



SOUTH WARWICKSHIRE ANTI SOCIAL BEHAVIOUR GUIDELINES

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ANTI SOCIAL BEHAVIOUR

A South Warwickshire Partnership Approach

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1. INTRODUCTION

1.1 Defining anti-social behaviour

In general terms, any unreasonable behaviour or action that interferes with a resident's quiet enjoyment of their home or which adversely affects the quality of life of people within the local community, could be considered to be anti-social.

The definition of anti-social behaviour in Section 1 of the Crime and Disorder Act 1998 – 'behaviour which causes or is likely to cause harassment, alarm or distress to one or more people who are not in the same household as the perpetrator' – is not prescriptive. It reinforces the idea that anti-social behaviour is to some extent, dependant on the tolerance and perception of the person affected.

Anti-social behaviour (ASB) can therefore encompass a wide range of activities, from those that cause minor nuisance or irritation to major incidents or harassment, threats or actual acts of violence.

The procedure notes which form part of this document outline examples of activities that could be classed as anti-social behaviour. They generally fall into two broad areas

- interpersonal/malicious ASB by a single perpetrator on an individual, or family, or
- ASB related to groups or gatherings at community level

These examples given, however, are by no means exhaustive.

We believe that our residents have the right to live peacefully in their homes and recognise the distress that anti-social behaviour has on individuals, families and whole communities. We have a clear role to play in tackling all forms of nuisance and anti-social behaviour and taking the appropriate response to each reported incident.

In responding to reports of nuisance or anti-social behaviour we will be mindful of the fact that in many cases conflict can be the result of a clash of lifestyles. We need to ensure that our response is proportionate to the particular circumstances and that it recognises the rights of all those involved.

What the community can expect of us

Our commitment is made explicit in this policy and the procedures accompanying it will be demonstrated through our pro-active approach to tackling and resolving incidents of anti-social behaviour.

We will take a preventative approach to tackling anti-social behaviour in the first instance, working with residents and other agencies to achieve this. When anti-social behaviour occurs, however, we will demonstrate our commitment through taking positive enforcement action and making use of the most appropriate legal and other remedies.

We will encourage the reporting of incidents and respond quickly and sensitively to all complaints made. Our procedures will detail our approach to dealing with different types of complaint and what complainants can expect of us by way of a response.

When investigating complaints and taking any necessary action, we will support complainants and witnesses through the process and ensure that we put their interests first.

We will provide information and advice to complainants explaining how we deal with different types of anti-social behaviour and make sure that complainants are directed towards other agencies that might be able to provide help and support.

We will publicise our commitment to tackling and resolving anti-social behaviour so that our residents, the wider community and other agencies are made aware of what we can and will do.

We will be proactive in promoting the work that we do in responding to and tackling anti-social behaviour and seek opportunities to publicise the positive results of our work in this area.

We will ensure that we appropriately resource this area of activity, making adequate budget and staffing provision that reflects our commitment to tackling nuisance and anti-social behaviour.

Monitoring and review

We will monitor all reports of anti-social behaviour, recording the type of incident and where it occurred. This will ensure that our approach remains responsive to local circumstances and enables us to target our resources appropriately. We will also monitor the action that we take and our success in resolving complaints of anti-social behaviour.

We will develop key performance indicators, which will enable us to monitor our effectiveness at dealing with anti-social behaviour.

We will report on performance against key indicators on a regular basis.

1.2 Tackling anti-social behaviour

The District Council Anti-Social Behaviour Officer

The District Council Anti-Social Behaviour Officer is the first point of contact for anyone who wishes to report an incident of anti-social behaviour. We recognise, however, that complaints are likely to be received by partner agencies, particularly the Police and Local Authority. We will establish effective communication to ensure that the complaint is dealt with effectively, no matter how it is received.

The procedures which accompany this document detail how we will respond to a complaint of anti-social behaviour.

