



## **Enforcement Policy**

### **Anti-Social Behaviour**

July 2021

To be read in conjunction with the Cheshire East Council  
Corporate Enforcement Policy and Cheshire East Council  
Community Enforcement Policy

## **1. Aims of this Policy**

- 1.1 To advise and inform businesses and individuals with regards to:
- The legislative powers available to the Anti-Social Behaviour Team within in relation to the effective enforcement of Anti-Social Behaviour incidents
  - The decision-making process when considering enforcement action
- 1.2 This policy must be read in conjunction with the Cheshire East Corporate Enforcement policy which provides details of the overarching approach taken by Cheshire East in its enforcement duties.
- 1.3 With regard to Environmental Offences linked to waste, abandoned and nuisance vehicles this policy must also be read in conjunction with the Community Enforcement Policy.

## **2 Introduction**

- 2.1 The Council within its published corporate plan has stated ambition to have 'Welcoming safe, and clean neighbourhoods' and in particular to use the full range of education, engagement, and enforcement tools to protect our communities; and take formal enforcement action as appropriate, to reducing offending and increase compliance with the law from individuals or businesses.
- 2.2 This policy primarily covers areas of enforcement the Anti-Social Behaviour Team will consider when managing cases/dealing with incidents. However, this policy also covers areas of work their co-located and joint managed Community Enforcement Team will consider the use of Anti-Social Behaviour Legislation to tackle waste, abandoned and nuisance vehicle offences.
- 2.3 Both the Anti-Social Behaviour and Community Enforcement Teams are based within Police Partnership offices at Crewe and Macclesfield Police stations. This allows the Anti-Social Behaviour Team to share relevant access to police systems for checks on cases referred and to update police systems on any actions taken. It also allows the Community Enforcement Team to be joint located with the Anti-Social Behaviour Team to allow for cross working in relation to cases that are shared. The Community Enforcement Team do not have access to police systems.
- 2.4 The Community Enforcement Team are uniformed officers authorised by the council to undertake enforcement action under various legislation linked to Environmental (including waste) and Anti-Social Crime.
- 2.5 The Anti-Social Behaviour Team are a team of Anti-Social Behaviour Coordinators who have a problem solving, multi-agency approach to talking Anti-Social Behaviour Complaints. They are non-uniformed coordinators and are not a re-active team who attend incidents of Anti-Social Behaviour.

The Anti-Social Behaviour Team utilise powers under the Anti-Social Behaviour Crime and Policing Act 2014 in relation to enforcing against those who have persistently caused behaviour that have had a negative impact on another individual/community/neighbourhood.

The Anti-Social Behaviour Team will also assist other agencies (such as the police) in providing evidence via witness statements and exhibited information in relation to actions they may have taken to curb such behaviour ahead of formal enforcement action they may be considering.

Incidents of Anti-Social Behaviour requiring an officer to attend must be reported to the Police. (further information around reporting can be found on point 9.5 of this policy)

- 2.6 This policy will not detail policy and procedure around all elements of dealing with Anti-Social Behaviour complaints but will highlight those that have been assessed as requiring enforcement action.
- 2.7 Co location with police colleagues, also allows the teams to work closely with the Police Beat officers, and relevant teams in relation to tackling Anti-Social Behaviour and Environmental Crime.

### **3 Policy Guidance**

- 3.1 In addition to the range of legislation available to the team, national guidance and codes of practice are considered when determining the most appropriate course of action to remedy a problem alongside in-house procedures for operational officers.

National guidance in relation to all of the legislative actions within this policy can be found on <https://www.gov.uk/>

- 3.2 The Anti-Social Behaviour and Community Enforcement Teams possess various powers and duties to deal with Anti-Social and Environmental incidents, including breaches of legislation and policy. In other words, although there are many things that the service must do, there are also many others which it may do only where it is expedient to do so. Where this discretion is available then the service will consider several wider factors and tests to determine its regulatory approach, taking into account the level of harm caused by the incident or contravention. Further information on these guiding principles can be found in Section 3.0 of the Cheshire East Corporate Enforcement Policy.
- 3.4 Enforcement action should not normally be considered as an initial remedy for any contraventions of legislation and policy under Anti-Social Behaviour offences. In most circumstances the Council's approach to dealing with Anti-Social Behaviour will follow the 4 E's principal of enforcement - Engage, Educate, Encourage, Enforce. Where possible coordinators should consider informal action/preventative measures in the first instance. However, there are occasions, depending on the severity of the contravention, threshold or public interest tests within legislation where formal action will be considered as the initial and most appropriate course of action.
- 3.5 Where an Anti-Social Behaviour incident has been witnessed by a member of public, it must be understood that in some circumstances without a formal witness statement it is very likely that pursual of the suspected offence will not be possible

