight report](#) about noise complaints in social housing.

# Common issues and learning points



## Gatekeeping

We see cases where councils impose strict thresholds that a victim must meet before they will investigate allegations of antisocial behaviour. For example, a council may say it will only investigate allegations where the victim has reported a certain number of incidents within a certain timeframe, or may require them to provide independent evidence in support of the allegations. Sometimes, a council will wrongly refuse to investigate allegations on the basis that the behaviour reported does not amount to ASB. This leaves complainants with nowhere to go to resolve the matter, causing additional distress in an already stressful situation.

It is a general principle of administrative law that public bodies should not 'fetter their discretion'. This means they should consider whether

there are exceptional circumstances that justify departing from usual policy to prevent injustice to applicants whose circumstances place them at a disadvantage.

We may find fault with councils for operating inflexible policies which do not allow them to use their discretion. Although councils can prioritise complaints to ensure efficient use of their resources, they should avoid policies which limit a person's access to help and which place barriers to investigating allegations of ASB. Councils should consider the merits of each case and be flexible in departing from policy. They should also ensure that relevant staff are clear on what might constitute ASB.



## Joshua's story: failing to consider the individual circumstances of each case

Case reference: [20 003 839](#)

Joshua complained to the council about his neighbour's party. It lasted over 13 hours with loud music played through speakers in the garden. The council told Joshua to keep a log of each noise disturbance. The council's policy said it would only consider taking action if he recorded six incidents within 25 days. A few weeks later, Joshua recorded that his neighbour had held another long and loud party. But the council closed his case because it did not meet its criteria.

Our investigation found the council fettered its discretion because it did not consider whether to depart from its policy and investigate Joshua's complaints. We also said the council's policy was too inflexible and did not accord with its duty to consider each case on its merits.

Joshua had been left uncertain about whether the council would investigate any reports of noise nuisance he made in the future.

### How we put things right

The council agreed to our recommendations to:

#### Service improvements

- > review its policy on dealing with noise nuisance complaints, to ensure it properly considers its use of discretion to investigate complaints which may fall outside its current policy requirements.

By reviewing its policy, the council can make sure that, if Joshua complains again, it will properly consider whether to investigate even if there are not six incidents within 25 days. This means that the council's service improvement could also benefit Joshua personally if he experiences more noise disturbance.

### Learning point

Councils can have systems in place to prioritise complaints to ensure effective use of resources. However, avoid policies which lay down prescriptive rules about not investigating certain types of alleged nuisance.



## Lou's story: applying criteria too strictly

Case reference: [21 006 566](#)

Lou complained that someone in a neighbouring flat was shouting, ranting and banging objects for several hours in the day and night. This disturbed Lou's sleeping and working. The council contacted the authority that had placed the neighbour in the flat. It learned the authority was looking to move the neighbour. Lou continued to report the disturbance and record these on an app. Lou described the disturbance as absolute hell. The council told Lou it could not take action to stop shouting as this is not a noise nuisance in law.

Our investigation found the council was wrong to say that it could not take action. Its website says that where shouting or banging forms part of the 'normal domestic use' of a property then it will be unable to intervene. But this would not apply in cases where the disturbance was far greater than a normal domestic situation, which is what Lou persistently described.

The council also failed to make any analysis of the noise recordings to decide if it could take action. The council did not tell Lou what ASB powers it was considering or any decisions it made about this, and there was no evidence of the council's investigation, or what it found.

The council's failures caused Lou severe distress and frustration.