In principal, we will adopt a 'tool-box' approach to tackling complaints of nuisance and anti-social behaviour, employing a range of preventative, legal and non-legal remedies depending on the nature of the incident. The matrix of interventions is detailed in the procedure section of this document and includes:

- Advisory letters/Warning letters
- Positive Diversionary Activity
- Acceptable Behaviour Contracts
- Anti-Social Behaviour Orders
- Environmental Visual Audits
- Mediation
- Lettings and Estate Management

Working with our partners

Whilst action by individual agencies can be extremely effective, we recognise that often the most effective way of tackling anti-social behaviour will be in a partnership. In most cases joint working is an essential part of the investigation process and the management of anti-social behaviour. This will involve, where appropriate, input from Local Authorities (Social Services/Education/Environmental Health/Housing), Police, Social Landlords, Health Authorities, Race Equality organisations, Citizens Advice Bureaux and Victim Support, amongst many others.

Where anti-social behaviour is attributable, either directly or indirectly, to problems of alcohol or substance misuse, mental health problems or other support needs, we will work with other agencies to provide intervention to support the perpetrator.

We will be mindful of the Disability Discrimination Act 1995, taking account of behaviour that may be related to a disability and making sure that any enforcement action is appropriate and proportionate to the individual circumstances.

In dealing with anti-social behaviour, we will be mindful of the need to ensure equality of opportunity to all. We are opposed to all forms of discrimination and will give positive support and assistance to victims of racial and other harassment.

Data Protection and Confidentiality

In dealing with complaints of anti-social behaviour, it is necessary for us to respect the confidentiality of all those involved. We will seek the complainant's permission to disclose their identity before sharing this information with the perpetrator or any other third party.

In all our work we will ensure that we adhere to Data Protection legislation, paying particular attention to the provisions of the Warwickshire Sharing of Information Protocol.

Human Rights

In our approach to tackling nuisance and anti-social behaviour, we will have regard for Article 8 of the Human Rights Act 1998, which states:

“Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others”

We will take a balanced approach in our response to reports of anti-social behaviour, acting only where the effect of the anti-social behaviour to one or more residents outweighs the effect of the interference in the private lives of another resident.