### **4 Legislative Framework**

- 4.1 The Anti-Social Behaviour Team has key legislative powers, under the ASB Crime and Policing Act 2014. This offers a wide range of powers to enable to fulfil the duties for

which they are responsible when dealing with relevant Anti-Social Behaviour cases/incidents.

- 4.2 The below list highlights the main legislative powers by which the Anti-Social Behaviour Team undertake their duties to investigate and take appropriate action in relation to Anti-Social Behaviour incidents and how investigations of such are undertaken:
- Anti Social Behaviour, Crime and Policing Act 2014
  - Police and Criminal Evidence Act 1984 (PACE)
  - Criminal Procedure and Investigations Act 1996
  - Regulations of Investigatory Powers Act 2000 (RIPA)
- 4.3 Additional legislation by which the Anti-Social Behaviour Team operate under in line with any investigations they undertake can be found under section 3 of the of the Cheshire East Corporate Enforcement Policy. These include considerations under the Human Rights Act 1998 and the Data Protection Act 2018 and General Data Protection Regulations 2018 (GDPR)
- 4.4 In some instances, specific powers contained within legislation are restricted to those officers who are deemed to have the skills and experience to enforce them. These delegations are formally recorded within individual authorisations granted to and held by each officer, including any officers who may be employed by commissioned services, where appropriate.

## **5 Anti-Social Behaviour:**

- 5.1 The Council's Anti-Social Behaviour Team consists of 4 x ASB Coordinators based within either Crewe, Congleton or Macclesfield Police Station Partnership offices. They are co located with police colleagues and our Community Enforcement Team to allow for a joint agency approach to tackling Anti-Social Behaviour in the Borough of Cheshire East.
- 5.2 The Anti-Social Behaviour Team's main functions are to work with neighbourhoods, including businesses and visitors to tackle and focus on a problem-solving, solution-based approach to anti-social behaviour complaints reported into the team. More than often this involves alternate methods to legal/criminal enforcement, working with other agencies and police colleagues to tackle the behaviour reported.
- 5.3 The Anti-Social Behaviour Team generally do not open cases for those residents that are tenants of a registered housing provider as they have their own policies and procedures in place to tackle reports of ASB. Registered housing providers are also able to act under tenancy agreements in most circumstances. However, where cases may be more complex, or the reports include Neighbourhoods/Communities that are a mixture of both private and social housing residents then the Anti-Social Behaviour Team will work alongside the relevant registered providers and agencies to address the issues.
- 5.4 Below is a non-exhaustive list of the types of cases the Anti-Social Behaviour Team might deal with, some of which may include incidents involving the Community Enforcement Team:

- Neighbour Disputes leading negative impact on communities including boundaries, parking, building works, conflict of lifestyles, smoking of cannabis/cigarettes near to other properties/windows, parties, neighbours' dogs/animals, and noise that does not hit the statutory requirements for consideration under Environmental Protection enforcement legislation
- Reports of young people involved in anti-social behaviour in and around their communities and neighbourhoods from low level incidents involving large groups causing high levels of noise and intimidation, football games causing damage to others properties, alcohol and drug related anti-social behaviour to those young people engaging in gang activity/persistent criminal activity involving anti-social behaviour as an additional impact of their criminal behaviour.
- Adults either in groups or individually involved in anti-social behaviour within a neighbourhood or wider community/town/area. Behaviours may consist of, alcohol/drug misuse, persistent abusive language or behaviour towards others, begging, busking, anti-social chugging/sales representatives in streets and town centres.
- Anti-social use of vehicles gathering in areas attracting unwelcome, disruptive attention, noise of revving or stereos, damage to areas, parking in a way that impacts negatively on the local community
- Businesses/organisations/private landowners who's lack of engagement and/or willingness to undertake improvements in and around their own sites to reduce anti-social behaviour or that their behaviour towards others has impacted negatively on the local community. This can also include private landlords or letting agents
- Environmental anti-social behaviour (in conjunction with the Community Enforcement Team) such as;
  - (i) irresponsible dog ownership either in the community or allowing dogs to stray onto others private land/gardens not accessible to the public
  - (ii) persistent mismanagement of household or business waste having a negative impact on the local community that has already been investigated in line with the Community Enforcement Policy