## How we put things right

The council agreed to our recommendations to:

### Individual remedy

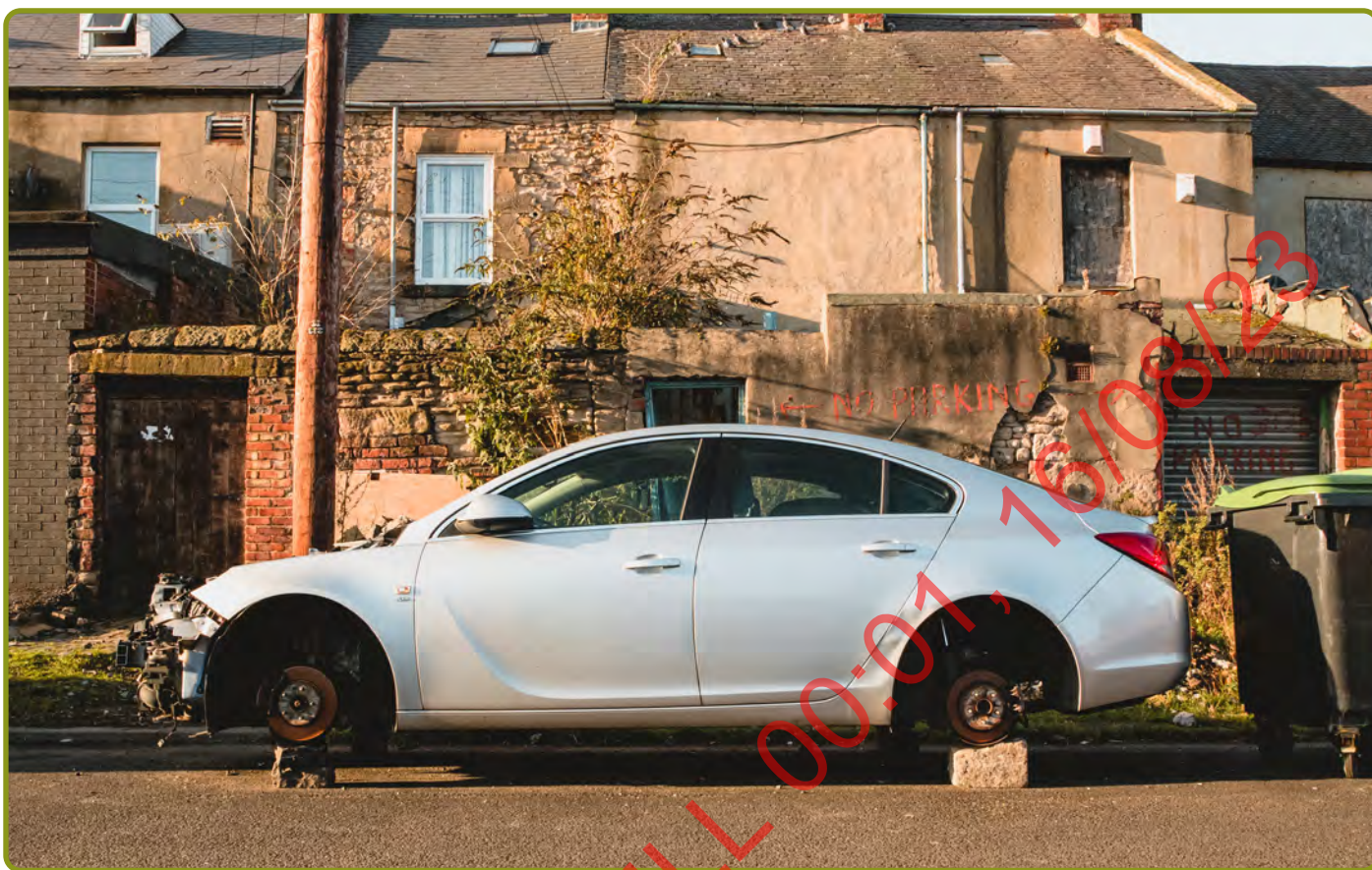
- > apologise
- > make a symbolic payment to Lou for a loss of service, and for the frustration it had caused him
- > review its investigation of the ASB and appoint a senior officer to draw up an action plan

### Service improvements

- > issue guidance to staff on record keeping and in what circumstances it might act to stop shouting or raised voices
- > review how it checks the progress of open noise nuisance or ASB investigations to prevent them drifting; for example, producing reports for management to review where there has been no action for several weeks (we suggested eight weeks as a benchmark).

## Learning points

- > Make sure officers are clear on what might constitute ASB, and how they will investigate and assess ASB, including what powers might be appropriate.
- > Clearly explain the powers and policies to the public and maintain systems for checking on the progress of open investigations.



