



**Anti-Social Behaviour  
Powers Policy Framework  
October 2015**

## **Contents-**

1. Introduction
2. Statutory Powers open to the Council
  - 2.1. Fixed Penalty Notice
  - 2.2. Community Protection Notice
  - 2.3. Civil Injunction
  - 2.4. Criminal Behaviour Order
  - 2.5. Public Space Protection Order
  - 2.6. Closure Power
  - 2.7. Abatement Notice
  - 2.8. Prosecution
  - 2.9. Warning
  - 2.10. No action
3. Appeals
4. Investigation and Evidence Gathering
  - 4.1. Investigation
  - 4.2. Interviewing
  - 4.3. Authorisation and Delegation
  - 4.4. Professional Competency
5. Putting Victims First:
  - 5.1. Support for Victims
  - 5.2. Community Trigger
6. Working in Partnership
7. Information Sharing
8. Minimum Standards when dealing with Anti Social Behaviour
9. Equality and Diversity
10. Changes to the Policy
11. Complaints

Annex 1 - New Powers under the Anti Social Behaviour Crime and Policing Act 2014

## 1. INTRODUCTION & CONTEXT

- 1.1 Mole Valley is statistically a low crime area with very few reported incidents of anti-social behaviour per annum. However there are a small number of issues, sometimes complex in nature, that require effective and robust action in order to resolve them. It is therefore the purpose of this document to outline the powers open to Mole Valley District Council in responding to incidents of anti-social behaviour in the district.
- 1.2 The phrase anti-social behaviour (ASB) takes in a range of nuisances, disorders and crimes which affect people's lives on a daily basis. The Home Office describes ASB as, 'any aggressive, intimidating or destructive activity that damages or destroys another person's quality of life'. If ASB is not dealt with appropriately and in a timely manner it can have a devastating impact on the lives of individuals, families and communities.
- 1.3 This document sets out Mole Valley District Council's powers to tackle ASB, based on a range of legislation aimed at addressing issues such as:
- Animal Control
  - Complex issues of anti-social behaviour
  - Environmental ASB
    - Abandoned Vehicles
    - Dog Fouling
    - Flyposting
    - Flytipping
    - Graffiti
    - Litter
    - Waste Enforcement
  - Giant Hogweed
  - Licensing Contraventions
  - Noise Pollution (ASB and nuisance)
  - Smoke and other Statutory Nuisances

This list is not exhaustive.

- 1.4 Mole Valley District Council takes a preventative approach to ASB by raising awareness of the ASB issues that are experienced in the district. This is done through signage in public places, information on the Mole Valley District Council website, press releases, social media and leaflets.
- 1.5 The Council will work with residents to ensure that they feel safe in Mole Valley. Wherever possible, the Council will empower partner organisations such as Housing Associations and Parish Councils to help tackle ASB. .
- 1.6 There are a range of statutory powers that the Council can utilise in addressing incidents of anti-social behaviour including the following:
- Anti-Social Behaviour, Crime and Policing Act 2014
  - Clean Air Act 1993
  - Cleaner Neighbourhoods and Environment Act 2005
  - Control of Pollution Act 1974
  - Environment Act 1995 (powers of entry)
  - Environmental Protection Act 1990
  - Food and Environment Protection Act 1985

- Health Act 2006
- Legislative and Regulatory Reform Act 2006
- Licensing Act 2003
- Local Government (Miscellaneous Provisions) Act 1976
- Noise and Statutory Nuisance Act 1993
- Public Health Act 1936
- Public Health Act 1961
- Public Health (Control of Diseases) Act 1984
- Pollution Prevention and Control Act 1999
- Refuse Disposal (Amenity) Act 1978

1.7 Part 1 (section 2) of the Anti Social Behaviour Crime and Policing Act 2014 defines the meaning for ASB as:

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

1.8 The Anti-Social Behaviour, Crime and Policing Act 2014 provides local authorities and its partners with a suite of tools and powers that will enable a more effective response to both perpetrators and victims of anti-social behaviour. This legislation replaces many of the previous measures to tackle ASB such as the Anti-Social Behaviour Order (ASBO) and DPPO's (Designation Public Protection Orders) see Annex 1 for more information on what powers are replaced by the Anti-Social Behaviour, Crime and Policing Act.

## **2. STATUTORY POWERS AT THE COUNCIL'S DISPOSAL**

There are a wide range of options open to the Council and each will be dependant upon the circumstances involved. The Council has a variety of statutory powers to issue enforcement notices and these are:

### **2.1 Fixed Penalty Notice (FPN)**

The Council has the power to issue Fixed Penalty Notices in respect of a variety of offences under statutes such as the Clean Neighbourhoods and Environment Act 2005. An FPN provides the recipient the opportunity to pay a penalty in respect of offending conduct, rather than being prosecuted. Receiving a notice is not a criminal conviction, but failure to pay will lead to prosecution. The recipient of an FPN may choose to have the matter dealt with in court. The Council will then give consideration to the same matters applicable on prosecution (with the exception of considering alternatives to prosecution).

## 2.2 **Community Protection Notice (CPN)**

A Community Protection Notice is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible. The Council or staff of registered providers of social housing, if designated by the Council, may issue a notice to a person aged 16 or over or to a body if they are satisfied on reasonable grounds that:

- a) the conduct of the individual or body is having a detrimental effect, of a persistent and continuing nature, on the quality of life of those in the locality,

and:

- b) the conduct is unreasonable.

The CPN is intended to impose a requirement upon a person or a body to stop doing specific things, or a positive requirement to do specific things, in order to reduce or remove the detrimental effects of their conduct. The CPN can only be issued if the person or body has been issued with a written warning and, having had sufficient warning to address the conduct, it continues to have a detrimental effect.