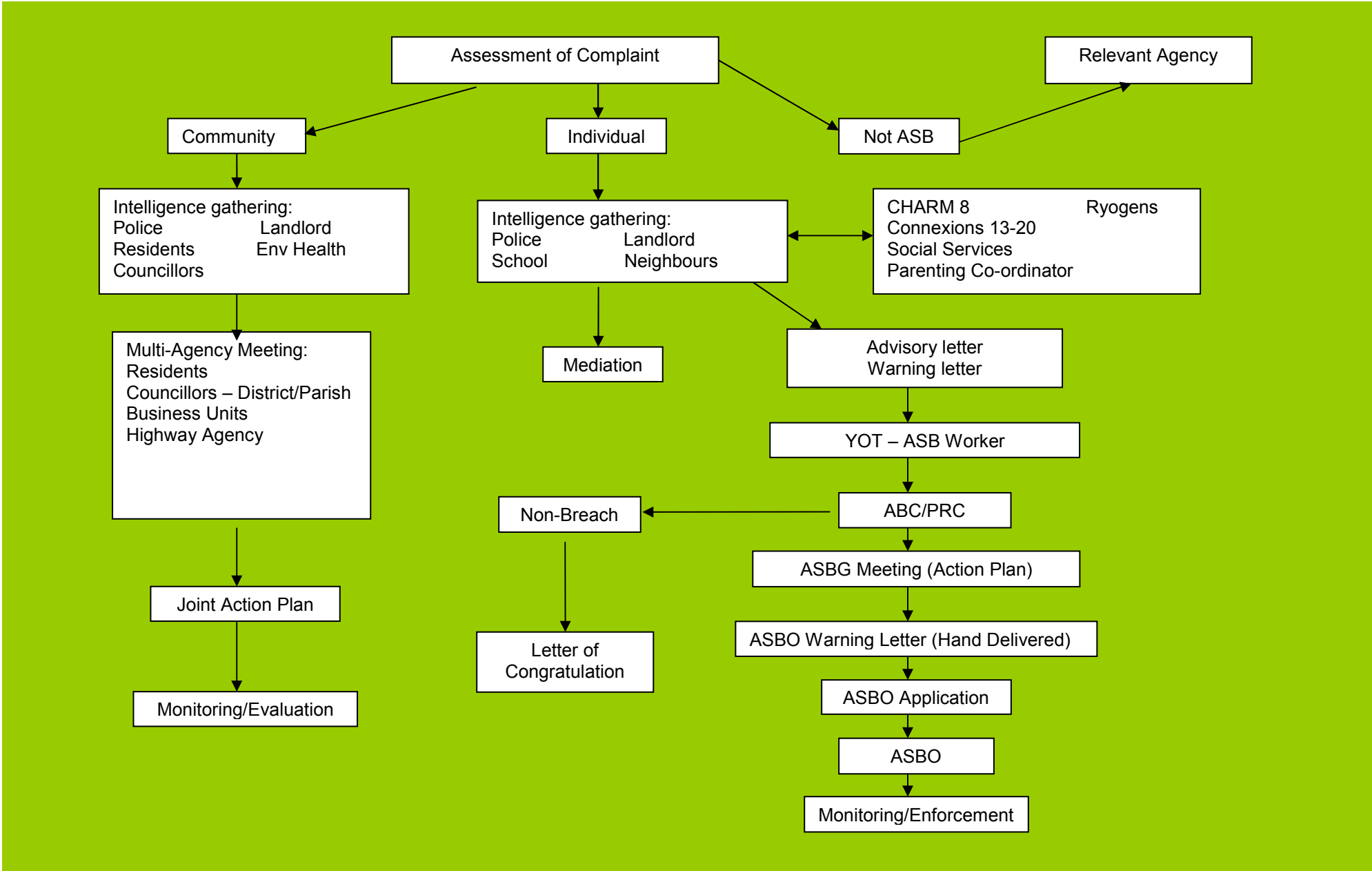
2. PROCEDURE DOCUMENTS

A comprehensive set of procedures forms part of this policy framework to ensure that all staff are able to deal with any complaint of nuisance or anti-social behaviour in a consistent and professional manner.

A BALANCED APPROACH : MATRIX OF INTERVENTIONS

	Universal	Group	Individual
Prevention	<ul style="list-style-type: none"> ▪ Youth spaces/shelters ▪ Youth Clubs and other provision for young people ▪ After school clubs ▪ Warden schemes ▪ Neighbourhood Park Rangers ▪ Situational prevention/designing out crime ▪ Visual audits ▪ Improving street lighting ▪ CCTV 	<ul style="list-style-type: none"> ▪ Community mediation ▪ School mediation ▪ Cross-generational work ▪ Positive activities projects ▪ Summer schemes ▪ Truancy projects ▪ Youth inclusion programmes ▪ CHARM ▪ Diversionary activities (eg sport, IT or driving skills) ▪ Detached youth work 	<ul style="list-style-type: none"> ▪ Acceptable Behaviour Contracts ▪ Parental Control Agreements ▪ Agreements in schools ▪ Restorative justice ▪ Mediation ▪ Mentoring ▪ Diversionary activities (eg sport, IT or driving skills) ▪ Parenting projects
Education	<ul style="list-style-type: none"> ▪ Citizenship ▪ Anti-bullying strategies ▪ Drug and alcohol education ▪ Prison, Me, No Way ▪ Last Chance 	<ul style="list-style-type: none"> ▪ Working with excluded children ▪ Informal educational activities (eg music, drama, art, sport or literacy development) ▪ PAYP ▪ PODs 	<ul style="list-style-type: none"> ▪ Working with excluded children ▪ Informal educational activities (eg music, drama, art, sport or literacy development) ▪ CHARM
Enforcement	<ul style="list-style-type: none"> ▪ Litter removal ▪ Graffiti removal ▪ Removal of abandoned vehicles ▪ Dog fouling ▪ Fixed penalty notices 	<ul style="list-style-type: none"> ▪ Starter tenancies ▪ Tenancy agreements ▪ Dispersal powers ▪ High visibility policing 	<ul style="list-style-type: none"> ▪ Anti-Social Behaviour Orders ▪ Parenting Orders ▪ Reparation Orders ▪ Fixed penalty fines ▪ Injunctions ▪ Environmental Protection Act