## Failure to make decisions

Antisocial behaviour investigations frequently generate a significant volume of evidence, including photos, videos, noise recordings, lengthy diaries, and statements, from both complainants and alleged perpetrators. The evidence may be inconclusive, it may contradict itself, or it may simply not prove anything at all. Sifting through and trying to make sense of this can be a very difficult and time-consuming job for officers.

But too often we see investigations which are left open and unresolved – in some cases for years – while officers continually seek out more evidence. Often it appears these are cases where a decision could reasonably be made on the evidence already available.

It is for officers to decide what evidence they need to make a robust decision, and provided the reason is clear, we will not criticise them for keeping a case open while they investigate further. But investigations which drift on without any purpose or goal, simply because the case officer does not feel empowered to make a formal decision, cause frustration not only to complainants, but also to the people being investigated. It can mean victims continue to suffer from antisocial behaviour, where enforcement action by the council could bring them relief.

Ensuring officers feel confident in making timely decisions, and are not 'over-investigating' complaints, can also help reduce the burden on council resources and allow it to provide a better service to everyone.



## Jim's story: a decision not supported by the evidence

Case not published

Jim's neighbour had several dogs, which they would often leave alone during the day. The dogs would bark frequently and loudly enough to disturb Jim, so he complained to the council about the noise.

The council investigated this, on and off, for more than three years. In that time, it made many visits to Jim's and the neighbour's properties. It installed noise monitoring equipment and worked informally with the neighbour to find ways to reduce the noise, but these efforts did not bring sustained improvements. The council explained to us that the neighbour was particularly vulnerable, which was a factor it had to consider in dealing with her.

However, during their visits, officers noted that they found the noise from the barking to be intrusive and that it lasted for long periods. On one occasion, an officer sat outside the properties in their car, and said that, even from there, barking was continuously audible for nearly half an hour. But, when it eventually came to make a decision, the council described these visits as "unsuccessful". It said it did not have evidence to find there was a statutory noise nuisance, and closed the case without taking formal action.

The council decided there was no statutory nuisance. However, we were not satisfied it had properly explained its decision. We were concerned the council had relied on an informal approach to the matter, despite it not working, and that it had focussed on the neighbour's vulnerability to the exclusion of Jim's rights not to suffer ASB. We pointed out it had gathered a significant volume of what appeared to be compelling evidence of a nuisance, but it had not explained why this evidence did not support taking formal action. We said it was particularly hard to understand why it had described its visits as unsuccessful.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Jim for its poor handling of the investigation
- > make a symbolic payment to Jim for the frustration he had suffered.

### Learning points

- > Highlight the importance of making a prompt formal decision once reliable evidence is available.
- > Ensure officers have the confidence to make formal decisions, even in difficult cases, and that they feel properly supported to do so.
- > Have a robust case review process, where managers can identify longstanding cases and guide officers towards a resolution. Where complaints of ASB are made against a vulnerable person, be alert to the need to balance their rights against those of the victim.



## Not using the full range of powers

A common fault we see is officers failing to consider the council's full range of powers when dealing with an antisocial behaviour case.

Officers in the ASB team tend to only consider the specific ASB powers arising from the Anti-social Behaviour, Crime and Policing Act 2014. However, we expect officers to take a broader view and consider all the powers available to the council, liaising with other teams or making referrals where necessary.

For example, where the alleged perpetrator of the nuisance is a council tenant, the council has powers as a social landlord to resolve the situation in conjunction with its specific ASB powers.

Other council departments also have powers which can be used in certain circumstances; for example, environmental health (where a complaint involves excessive noise or pollution), licensing (where the complaint is about rowdy behaviour in or around licensed premises) and planning (where a complaint is about inappropriate use of a building or land).



## Rebecca's story: Looking only at powers as a landlord

Case reference: [21 000 787](#)

Rebecca is the landlady of a flat, and she often visits the building to clean the communal areas. A council tenant, Tony, lives in a neighbouring flat, and Rebecca had been complaining to the council about his behaviour for a long time before she approached us. She said Tony made frequent antisocial noise, vandalised communal areas, and intimidated her and the building's residents. When she complained to us, Rebecca said a tenant of hers had moved out because of this, and she was afraid the new tenant would leave too.