5.5 It is important to note that many of the behaviours listed under 5.4 may also be best initially investigated under existing legislation that may tackle the problem outside of the Anti-Social Behaviour Crime and Policing Act 2014. This will involve the Anti-Social Behaviour Team liaising with other Council departments and outside partner agencies such as the Police.

5.6 There are several interventions the Anti-Social Behaviour Team may undertake in order to first assess the scope and nature of the ASB reported in order to ascertain the size of problem and reach out to Neighbourhoods and Communities. Examples of some of these interventions are below:

- ASB Community Questionnaires - on-line surveys that are either delivered to properties or via a door to door visit of a certain Neighbourhood or Community depending on the size and nature of the anti-social behaviour reported.

- Anti-social behaviour Logbooks - for private own, businesses or private rent sectors
- Residents/Neighbourhood meetings or surgeries – allowing individuals to discuss concerns they might have and received guidance, advice and assistance.
- Liaison with partner agencies - such as those listed under 10.1 of the Council’s Corporate Enforcement Policy

5.7 The types of informal interventions the ASBT may consider ahead of use of legislative powers/enforcement may include:

- Informal approaches to those involved in the ASB via any of the above methods under 5.6
- Referral to Mediation Services
- Polite request letters/informal warning letters
- Acceptable Behaviour Discussions
- Referral to appropriate preventative agencies, such as the Councils “front door” services (adult safeguarding/preventative services and young person’s safeguarding and preventative services)
- Acceptable Behaviour Contracts
- Voluntary Parent Contracts
- Professionals meetings
- Referral to our place based Multi-Agency Action Group (MAAG)

5.8 The **Multi Agency Action Group** is a bimonthly meeting of core agencies who discuss nominations submitted into them with reference to place based Anti-Social Behaviour issues that require a more enhanced multi-agency approach and support from a wider network of partners.

Nominations to this group are submitted via the appropriate nomination form to the ASB Team who will, alongside Police Colleagues, triage and either accept the nomination or advise on a course of action should the nomination not be suitable for the group.

For a nomination to be accepted onto the panel, the nominating body must be able to evidence:

- Level of incidents at the place-based area that evidence a substantial increase and that they are having a detrimental impact on the local Community/Neighbourhood.
- What has been done already to try to tackle the issue
- Who has already been involved with the issue
- Suggestions in relation to remedies for the issue and who else might need to be involved.

5.9 When undertaking any case work the Anti-Social Behaviour Team will also give consideration as to whether the case may fit the thresholds for a “Community Trigger”. If this is the case, the team will advise accordingly or make a trigger application

themselves. More information about the community trigger can be found on our website [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)

- 5.10 If interventions listed under 5.7 have proved not to be effective then the Anti-Social Behaviour Team will look to consider powers it has under the Anti-Social Behaviour Crime and Police Act 2014.

## **6 Anti-Social Behaviour Crime and Policing Act 2014**

- 6.1 Both the Anti-Social Behaviour and Community Enforcement Teams have joint use of powers it can consider under the Anti-Social Behaviour Crime and Policing Act 2014 to tackle those who are persistently causing anti-social behaviour which is having a detrimental impact on our neighbourhoods and communities.
- 6.2 It is important to note that certain tests need to be met within the legislation for the Council to consider implementation of any of the powers and subsequent enforcement under this act. More information in relation to the Anti-Social Behaviour Crime and Policing Act 2014 can be found at [www.gov.uk](http://www.gov.uk) and accessing the Statutory Guidance (last updated January 2021).
- 6.3 In line with this the Council also needs to consider the Code for Crown Prosecutors when looking to enforce under this act under the Evidential Test and the Public Interest Test, more details of which can be found within sect 3.5 of the Councils Corporate Enforcement Policy.
- 6.4 The below powers listed are not the full range of powers under this act, but more those that the Anti-Social Behaviour and Community Enforcement Team's may commonly consider when dealing with complaints of anti-social behaviour and environmental incidents/offences if there has been no behaviour change when using other interventions.