SOUTH WARWICKSHIRE ANTI-SOCIAL BEHAVIOUR APPROACH FLOW CHART



ASB CONTACT LIST – WARWICK DISTRICT		
Abandoned Cars	Car Clear	0800 1699900
Animal Related Problems		
DC – Animal Welfare Warden		01926 456735
Dog Fouling		01926 456716
Begging/Rough Sleepers		
Police	Switchboard	01926 451111
British Transport Police	Switchboard	0800 405040
Criminal Damage/Vandalism		
Police		01926 451111
Drugs		
Police	Switchboard	01926 451111
Sharps bins – locations		
Needle exchange		02476 641100
High Hedges		
		01926 456520
Hoax Calls		
Police	Switchboard	01926 451111
Intimidation/Harassment		
Police	Switchboard	01926 451111
Kerb Crawling		
Police	Switchboard	01926 451111
Litter/Rubbish		
Waste Management		01926 456337
Graffiti	Contact Centre	01926 450000
Fly tipping		01926 456337
Mediation Services		01926 424250
Noise		
Environmental Health		01926 456725
Out of hours		
Prostitution		
Police	Switchboard	01926 451111
Rowdy Behaviour		
Police	Switchboard	01926 451111
Licensing		01926 456021
Street Drinking		
Alcohol restricted zones – powers		01926 456107
Under-age purchasing	Trading Standards	01926 414000
Vehicle Related Nuisance		
Inconvenient/illegal parking etc		
Racial Ethnic/Homophobic		
Police	Switchboard	01926 451111

ASB CONTACT LIST – STRATFORD DISTRICT
--

Abandoned Card	Car Clear	0800 1699900
Animal Related Problems		
DC – Animal Welfare Warden		01789 260834
Dog Fouling		
Begging/Rough Sleepers		
Police	Switchboard	01926 451111
British Transport Police	Switchboard	0800 405040
Criminal Damage/Vandalism		
ASB Officer		01789 260123
Police	Switchboard	01926 451111
Drugs		
Police	Switchboard	01926 451111
Sharps bins – locations		
Needle exchange		02476 641100
Hoax Calls		
Police	Switchboard	01926 451111
Intimidation/Harassment		
Police	Switchboard	01926 451111
Kerb Crawling		
Police	Switchboard	01926 451111
Litter/Rubbish		
Waste Management		01789 260641
Graffiti	Contact Centre	01789 260641
Fly-tipping		
Mediation Services		
Noise		
Environmental Health		01789 260835
Out of Hours		01789 414066
Prostitution		
Police	Switchboard	01926 451111
Rowdy Behaviour		
Police	Switchboard	01926 451111
Licensing		01789 260852
Street Drinking		
Alcohol restricted zones – powers		017189 260801
Under-age purchasing	Trading Standards	01926 414000
Vehicle Related Nuisance		
Inconvenient/illegal parking etc		
Racial Ethnic/Homophobic		
Police	Switchboard	01926 451111

**SOUTH WARWICKSHIRE POLICE
ANTI-SOCIAL BEHAVIOUR GUIDELINES**

Definition

***“Behaviour which causes or is likely to cause harassment, alarm or distress to one or more people who are not in the same household as the perpetrator.”
The Crime & Disorder Act (1998)***

What is Anti-Social Behaviour?

Anti-Social Behaviour takes many forms, and below is a list of some categories that have been identified by the Government.