The council issued warnings to Tony about his behaviour in its capacity as his landlord, and assured Rebecca it would ask him to sign an acceptable behaviour agreement if he continued. The council also liaised with the police to discuss evidence Rebecca had submitted of potential criminal behaviour by Tony. This led to his arrest and imprisonment for a time, but he returned to the building when he was released.

After Tony returned to the flat, Rebecca reported further incidents of ASB by him. The council decided to seek possession of Tony's flat and evict him. This was ongoing at the point Rebecca made her complaint to us.

Our investigation found that, although we could not consider the council's actions in its capacity as Tony's landlord because it is outside our jurisdiction, it had a range of other ASB powers it could potentially have used, such as serving a community protection notice. There was no evidence the council had considered these powers, and instead it had focussed exclusively on dealing with the problem as a tenancy management issue. It had therefore overlooked sanctions it could impose against Tony, missing the opportunity to improve the situation sooner.

We also found the council had failed to consider or assess Rebecca's vulnerability, or to tell her about victim support services, despite this being an explicit commitment of its ASB policy.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Rebecca.
- > Pay her a symbolic amount to reflect the distress and frustration it had caused

#### Service improvements

- > review its guidance for staff dealing with complaints of ASB against council tenants, to ensure they understand the council's general ASB powers as well, and how to apply them
- > remind staff to signpost complainants to victim support where appropriate.

### Learning points

- > Make sure all those dealing with complaints of ASB understand the full range of powers open to councils, not just those which apply to their particular area of work.
- > Ensure staff are confident in using these powers themselves; or where exercising them sits better with another team, ensure there is a clear referral mechanism.
- > Councils should consider what other forms of support they can offer to complainants, especially where they may be particularly vulnerable to ASB.



## Delay and poor communication

Most people who complain to us about ASB say their main source of frustration is having to wait a long time for officers to respond to their calls, emails or other attempts to make contact. They often also complain about long delays in a council taking action, when it seemingly has evidence to justify doing so.

We know that, more than ever, council services are under immense pressure and often see councils with few dedicated ASB officers, dealing with excessive caseloads with little time to spend on each case. We do not seek to dismiss the difficulties councils face in these circumstances.

But the fact remains this type of delay can seriously impact a case, adding additional frustration onto the distress of the substantive problem. It can mean a person continues to suffer ASB when timely enforcement action by a council could have stopped it, or it may embolden a perpetrator because they believe they will not face sanctions.

And, even where it has done everything else on the case well, councils' work can be let down if it does not keep in touch with the complainant.



## **Danielle's story: Delay and failing to tell the victim it had made a decision**

Case reference: [22 001 218](#)

Danielle reported several times to the council she was suffering noise nuisance from the residents of a neighbouring flat. The council visited the building and heard the noise of children playing, and did not consider this amounted to antisocial behaviour. But it sent a letter to Danielle's neighbours asking them to try to reduce the noise if possible.

Danielle then made a complaint to the council. The council visited the building again and drew the same conclusion there was no ASB. However, it did not tell Danielle it had done this because she did not answer the phone when an officer called. The council later accepted it should have dealt with this matter as a formal complaint.

Some time later the council visited Danielle and told her she could use an app on her phone to record nuisance noise. Danielle continued to report incidents to the council, and it visited again but did not observe any noise. During this period Danielle repeatedly tried to call to speak to an officer, but could not make contact.

She then made another complaint, saying she could not access the noise app without the council approving her account, which she was still waiting for it to do. The council did not respond to this complaint. It then finally approved Danielle's app account – two months after it had invited her to use it – and she began to submit recordings. The council reviewed these and again decided there was no noise nuisance.

We found the council had taken appropriate steps to gather evidence about the alleged ASB, and we did not criticise its decision that the noise did not amount to a statutory nuisance. However, we found fault because the council took too long to approve Danielle's app account, and because it did not tell her when it made a decision about the evidence she was submitting, or that it had closed her case. We also criticised the council for the repeated difficulties Danielle had in contacting officers.