### **6.5 Public Spaces Protection Orders (PSPO's)**

Public Spaces Protection Orders replaced gating orders and dog control orders and can be used to control behaviours which are having or are likely to have a detrimental effect on the quality of life of those in the locality. Behaviours which can be controlled through restrictions or positive requirements within a PSPO can include:

- controlling access over public land
- the consumption of alcohol
- dogs roaming freely and/or fouling
- public urination/defecation
- busking/street entertainment
- storage of household items or waste /wheelie bins
- littering
- anti-social use/parking of vehicles
- aggressive behaviours linked to begging, street peddling or preaching

This list is not exhaustive and restrictions or positive requirements will be dependent upon the nature of the issues the PSPO is imposed to deal with. The Council does have a procedure in relation to Public Spaces Protection Orders and how they are to be applied for and accessed. Details of Public Spaces Protection Orders the Council

currently has in force and or any under consultation/review can be found by visiting our website [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)

#### 6.5.1 Legislation and formal enforcement if deemed appropriate

Legislation relating to Public Spaces Protection Orders are within sections 59-75 of the Anti-Social Behaviour Crime and Policing Act 2014. It specifies two conditions that must be met in order for a Public Spaces Protection Order to be considered which are:

Condition 1 is that:

- activities carried out in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality
- it is likely that activities will be carried on in a public place within that area and that they will have such an effect

The second condition is that the effect. Or the likely effect of the activities:

- is, or is likely to be, of a persistent or continuing nature
- is, or is likely to be, such as to make the activities unreasonable
- justifies the restrictions imposed by the order

#### 6.5.2 Breach of legislation is a Criminal Offence

The Community Enforcement Team are authorised to issue a fixed penalty notice of £100 if appropriate.

6.5.3 Police Officers and Police Community Support Officers are also authorised to issue fixed penalty notices for breach of Public Spaces Protection Orders. Some of the Council's Public Spaces Protection Orders are primarily monitored by Cheshire Constabulary due to the nature of behaviour they cover and times of day the breaches occur.

If Prosecuted, a fine of up to level 3 can be given (which currently stands at £1000).

6.5.4 In relation to offences relating to failure to clean up dog foul and responsible dog ownership, the Council have adopted Public Spaces Protection Orders to deal with these matters. Our Community Enforcement Team are the primary service responsible for the policing of this order. More information about our "responsible dog ownership Public Spaces Protection Orders" can be found on our website [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)

#### 6.6 **Community Protection Notices (CPN's)**

The Community Protection Notice can be used to deal with, ongoing problems or nuisances which are having a detrimental effect on a community's quality of life by targeting those responsible. These can be issued to an individual or body (business, organisation etc) if their conduct is having a detrimental effect on the quality of life of those in the locality, that the conduct is persistent and continuing and that the conduct is unreasonable.

6.6.1 There are a number of processes that need to have been undertaken before a Community Protection Notice is issued. The Anti-Social Behaviour or Community Enforcement Team may choose to write to the individual/body to inform that the



Community Protection Notice process may be followed if the behaviour does not improve. Should this not have the desired impact then the team must:

- Inspect/monitor reports they have received, or the relevant team has received in relation to the behaviour
- Issue an official Community Protection Warning which is a requirement of the Act before a Community Protection Notice is issued
- If the behaviour continues, issue a Community Protection Notice specifying the conduct to be stopped or action to be taken
- Monitor the behaviour of the offender after the Community Protection Notice is served

#### 6.6.2 Legislation and formal enforcement if deemed appropriate

The Community Protection Notice is covered in sections 43 to 58 of the Anti-social Behaviour, Crime and Policing Act 2014. The legal test to allow the use of this power is that the behaviour has to:

- have a detrimental effect on the quality of life of those in the locality.
- be of a persistent or continuing nature.
- and be unreasonable.

#### 6.6.3 Breach of legislation is a Criminal Offence

A fixed penalty notice can be issued of up to £100 if appropriate.