Criminal Damage

****Disturbance in public places
Disturbance in licensed premises
*Disturbance on private property
*Nuisance youths
*Civil dispute
Racial/ethnic incident
Homophobic incident
Neighbour dispute
*Noise nuisance***

Abandoned vehicles – wreck

***Abandoned vehicles – stolen
Drugs incident
*Drunkenness
*Animal – related incident
Abandoned phone call
Hoax phone call
Threatening/obscene phone call
Sexual offences***

If you are receiving reports of any of the above categories marked with * that do not form part of any criminal enquiry, then your first port of call is:

Warwick District
Anti-Social Behaviour Officer
01926 456010
07881 832527
julian.hill@warwickdc.gov.uk

Stratford District
Anti-Social Behaviour Officer
01789 260123
07973 832075
Kully.takhar@stratford-dc.gov.uk

START COLLATING EVIDENCE

RESPONSE TO ANTI-SOCIAL BEHAVIOUR

An incident of anti-social behaviour is reported and names and addresses are taken of children involved.

- A letter informing parent/guardian of the fact their child has come to Police/Council notice for anti-social behaviour, is sent by ASB Officer.
(*Copy attached*)

Stage 2

- PCSO/CBO with ASB Officer to invite the subject and parent/guardian to the Police Station to draw up an ABC which will be drawn up between Lead Agency, the subject and the parent – if under age.
- All parties must agree to the conditions.
Is there any point of a Contract the subject will not adhere to?
- A photograph of the subject is to be attached to the ABC if possible.
If the subject and/or parent refuse to enter into an ABC it must be recorded in the evidence log for a possible ASBO.
- The ABC will be in place for 6 months, after which time it will be reviewed or resulted.

Stage 3

Have the ABC conditions been breached?

Yes

No

Go to Stage 4

Issue a letter
(*Copy attached*)

Stage 4

- Joint Agency ASBO Warning letter (*Copy attached*)
This will be done through the ASBO/CRASBO/PPO Co-ordinator

Does ABC continue?

Yes

No

Gather evidence and
go to Stage 5

Evidence to lie on file

Stage 5

Application is made to the Magistrates' Court, via ASBO/CRASBO/PPO Co-ordinator, for an Anti-Social Behaviour Order.

This will be done through the ASBO/CRASBO/PPO Co-ordinator who is currently DC 964 Tina Athwal.



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Environment Directorate
Community Safety

Warwick District Council
Riverside House, Milverton Hill
Royal Leamington Spa
Warwickshire
CV32 5QE

Telephone : 01926 456010

Julian.hill@warwickdc.gov.uk

Our Ref: JH/

Dear Resident

Re: Anti Social Behaviour – (area/nuisance youths)

You may be aware of incidents of Anti Social Behaviour occurring in the area that are affecting the quality of life for residents.

- **INCIDENT** Warwickshire Police have reported problems with groups of youths using abusive language and playing ball games in unsuitable areas.

Anti Social Behaviour is the behaviour of the minority that blights the lives of the majority, affecting people who are subjected to it. The term Anti Social Behaviour is defined as *“behaviour that causes, or is likely to cause harassment, alarm or distress to one or more people who are not in the same household as the perpetrator.”*

Anti Social Behaviour requires a wide range of interventions and responses to deal with it effectively. The local Police team and South Warwickshire Anti Social Behaviour Officer are working together to take action against those responsible, so that you can live in a more tolerable environment.

To assist us we strongly urge you to report any such incidents. Once a report has been made we will ask you to complete a nuisance diary to identify the individuals and areas concerned, once the form has been completed and returned we will use the information to decide on the most effective course of action to take.

We can consider warning letters, Acceptable Behaviour Contracts, Anti Social Behaviour Orders for more serious incidents, take action under the Tenancy Agreement for Local Authority tenants.

All criminal acts need to be reported to the Police direct, and a crime number put on your incident diary.

Please note that you must fully complete the Incident Diaries in order for action to be taken. The Council will guarantee complainants anonymity.

Yours sincerely

Mr J F Hill BA Cert CIH
Warwick District Anti Social Behaviour Officer



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Environment Directorate
Community Safety

Warwick District Council
Riverside House, Milverton Hill
Royal Leamington Spa
Warwickshire
CV32 5QE

Telephone : 01926 456010

Julian.hill@warwickdc.gov.uk

Our Ref: JH/

Parent or Guardian

ADVISORY LETTER

Dear Parent or Guardian

Anti Social Behaviour

Both the Police and the Local Authority have received reports of incidents of Anti Social Behaviour occurring in

A number of youths are congregating in the area and causing problems. There are allegations of anti-social behaviour as a result of underage drinking and the Police have confiscated alcohol from a number of youths.