### **How we put things right**

The council agreed to our recommendations to:

#### **Individual remedy**

- > apologise to Danielle
- > pay her a symbolic amount to reflect the distress and frustration it had caused

#### **Service improvements**

- > remind staff of the importance of informing complainants when they have made a decision on a case.

### **Learning points**

- > Even where officers have investigated a complaint of ASB well, this can be let down by unnecessary delays and a failure to stay in reasonable contact with a complainant.
- > Ensure there is a robust system for complainants to contact officers during an investigation.



## Referring to another agency without considering the council's own role

In addition to councils, other agencies also have some responsibility for tackling antisocial behaviour, including the police and social housing providers.

We often see examples of councils telling complainants to report ASB to other agencies, particularly the police. Sometimes this may be a reasonable response, for example if there is an immediate threat of harm or a criminal offence may have been committed.

But councils cannot simply wash their hands of a matter by passing responsibility to another agency. If a council decides another agency, like

the police, is better placed to take the lead on a situation, we would still expect it to keep the matter under review, liaise with the police and other agencies and consider if it should take any action using its own powers. It should also keep accurate records of the reports it has received and follow-up with the complainant.

Joint-working and information-sharing between councils and other agencies is a critical part of effectively responding to ASB and councils should work with other agencies to identify, assess and tackle reports of ASB and coordinate a response.



## John's story: refusing to investigate ASB unless the police had investigated

Case reference: [22 005 953](#)

John contacted the council about ongoing noise from an extended family living in a neighbouring house. The council said the type of noise John described may be antisocial behaviour, but it no longer had an in-house ASB team. It advised John to report the matter to the police.

John contacted the police who said they could not help and suggested he contact the council. John subsequently contacted both the police and the council numerous times. The council again advised John to report the issues to the police saying they were "police matters".

John complained to the council. It reiterated it did not have an ASB team, which is why it had advised him to contact the police. It said that, despite what the police had told John, it could not investigate ASB unless the police had first assessed it.

We found the council was at fault for not doing more to consider John's concerns. It failed to own the issue and take his concerns seriously. The council also did not have clear and transparent processes for victims to report ASB concerns or how to work with other agencies to identify, assess and tackle the reported ASB and coordinate a response.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise
- > make a symbolic payment to John to recognise the distress caused
- > contact John to consider how it could help him to further present his concerns

#### Service improvements

- > ensure information about ASB procedures is available to the general public, including on its website
- > carry out a review of its current procedures and staff advice on how to respond to ASB complaints, to ensure it acts in line with government and local guidance and processes
- > consider whether a specific council policy on ASB was required.

### Learning point

Take reports of ASB seriously and consider whether you should use your available powers to tackle the situation, rather than simply referring the complainant to another agency.



## **Mustapha's story: failing to consider whether behaviour is ASB**

Case reference: [20 010 677](#)

Mustapha complained to the council about his neighbours' behaviour which included placing bagged dog faeces outside his kitchen window in a bin until collection day, obstructing access to his property with bins and plants, shouting abuse at him, throwing tennis balls at him, and physically assaulting him.

The council decided the neighbours' behaviour was not antisocial behaviour but related to a private dispute between them and Mustapha about rights of access over the courtyard area behind their properties. It said civil disputes between neighbours were not considered ASB and Mustapha should report the incidents to the police.

We found the council was at fault because it provided no evidence that it had considered whether any of the neighbours' behaviour could have amounted to ASB. It also provided no evidence that it had assessed the risk to Mustapha from that behaviour.

The council's failures caused Mustapha uncertainty about whether its decision would have been different if it had properly considered the matter.

### **How we put things right**

The council agreed to our recommendations to:

#### **Individual remedy**

- > apologise
- > offer mediation to Mustapha and his neighbours if it received reports of ASB in future

#### **Service improvements**

- > make changes to how it records ASB complaints.