A fine of up to level 4 (for individuals which currently stands at £2500), or a fine for businesses. (which currently can be up to £20000)

#### 6.6.4 The Council's use of Community Protection Notices

Community Protection Notices can be used to tackle several anti-Social behaviour issues if they meet the legal test. The Council are currently reviewing how and when they might issue Community Protection Notices. As a result, the Anti-Social Behaviour and Community Enforcement Teams will be piloting their use during 2021/22. Once this has been decided, our procedures around this will be amended accordingly.

### 6.7 **Criminal Behaviour Orders and Civil Injunctions**

These are orders that can be placed on individuals either "tagged" onto a matter that a defendant is already appearing for in criminal court for (Criminal Behaviour Orders) or applied for separately in the County Court. (Civil Injunctions).

Criminal Behaviour Orders or Civil Injunctions will include prohibitions to stop the anti-social behaviour but can also include positive requirements to encourage the offender/individual to address the underlying causes of their behaviour.

#### 6.7.1 Legislation and formal enforcement if deemed appropriate

**Civil Injunctions** are covered under sections 1 to 21 of the Anti-social Behaviour, Crime and Policing Act 2014 and the legal test for Councils for such injunctions are based on the balance of probabilities that the respondent has engaged in or threatens to engage in;

- Conduct that has or is likely to cause harassment, alarm or distress (non-housing related anti-social behaviour); and
- That it is just and convenient to grant the injunction to prevent anti-social behaviour

**Criminal Behaviour Orders** are covered under sections 330 to 342 of the Sentencing Code (which is a product of the Sentencing Act 2020 amends sections 22-33 and s.179(3) of the Anti-social Behaviour, Crime and Policing Act 2014). Orders can only be granted if the defendant is found guilty of the offence in which they are attending court for. The legal test is

- That the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person; and
- The court considers that making the order will help prevent the offender from engaging in such behaviour

#### 6.7.2 Breach of a Criminal Behaviour Order is a Criminal Offence, Breach of Civil Injunction is a Civil Offence

Breach of a **Criminal Behaviour Order** is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt.

- For over 18s on summary conviction: up to six months imprisonment or a fine or both.
- For over 18s on conviction on indictment: up to five years imprisonment or a fine or both.

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

- Over 18s: civil contempt of court with unlimited fine or up to two years in prison

### 7 Considerations given to young people subject to Enforcement Powers under the ASB Crime and Policing Act 2014

- 7.1 The Anti-Social Behaviour Team work closely with Police, the Youth Justice Service, Cheshire East Family Service, and the Cheshire East Safeguarding Partnership in relation to any young person involved in or at risk of anti-social behaviour. A young person can be subject to enforcement of any of the powers listed above, some with different age thresholds – for instance any young person over the age of 10 years, can be subject to a Civil Injunction or Criminal Behaviour Order, any young person over the age of 16 could be issued a Fixed Penalty Notice for breach of a Public Spaces Protection Order.
- 7.2 There are Robust systems in place via the Team's Youth Anti-Social Behaviour Alert letter warning process, Acceptable Behaviour Discussion (ABD) and Acceptable Behaviour Contract (ABC) processes to enable them to ensure young people involved in such behaviour have the offer of early help as soon as possible.
- 7.3 Those young people subject to an Acceptable Behaviour Contract will also be nominated onto the Council's Young Person's Contextual Safeguarding Panel so as they can be

monitored, and have available to them the correct level of intervention to try to avoid further actions such as a Criminal Behaviour Order or Civil Injunctions

- 7.4 The Anti-Social Behaviour Team also have process in place, alongside the Youth Justice Service in order to hold "Criminal Behaviour Order professionals meetings" as and when either the team, or Cheshire Constabulary feel that an application for such an order will need to be considered. There is a legal requirement that Police and/or The Council must have a signed certificate of consultation from the Youth Justice Service in the case of an application for a Criminal Behaviour Order being made against any young person between the age of 10 and 17 years. Within this the Council have also written procedures, in line with the consideration of any publicity of a young person subject to a Criminal Behaviour Order.

## 8 **Reporting Anti-Social Behaviour**

- 8.1 It is important to note that the anti-social behaviour team are not a team who respond to live anti-social behaviour incidents or log incidents on behalf of the Police. It is important that Cheshire Constabulary are contacted to report any anti-social behaviour that has left you or an individual feeling threatened, intimidated, harassed, caused any form of damage to you, another, or your property. Especially if an officer is required to attend the incident.