Whilst not suspected of being involved in criminal activity or anti-social behaviour, your son/daughter, was reported as being a member of the group involved. This is to make you aware and be cautious of his/her presence in an area which will be subject to increased Policing.

If you are concerned about his/her conduct you may wish to consider setting guidelines for acceptable behaviour by signing him/her onto an Acceptable Behaviour Contract. This is a written agreement between, the Police, Council, Housing and the perpetrator and it outlines what is considered unacceptable behaviour.

Yours sincerely

Mr J F Hill BA Cert CIH
Warwick District Anti Social Behaviour Officer



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Environment Directorate
Community Safety

Warwick District Council
Riverside House, Milverton Hill
Royal Leamington Spa
Warwickshire
CV32 5QE

Telephone : 01926 456010

Julian.hill@warwickdc.gov.uk

Our Ref: JH/

WARNING LETTER

Dear

Anti Social Behaviour

I have received a report from Warwickshire Police of anti social behaviour involving **Name**. Complaints have been received that **Name**

•

This is a written warning served on **Name** as the above behaviour cannot be allowed to continue. Failure to cease this inappropriate behaviour will result in further action against **Name** and may result in the following consequences:

Acceptable Behaviour Contract:

This is a written agreement between, Police, Council, Housing and the perpetrator to modify behaviour. If the agreement is breached, Anti Social Behaviour Order proceedings could be initiated.

Anti Social Behaviour Order:

This is an application to the Magistrates' Court for an order to prohibit the perpetrator from acting in a manner likely to cause harassment, alarm or distress to one or more persons not of the same household. If this is breached, the perpetrator could be liable on conviction to terms of up to 5 years imprisonment or a fine or both.

Please be aware that if you live in rented accommodation, **Name's** behaviour may constitute a breach of your tenancy conditions. Information concerning the incidents will be passed to the Housing Department for further investigation, it is possible a Notice Seeking Possession may be served upon you. If a notice is served upon you, you and your family could be ordered to leave your home by the County Court.

I strongly advise **Name** to modify **his/her** behaviour instantly and hope that we do not have to contact you further on this matter or any other anti social behaviour issues.

Yours sincerely

Mr J F Hill BA Cert CIH
Warwick District Anti Social Behaviour Officer

Incident Diary

Your Name:.....

Your Telephone Number:.....

Your Address:.....

Area of complaint:.....

PLEASE DO NOT PHOTOCOPY EXTRA BLANK SHEETS

Date and time duration of incident	Location of incident	Brief details of what happened	Who did it?	Any witnesses? Names and addresses	How did this incident affect you?

THIS INFORMATION MAY BE USED AS EVIDENCE IN ANY COURT CASE

Please return to Community Safety Team



ACCEPTABLE BEHAVIOUR CONTRACT

THIS CONTRACT is made on the _____ day of _____ 2007

BETWEEN: Warwick District Council, Warwickshire Police

and

Name:

Address:

Date of Birth:

AGREES the following in respect of future conduct-

This Contract is entered into voluntarily and is valid for 6 months. The Contract is designed to help you stop any offending or anti-social behaviour or other conduct causing concern.

1.

ACCEPTABLE BEHAVIOUR CONTRACT

Further enters into a commitment with the Police and Council not to act in a manner which causes or is likely to cause harassment, alarm or distress to one or more persons not in the same household.

Breach If does anything which s/he has agreed not to do under this Contract, which the Police or Council considers to amount to anti-social behaviour, the Police or Council will make an application to the Magistrates' Court for an Anti-Social Behaviour Order to prohibit from acting in a manner likely to cause harassment, alarm or distress to one or more persons not of the same household.

Further acknowledges that where an Anti Social Behaviour Order is made by the Court and breached s/he will be liable on conviction to a term of imprisonment not exceeding 5 years or to a fine or both.