### **Learning point**

Properly consider allegations of ASB rather than simply referring complainants to other bodies, such as the police. Consider whether the issues reported by the complainant amount to ASB and, if so, consider the range of available powers. If another agency should take the lead on the matter, liaise with the agency and report back to the complainant on what action is being taken and by whom.



## Alex's story: Failing to consider whether a planning issue is also ASB

Case reference: [21 011 958](#)

Alex lives close to a newly built housing estate. The plans for the estate included a pedestrian footpath linking to his road. Alex complained to the council about vehicles using the path as a shortcut to the estate, making it unsafe to walk on. He also reported an increase in incidents of antisocial behaviour and littering.

The council advised Alex the path was built in accordance with the approved plans so there was no breach of planning permission and it could not take enforcement action. It also said it would not deal with any antisocial behaviour concerns because these were a matter for the police.

The council did not refer the matter to its ASB team. It said the police was solely responsible for resolving the problem and did not liaise with them.

We found the council was at fault in failing to consider whether Alex's concerns were ASB. Although the police could have considered the matter as an offence of driving without due care and attention, the council has the power to consider ASB arising from vehicle nuisance and can consider using public space protection orders.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Alex and pay him a symbolic amount for his time and trouble
- > refer Alex's concerns to its ASB team and keep him updated on the progress.

### Learning point

It is not sufficient to simply tell a complainant that they should report a matter to the police and then take no further action. Consider whether the issues reported by the complainant amount to ASB and whether to use the powers available. Even if another agency has powers to deal with the matter, the council can also consider its own powers and take action itself.



## Not liaising with other relevant agencies

While councils have a range of powerful tools to tackle antisocial behaviour, in many cases other agencies will be, or should be, involved. Other council departments, outside the ASB team, may also be able to help towards a resolution. It is therefore important that effective communication channels exist between these different bodies.

Unfortunately, we often see examples of poor liaison during ASB cases, or no liaison at all. Even when different agencies have taken responsibility to manage a case, we sometimes find them to have been working independently, without any real understanding of what each is doing. Alternatively, councils may receive relevant information from another agency, but fail to give it proper consideration.

This can mean opportunities to resolve the matter are missed or complainant vulnerabilities are overlooked.

Council officers should think as creatively as possible about who else might have information, or who else might have a role in a case, both inside and outside the council. This could be the police, a housing provider, the council's own adult or children's social care departments, the NHS, or others. If so, they should contact or make referrals to these bodies as early as possible in the investigation.

And where they receive information from other bodies, officers should properly weigh its relevance to the case and, where appropriate, adjust their own plan of action accordingly.



## Adam's story: Failing to explore support options

Case reference: [20 009 572](#)

Adam has a number of significant mental health conditions and is a council tenant. After a window in his flat was damaged, a criminal gang used it to access the flat. The police notified the council of this and asked it to move Adam to a different flat.

The council noted Adam was very vulnerable and that the gang had threatened him with violence. Its policy required it to make an action plan to explore what could be done to help Adam, including:

- > referring him to other support agencies;
- > completing a vulnerability risk assessment;
- > considering alternative temporary accommodation; and
- > making a safeguarding referral.

But the council did not do any of this. Instead it simply repaired the damage and applied for Adam to have a managed move to different accommodation, which would inevitably take longer than finding him temporary accommodation.

In the meantime, the gang returned several times, breaking into Adam's flat, threatening and assaulting him. A month after asking the council to move Adam, the police made a safeguarding referral, and the council then placed him in a hotel. But Adam grew frustrated with this arrangement after several weeks and returned to the flat, where the antisocial behaviour continued.

Eventually the managed move was approved, and after four months the council moved Adam to new permanent accommodation.

Our investigation found fault with the council for failing to explore what it could do to support Adam during this period. We could not speculate what difference this may have made in real terms, but we considered the uncertainty and missed opportunities was an injustice to Adam.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Adam
- > make a symbolic payment to reflect the avoidable distress and frustration its fault had caused

#### Service improvement

- > remind the staff in its ASB team of the requirements of the council's policy, and give them guidance on how to implement the policy.