Cheshire Constabulary can be contacted via any of the below methods:

### **Telephone:**

- **101** for non-emergency enquiries/incidents
- **999** if a serious offence is in progress or has just been committed, someone is in immediate danger or harm, property is in danger of being damaged or a serious disruption to the public is likely

**Online/Website:** You can also report incidents to the police via their website:

<https://www.cheshire.police.uk/>

- 8.2 The Anti-Social Behaviour Team have a partnership approach to dealing with complaints of anti-social behaviour in our neighbourhoods and communities. This often means that not one specific department or agency would be involved in an anti-social behaviour problem. The team will more than often facilitate partnership working and identification of lead agencies who are best placed to deal with the reported behaviour.

To report concerns in relation to Anti-Social Behaviour, the Anti-Social Behaviour Team can be contacted either by email [safer@cheshireeast.gov.uk](mailto:safer@cheshireeast.gov.uk) or by telephone on **0300 123 5030**. The Anti-Social Behaviour Team's phone lines and mailbox are monitored between normal office hours and are not monitored 24 hours.

- 8.3 The Anti-Social Behaviour Team will investigate all Anti-Social Behaviour incidents/concerns reported to them listed under section 6 of this policy whereby there are reasonable lines of enquiry to be made. This could include one or more of the below;
- Evidence found when conducting a patrol (for legislation under the Anti-Social Behaviour Crime and Policing Act 2014 that the Community Enforcement Team are responsible for)

- Witness statements from individuals that have seen the offence taking place/knows who committed the offence
- CCTV footage or pictures of the offence/offence taking place.
- Evidence supplied via initial contact to the team, an Anti-Social Behaviour Logbook, Anti-Social Behaviour Community Questionnaire, or via another involved agency/party.

- 8.3.1 It may be that on receipt of an anti-social behaviour enquiry made to the team, it is apparent that incidents have also been reported to other departments or agencies such as the Councils Environmental Protection Team, a Registered Housing Provider or the Police. In these circumstances the Anti-Social Behaviour Team will liaise with the relevant departments to ascertain how best to tackle the problem (as outlined under section 8.2), feeding back to the customer the best agent/s to report any further incidents of the behaviour to so as to avoid multiple reporting where possible.
- 8.4 It may not be possible for the Council to investigate all reports of alleged offences under section 6 of this policy, especially those where there are no clear evidential leads, lines of enquiry or witnesses to the offence/evidence which would lead to an investigation.
- 8.5 In order to pursue an alleged offence where an investigation is reliant on contact with a reporting person and/or witness, the Anti-Social Behaviour or Community Enforcement Team will make 2 attempts to contact. This will be recorded, with a view to close the case if the reporting person has not made contact back to the relevant team. Where practicable, and where a contact address is supplied, the relevant team may then write to the person to inform them of this.
- 8.6 Some suspected offences under section 6.5 (breach of Public Spaces Protection Orders) of this policy can be reported to the Council by contacting the Community Enforcement Team on 0300 123 5021. Other Public Space Protection Orders may be reportable to the Police, reporting methods will be listed under each relevant order on our website: [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)
- 8.7 **Service Standards** – on receipt of a report/enquiry an initial assessment of the case will be made by the relevant team within 10 working days. Where they are not able to, the customer will be contacted, where possible, to keep them up to date and make sure they are aware of an expected date the matter will be investigated further.
- 8.8 **Anonymous complaints** – It may not be possible to investigate a complaint due to the limited information provided, and as a result of anonymity, the teams are unable to make contact to obtain any additional information that may be necessary in ascertaining reasonable lines of enquiry.

Anonymous reports will be triaged, if on receipt there is enough information to warrant an investigation then this will be forwarded to the relevant team. If not, the report will be closed or if relevant, retained for intelligence purposes (for instance ASB incidents).

## 9 **Investigations**

- 9.1 Any investigations relating to enforcement of anti-social behaviour undertaken by either the Anti-Social Behaviour or Community Enforcement Team will be in line with the Councils Enforcement Policy. This covers the Councils approach to enforcement, under

what legislation we investigate matters under and how we gather, store, and use evidence.