Declaration		
I confirm that I understand the meaning of this contract and that the consequences of a breach of the contract have been explained to me.		
Signed	Young Person	Date
Signed	Parent/Social Worker	Date

Witnessed		
Signed	Police Officer Collar No.....	Date
Signed	Anti Social Behaviour Officer	Date

ACCEPTABLE BEHAVIOUR CONTRACTS (ABC's)

Aims of an ABC

ABC's aim to ensure that young people who behave anti-socially take responsibility for their actions and improve their behaviour.

They are made aware of their impact on other people's lives, and warned of the possible consequences to them and their family, should their anti-social behaviour continue. During the ABC interview diversion projects may be suggested, for example, through local youth clubs, mentoring or counselling.

The contract will include behaviour that the young person has agreed to stop.

For example, they may agree not to:

- Write graffiti
- Cause deliberate damage to property
- Verbally abuse passers by
- Engage in threatening behaviour in large groups
- Climb on any roof top, lift shafts and any other areas out of bounds
- Congregate in groups in communal areas
- Dump rubbish or litter

After the ABC has been signed the Local Authority and the Police will continue to monitor the contract. The young person is expected to abide by the conditions and successfully complete their contract. The completion of a Parental Responsibility Contract should be considered on every occasion when a child is the subject of an Acceptable Behaviour Contract.

Breach of ABC

Continuation of unacceptable behaviour or serious breaches of the ABC may lead to enforcement action. This may result in an application to the Court for an Anti-Social Behaviour Order and/or criminal proceedings.

If there are minor breaches, a meeting will normally be held with the young person to reiterate the terms of the contract and decide whether any further action needs to be taken.

Definition

An ABC is a voluntary written agreement between a young person, usually aged between 10 and 18 years old, and the Local Authority and the Police. Under the ABC, the young person agreed not to be involved with certain specific anti-social acts.

The terms of the ABC are specific to and agreed with the young person in an interview. They then sign the contract in the presence of their parents or guardian, a representative of the Local Authority and a local Police Officer.

The Contract normally lasts for six months. It is not legally binding, but if breached, can be used as evidence if enforcement action needs to be taken through the Courts.

PARENTAL RESPONSIBILITY CONTRACTS

What is a....

This is a Contract made between the Police and a young person who has behaved anti-socially, and their parents.

The completion of a Parental Responsibility Contract should be considered on every occasion when a child is the subject of an Acceptable Behaviour Contract.

By signing the Contract, the parents are agreeing to do their best to ensure that the conditions of the ABC are adhered to, and that any breaches of the agreed conditions will be reported to the Police or the Anti-Social Behaviour Officer.

Breach of a PRC

Continuation of unacceptable behaviour or serious breaches of the PRC and an ABC may lead to enforcement action. This may result in an application to the Court for an **Anti-Social Behaviour Order** and/or criminal proceedings.

If there are minor breaches of the agreement, a meeting will normally be held with the young person and their parent. This meeting will consider the implications of the breach and decide on any further action which may be necessary.

PARENT RESPONSIBILITY CONTRACT



THIS CONTRACT is made on the _____ day of _____ 2007

BETWEEN: Warwick District Council, Warwickshire Police

and

Name:

Address:

Date of Birth:

XXX AGREES the following in respect of future conduct-

Name:

Address:

Date of Birth:

This Contract is entered into voluntarily and is valid for 6 months. The Contract is designed to help you stop any offending or anti-social behaviour or other conduct causing concern.

PARENTAL RESPONSIBILITY CONTRACT

Further **XXX** enters into a commitment with the Police and Council not to act in a manner which causes or is likely to cause harassment, alarm or distress to one or more persons not in the same household.

Further **XXX** will do his/her best to ensure **XXXXXX** keeps to the agreed conditions.

Further **XXX** shall report any breaches of the agreement to the Anti Social Behaviour Officer.

Declaration	
I confirm that I understand the meaning of this Contract and that the consequences of a breach of the Contract have been explained to me.	
Signed	Young Person Date
Signed	Parent/Social Worker Date

Witnessed	
Signed	Police Officer Date
Collar No.....	
Signed	Anti Social Behaviour Officer Date



Working
Together



Dear

Acceptable Behaviour Contract

Congratulations on successfully behaving in accordance with your Acceptable Behaviour Contract.