### Learning points

- > Ensure the vulnerability of ASB victims is given proper consideration at the earliest possible stage of any investigation. Where a victim is particularly vulnerable, this should form a central part of any consideration by the council of what to do to tackle the ASB.
- > Always think about what other support is available to help the victim, both inside and outside the council, and, where appropriate, make referrals to those agencies as soon as possible.



## ASB case review (also known as the Community Trigger)

Antisocial behaviour can be tough to crack. As this report shows, it often requires input from agencies with different powers and responsibilities. The ASB case review process is an opportunity for councils to review, alongside these other relevant bodies, what has been done so far, and what could be done to resolve it. The government guidance says that bodies will take a problem-solving approach when completing a review.

Our investigations have sometimes seen councils treat an ASB case review as another complaints process, focussing on reviewing only whether

those bodies involved so far had acted properly. In some cases we have seen councils review a situation but only what the council itself has done without involving other agencies. And in other cases, councils have told the person to ask for a review from the agency they had been complaining to, such as the police or a social landlord.

Ensuring that officers understand and use the ASB case review process gives councils the opportunity to have a thorough look at what more can be done, and to work proactively with other agencies to tackle the situation.



## **Rouel's story: Missed opportunity to consider what else could be done**

Case reference: [21 000 098](#)

Rouel is a housing association tenant. He reported several incidents of antisocial behaviour by his neighbours to the police and to his housing association. He was suffering from intimidating and homophobic abuse and assault. The council accepted Rouel's situation met the threshold for the ASB case review. It convened an ASB case review panel meeting with the housing association and the police.

The council told Rouel it had not 'upheld' his review request because the housing association and the police had investigated his concerns appropriately.

We found that the council had reviewed the actions taken but had not considered what it could do to tackle the ASB under its powers, either individually or working with other agencies. It misunderstood the aim of the ASB case review and so it missed the opportunity to proactively consider what action it could take. In this case, the police had closed the case because there would not be a realistic prospect of getting sufficient evidence for a criminal prosecution, but this did not prevent the council from taking action to address the ASB under its statutory duties.

### **How we put things right**

The council agreed to our recommendations to:

#### **Individual remedy**

- > apologise to Rouel for the frustration and uncertainty it has caused him

#### **Service improvements**

- > review the ASB case review policy and procedures with its partners, to ensure that it reflects a pro-active approach in constructive consultation with partner agencies, looking at what more might be done by any of the partners to tackle the problem; and
- > ensure that the relevant officers and members receive training on how to effectively complete an ASB case review.

### **Learning point**

The Community Trigger review process is not merely an alternative complaints process looking only at whether the council and other agencies involved to date have acted properly. Councils should use this as an opportunity to proactively consider what other action it and other agencies might take to tackle the ASB.

## Signposting to the ASB case review

Of course, an Anti-Social Behaviour Case Review can only be an opportunity for a fresh approach, if it is used by the public. The guidance says that bodies should make it as straight forward and as accessible as possible to victims.

Councils will often respond to complaints of ASB, perhaps by talking to the victims, monitoring behaviour and liaising with other bodies. When things don't improve, victims will sometimes complain to a council that they are not happy with what it has done so far. But too often we see councils failing to tell the victim about the ASB case review process, or failing to make it clear on council websites.

Anyone suffering ASB and who has reported it more often than the threshold requires to any of the relevant bodies, can request a review. We have seen councils refusing to conduct an ASB case review because either it or another agency has investigated the person's reports. This is wrong. The only threshold is the number of incidents reported within a time frame. A person unhappy with the response to ASB, can request a review whether or not their earlier reports have been investigated, and acted upon.



### Chris and Paula's story: Failing to signpost to the ASB case review process

Case reference: [21 000 700](#)

Chris and Paula live close to a market square. They repeatedly complained to the council about noise nuisance and ASB. They were unable to relax at home and suffered from loss of sleep because of loud music and shouting outside.

Council officers liaised with the police and visited the area many times. The council also applied to the court for a civil injunction and implemented a public spaces protection order to stop individuals or groups of people behaving antisocially in a public place.