- 9.2 It is important that every opportunity is taken to focus time and effort on investigations that will be productive in terms of achieving positive outcomes.
- 9.3 Before an Anti-Social Behaviour Team Coordinator undertakes their role, they will go through a minimum of a 4-week induction period with an experienced team member and relevant Manager. Training regardless of any formal qualification the Council will be able to offer will be provided for all ASB Team Coordinators, as required, to meet changes in legislation and enforcement procedures.
- 9.4 Please see section 7 of the Council's Community Enforcement Policy for information on how the Community Enforcement Team conduct their investigations.
- 9.5 The Anti-Social Behaviour Team will conduct investigations in a number of ways, some of which are outlined in the below list which is not exhaustive but contain the main methods relevant to offences in which they are authorised to investigate. Please refer to the Council's Corporate Enforcement Policy and/or Data Protection Policy in relation to how we store and obtain certain pieces of information gathered and who we might share that information with:

- Initial contact with reporting person/s – in some circumstances an initial investigation may be opened and closed by means of contacting the reporting person/s. The contact will allow a coordinator to ascertain the nature of the alleged anti-social behaviour and whether this is something they will be able to make reasonable lines of enquiry around. Depending on the outcome of this contact the coordinator will then decide as to whether the matter requires further investigation.
- Witness statements – Alleged anti-social behaviour may have been witnessed in person by an individual/s or they may have video or photographic evidence of an alleged offence taking place. In these circumstances a coordinator may have to obtain a witness statement if the information supplied is to be relied upon.
- Requests for information from another person/department/business or partner agency/authority There may be information a coordinator requires in order to further their investigation, for instance an address, land ownership details, a registered keeper of a vehicle, landlord information etc.
- Door to door enquiries – a coordinator may try to contact nearby residents or businesses to try to gather further information about an alleged offence. This would normally be via an “ASB Community Questionnaire”, but may require joint visits with either the Community Enforcement Team or Police Colleagues. If no contact has been made and there are no further lines of enquiry for the coordinator to consider then the investigation will be closed.
- Interviewing a suspect under caution/obtaining information under caution

It may be appropriate for some offences to give a suspect opportunity to give a clear account under caution of their version of events to assist with an investigation. Where this is required the Anti-Social Behaviour Team will look for assistance from the Community Enforcement Team to conduct these.

- **CCTV** – The council may use CCTV at their disposal via its CCTV department to place in a hotspot area that has been identified as being subject to relevant offences taking place. This will be in line with legislation outlined in the Councils Corporate Enforcement Policy and service specific CCTV policy.

9.6 In relation to the above, the Anti-Social Behaviour Team, may seek assistance from the Community Enforcement Team or Police colleagues when considering extra patrols, the issuing of Fixed Penalty Notices and obtaining witness statements.

## **10 Prosecutions**

10.1 The Council will exercise discretion in deciding whether to initiate a prosecution. Other approaches to enforcement may promote compliance with legislation more effectively (as previously detailed within this policy and also the Council's Corporate Enforcement Policy).

However, where the particular circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may be appropriate.

In addition, consideration will be given to best practice guidance from Government Departments and Agencies, other Local Authorities and advice offered by the Council's Legal Department in accordance with the Code of Crown Prosecutors.

Coordinators will, subject to their statutory duties, act in accordance with the Council's procedures when approaching individual cases of complaints and will initiate the type of enforcement action warranted by the nature and severity of the offence.

Coordinators will seek to help all members of the public and business community to understand their rights and obligations to comply with relevant legislation.

The Council will take legal proceedings if there is sufficient evidence to do so and where it is in the public interest to do so.

When considering legal proceedings or a Fixed Penalty Notice, the immediate consideration is the sufficiency of available, admissible evidence to substantiate the allegation that an offence has been committed.

In determining the sufficiency of evidence, consideration should be given to the following factors:

- Availability of essential and relevant evidence
- Credibility and reliability of witnesses

Where the case depends in part of admissions or confessions, consideration should be made to their admissibility and whether interviews, statements and other evidence have been obtained in compliance with relevant legislation.

In determining the admissibility of evidence regard should be given to the requirements of the Police and Criminal Act 1984 and the Criminal Procedure and Investigations Act 1996, and associated Codes of Practice.