This is an excellent achievement and it is appreciated by all concerned that it required a tremendous amount of hard work and determination from you.

It is encouraging to see that you have been able to work with the Police, rather than being at odds with them and I hope that this situation can continue.

Something which I hope your achievement may lead to is that this new self-belief will set a good example to your friends.

Once, again, well done on your success and I encourage you to continue this for the future.

Yours sincerely

OIC



Acceptable Behaviour Contract Certificate

This is to certify that.....

has complied with the terms of the Contract

Signedon behalf of.....

Dated:.....

ANTI SOCIAL BEHAVIOUR ORDERS UPDATE – APRIL 2006

Over the past few months, case law has substantially changed the approach to applying for ASBOs. In particular, the nature of the prohibitions we can seek has been greatly limited.

Case law now suggests that great care should be exercised before seeking a prohibition which is, in itself, a criminal offence. Many of the prohibitions we previously applied for are now difficult to justify – particularly with the extensions to the power of arrest introduced with effect from 1 January. Where an Officer would now have a power of arrest for a substantive offence, we are in difficulty including this as a prohibition.

Prohibitions are still acceptable which seek to prevent 'behaviour/conduct/language which causes or is likely to cause harassment, alarm or distress' as this is the statutory definition of anti-social behaviour. We would also still include prohibitions dealing with verbal abuse, swearing, or foul or offensive language. Also, prohibitions addressing behaviour such as spitting, throwing missiles etc would still be considered. We can still apply for prohibitions excluding a defendant from a specific area, provided we can justify this based on the evidence.

The prohibitions which we used to apply for, and which we should probably no longer be seeking are those, for example, dealing with taking property that does not belong to them, damaging property and so on.

When ASBOs were introduced in April 1999, it was clear that they were designed to be civil applications, with civil rules of evidence applying to the process. However, in October 2002 the House of Lords ruled in the case of McCann that whilst hearsay evidence (including anonymous hearsay) was admissible, the standard of proof required was 'akin' to the criminal standard.

Therefore we have to prove beyond reasonable doubt that the defendant has acted in an anti-social manner. Evidence therefore needs to be of the same standard as if you were proving a criminal matter.

Overall, in terms of evidence required in ASBO applications, the following checklist may be of assistance:

1. File should have clear contact details for the OiC – if not the ASBO Officer
2. **All evidence must be in statement form, or an official document** eg Previous Conviction print-out, Acceptable Behaviour Contract, Banning letters or similar.
3. STORM print outs are not admissible in evidence and should **not** usually be included on the file.
4. All statements must positively identify the defendant as responsible for the behaviour complained of – it is not sufficient for witnesses to identify the defendant as 'part of a group responsible for...' or to 'believe' it is the defendant but not be sure.
5. When using statements taken as part of a criminal investigation, please ensure that the CPS has already deal with disclosure of those statements within the criminal proceedings before we can disclose them within the ASBO proceedings.

6. With ongoing criminal matters which are also being used as evidence in ASBO proceedings, the OiC must keep us advised of progress within the criminal case, particularly if the matter becomes listed for trial of it the defendant is convicted or acquitted.
7. Do not prepare statements purporting to be hearsay from an anonymous witness where the statement then goes on to clearly identify the witness – either by location, job title, or simply by the fact that in the particular circumstances of the incident, the defendant will know that there was only one potential witness and will be able to work out who the information came from.
8. There must be clear evidence of a pattern of anti-social behaviour – in which the defendant is clearly identified on more than one occasion. Full details are required of the anti-social elements – rather than straight criminal behaviour such as ‘theft shop and stores’, as the Courts and the Defence Solicitors are quite rightly questioning the ‘harassment, alarm or distress’ requirement of some of the incidents put forward. As we cannot seek prohibitions which are substantive criminal offences, we should not rely purely on evidence of criminal activity, without a substantial element of causing ‘harassment, alarm or distress’ in addition to the offence itself.

Katharine Grasby
April 2006