Chris and Paula repeatedly told the council they were not satisfied with the action it was taking to deal with the problems. According to the council's policy, this would usually activate an ASB case review. But the council failed to tell Chris and Paula about this process. This caused them an injustice as they were left with uncertainty about whether a different outcome may have been reached if the council had done so.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > make a symbolic payment to Chris and Paula to reflect the frustration it had caused
- > write to Chris and Paula with information about the ASB case review process.

#### Service improvements

- > remind relevant staff about the ASB case review and when they should tell people about the process.

### Learning point

Ensure relevant staff are aware of the ASB case review process and when to signpost someone to it.



## **Fran's story: applying the wrong test when deciding not to investigate**

Case not published

Fran had been suffering antisocial behaviour by her neighbour for more than five years. This included assaults, threats and intimidation, criminal damage and invasion of privacy. Fran had reported these to the police. Fran raised an ASB case review request with the police, and it referred this to the council.

The council decided that Fran's case did not meet its threshold for an ASB case review, and that if she was dissatisfied with how the police had investigated she should raise it with them. The council did however, discuss the case at a multi-agency meeting, and then told Fran that as the police had found no evidence to take action, her case would not meet the threshold for an ASB case review. This was in accordance with the council's policy at the time.

Our investigation found the council's policy did not apply the correct test when deciding whether someone's case meets the threshold for an ASB case review. The police had investigated Fran's reports, but she was clearly not satisfied with the outcome. Whether the person's reports have been investigated is not relevant to whether their case meets the threshold. The council has since altered its policy to reflect this.

We also found that in any case, the council has discretion to consider a case for an ASB case review despite that it does not meet the threshold. In Fran's case, it had failed to consider whether the circumstances meant that it should accept it for a review.

### **How we put things right**

The council agreed to our recommendations to:

#### **Service improvements**

- > circulate guidance to relevant staff members, explaining an ASB case review application can be accepted 'under threshold' if there are compelling reasons to do so, such as where the complainant is particularly vulnerable, or where the alleged antisocial behaviour is particularly severe.

#### **Learning points**

- > Ensure relevant staff understand that a person can access an ASB case review regardless of whether or not their reports of ASB have been investigated.
- > Ensure that relevant staff properly consider whether the individual circumstances of the complaint warrant conducting a review despite that it does not meet the threshold.

# Promoting good practice

While remedying individual injustice is an essential part of what we do, we also help councils, care providers and other public bodies tackle systemic failures and improve the way they deal with complaints.

In many cases we ask local services in our jurisdiction whether other people are currently, or could be, affected by the same issues raised in a complaint.

Drawing on our casework, we have identified some positive steps councils can take to improve services.

- > Invest in training for officers and members so they are aware of the full range of tools available to tackle antisocial behaviour, including the ASB case review.
- > Ensure ASB investigations are efficient and officers are equipped to make robust and prompt decisions.
- > Take steps to guard against applying policies too strictly and make sure officers are empowered to consider each case on its individual circumstances.
- > Promote good liaison with relevant agencies and ensure that the council fully considers its own role in tackling ASB.
- > Make sure the victim is at the heart of the council's consideration; that their vulnerability informs any action; and other services are in place to support the victim.
- > Make clear that the ASB case review is not another complaint process, but provides opportunities for the council and other agencies to proactively consider what more action might resolve the ASB and support the victim. Ensure officers signpost victims to the ASB case review process where appropriate.

# Local Scrutiny: Questions for councillors

We want to share learning from our complaints with locally elected councillors, who have the democratic right to scrutinise the way councils carry out their functions and hold them to account.

Below we have suggested some key questions elected members could ask officers when scrutinising services in their authority.

- > Does your council scrutinise the outcomes of complaints?
- > Where things have gone wrong, how does your council learn from complaints? Are these processes effective?
- > How does your council use Ombudsman reports and decisions to develop its own policy and practice?
- > How do your council's ASB policies and practice put victims at the heart of its investigations?
- > How do your council's processes promote good liaison and proactive working with other relevant agencies?
- > Is it clear to the public what the ASB case review is, and how they can access this?
- > Do officers understand they should signpost people to the case review process where appropriate?

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