If the case does not pass the evidential test, they may not go ahead. If the case does meet the evidential test, the Council will decide if formal enforcement action is in the public interest and in line with our Enforcement Policy.

Guidance and advice will be taken from the Council's Legal Department where appropriate.

## 10.2 Public Interest Criteria

When satisfied that sufficient evidence is available, consideration must be given to whether the public interest test requires a prosecution. Suspected offences should not automatically be the subject of prosecution, but that prosecution should follow whenever it appears that the offence or its circumstances is or are of such a character that a prosecution is required in the public interest.

The factors which can properly lead to a decision not to prosecute will vary from case to case but generally, the more serious the offence, the less likelihood there will be that the public interest will be served otherwise than by prosecution.

More information in relation to Public Interest Criteria can be found in section 3.5 of the Council's Corporate Enforcement Policy.

## 11 Appeals

- 11.1 In relation to legislation that involve Fixed Penalty notices or formal legal actions under section 6 of this policy, if the defendant wishes to appeal as they feel they have not committed the offence this would usually be via making a formal representation in a Magistrates Court of equivalent. However, the Council will accept initial informal appeals and details of how to make an appeal will be placed on either the Fixed Penalty Notice issued to them or formal correspondence sent to them in line with the enforcement action taken.
- 11.2 Appeals in relation to any actions the Anti-Social Behaviour Team have considered outside of formal criminal or civil legislation; for instance an informal warning letter, can be made directly to the team via email [safer@cheshireeast.gov.uk](mailto:safer@cheshireeast.gov.uk)
- 11.3 Appeals in relation to powers covered in section 6 of this policy are covered by the relevant legislation within the ASB Crime and Policing Act 2014. Any individual or body subject to any of the warning, notices, orders or injunctions in this section will be informed in writing as to the relevant appeals process some of which is via the relevant courts.
- 11.4 Informal appeals against enforcement action up to and including Fixed Penalty Notices under criminal legislation will only be considered in relation to any representation the defendant makes under the following circumstances:
- That they believe they are exempt to the enforcement action taken due to exemptions defined under the relevant legislation.
  - That they believe they have been identified falsely
  - That they have information in relation to the offence that may reveal further lines of enquiry cause the matter to be placed on hold pending further investigation
- 11.5 Appeals will be considered via the relevant Senior Officer or Team manager and not the issuing officer or coordinator. On receipt of an appeal any payment dates or requirements under the enforcement action taken will be placed on hold until the appeal has been considered. The relevant Senior Officer/Team manager on receipt of appeal

will inform the individual/defendant as to when they are to expect an outcome. Any new due dates of payments required, actions to be taken, or further legal action will be outlined on the appeal outcome correspondence.

## **12 Verbal/Physical Abuse Towards Coordinators**

- 12.1 The Council is committed to ensuring that its coordinators are able to carry out their work safely and without fear and, where appropriate, will use legal action to prevent abuse, harassment or assaults on coordinators. To obstruct a coordinator in carrying out their duties is an offence and legal action may be taken against any person/s doing so.
- 12.2 Coordinators are entitled to, if subjected to verbal abuse either in person or on the telephone, terminate the meeting or telephone call.

## **13 Reporting**

- 13.1 The Anti-Social Behaviour and Community Enforcement Teams have responsibilities in relation to the reporting of offences listed under section 6 of this policy under the Anti-Social Behaviour Crime and Policing Act 2014. This includes publication and consultation of Public Spaces Protection Orders. More information on these responsibilities can be found at [www.gov.uk](http://www.gov.uk)
- 13.2 A regular report on the performance of the Anti-Social Behaviour Team will be presented to the relevant Service Committee for information.

## **14 Complaints and Compliments about the service**

- 14.1 In accordance with the Council's Compliments and Complaints procedure persons wishing to submit a compliment or make a complaint about the Anti-Social Behaviour Team should do so either by writing to Compliance & Customer Relations Team, 1st Floor Westfields, C/O Municipal Buildings, Earle Street, CREWE, CW1 2BJ or by e-mail to [Letusknow@cheshireeast.gov.uk](mailto:Letusknow@cheshireeast.gov.uk). More information in relation to complaints and compliments can be found on our website at [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)