Issuing a CPN does not discharge the Council from its duty to issue an Abatement Notice where the behaviour constitutes a Statutory Nuisance for the purposes of Part 3 of the Environmental Protection Act 1990.

## 2.3 **Civil Injunction**

The Council can apply for a Civil Injunction from the Court to stop or prevent individuals engaging in anti-social behaviour which is likely to cause nuisance or annoyance. The injunction under Part 1 of the Act is a civil power which can be applied for to deal with anti-social individuals. The injunction can offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from escalating.

## 2.4 **Criminal Behaviour Order (CBO)**

A Criminal Behaviour Order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court. The Council can apply for a CBO to deal with a wide range of anti-social behaviours following the individual's conviction for a criminal offence, for example, threatening violence against others in the community, or persistently being drunk and aggressive in public or causing criminal damage.

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

Public Spaces Protection Orders are intended to deal with a nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. In deciding to place restrictions on a particular public space, the Council will consider the knock on effects of that decision. Introducing a blanket ban on a particular

activity may simply displace the behaviour and create victims elsewhere.

## 2.6 **Closure Power**

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises both licenced and non-licenced that are causing nuisance or disorder to prevent such nuisance or disorder continuing, occurring or recurring. These could range from pubs, clubs, residential or business premises. The power comes in two stages: the closure notice and the closure order which are intrinsically linked.

The Closure Notice can be used by the Council out of court. Following the issuing of a Closure Notice, an application is made to the Magistrates' Court for a Closure Order, unless the closure notice has been cancelled. The Closure Notice can be issued in the first instance for 24 hours or up to a maximum of 48 hours. A Closure Notice cannot prohibit access in respect of anyone who habitually lives on a premise. However, a Closure Order, granted by the court, can prohibit access to those who routinely live at a premise for up to 3 months.

## 2.7 **Abatement Notice**

The Council is able to issue Abatement Notices for Statutory Nuisances including noise and smoke under the Environmental Protection Act 1990. If a Statutory Nuisance has been identified by authorised officers then an Abatement Notice must be served. Community Protection Notices can be used for noise and smoke and other nuisances where the Statutory Nuisance threshold has not been reached.

## 2.8 **Prosecution**

The Council is empowered to prosecute a variety of common law and statutory offences. In some instances, the Council is tasked to be an enforcing authority by statute. The Council also has a general power to enforce arising from section 222 of the Local Government Act 1972. Before recommending prosecution to Legal Services, the instructing officer must be satisfied that there is substantial, reliable and admissible evidence to prove that the offence was committed by the accused.

## 2.9 **Warning/Caution**

A warning or caution is a written notification from the Council to an offender that identifies the offending conduct and offence and warns the offender that any further breach of the law will lead to more serious enforcement action. A warning or caution should only be considered where the following conditions are met:

- The offence is not deemed to be significantly serious by the investigating officer;
- The offender admits the offence;
- The risk of re-offending is considered minimal; and
- Enforcement action has not previously been taken against the offender.

## 2.10 **No Action**

The Council may choose to do nothing in respect of an apparent contravention of the

law. This would be appropriate in relation to low level offending where the offender immediately puts right what was wrong (e.g. littering where the offender immediately picks up after being spoken to) and has no previous history of such offending. This would also be suitable in low level offending where the offence was due to a genuine mistake, misunderstanding or circumstances beyond the control of the offender.

### **3. APPEALS**

Mole Valley District Council will make it clear when issuing warning or enforcement notices that there is an appeals process and how to go about challenging a decision. For example, when a Community Protection Notice has been issued, the recipient has 21 working days to appeal to the Magistrates' Court in order for the case to be appealed.

### **4. INVESTIGATION AND EVIDENCE GATHERING**

#### **4.1 Investigation**

On occasions it may become necessary for officers to carry out surveillance and investigatory work in order to gather evidence that can be used for prosecution.

All investigations into suspected criminal offences will be conducted in accordance with the Criminal Procedure and Investigation Act 1996. This covers the rules that govern how an investigation is conducted, and the way in which evidence is obtained, retained and used. A copy of the Code of Practice can be found at <https://www.gov.uk/government/publications/criminal-procedure-and-investigations-act-code-of-practice>.

Investigators will act in accordance with the Human Rights and Data Protection Act.

The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the way in which directed covert surveillance can be carried out in connection with such investigatory methods by public authorities on a statutory basis without breaching the Human Rights Act 1998 (HRA). Non-compliance with RIPA is likely to result in evidence being deemed inadmissible and the Council may be subjected to a claim under the Human Rights Act 1998.

Officers intending to undertake an action that may be covered under RIPA should consult the Council's RIPA policy, guidance notes and Codes of Practice. Further guidance can be obtained from the Home Office RIPA Codes of Practice or from the Home Office website <http://security.homeoffice.gov.uk/ripa> and the Surveillance Commissioners website <http://www.surveillancecommissioners.gov.uk>

#### **4.2 Interviewing**

All interviews with subjects where criminal activity is suspected should be conducted by trained officers in accordance with the Codes of Practice issued under the Police and Criminal Evidence Act 1984. The Codes can be found at <https://www.gov.uk/police-and-criminal-evidence-act-1984-pace-codes-of-practice>.

### **4.3 Authorisation and Delegation**

Officers will be authorised to carry out enforcement action in accordance with the Council's Scheme of Delegation made under the Council's Constitution.

The Anti-Social Behaviour, Crime and Policing Act also makes provision for local authorities to delegate the power to issue Community Protection Notices (CPN's) to Housing Associations as they often deal with incidents of ASB as part of their housing and tenancy management services.

### **4.4 Professional Competence**

The Council is committed to accountable and proportionate practices with clear policies supported by effective procedures. We will ensure enforcement officers are competent, apply enforcement measures consistently and proportionately through training, suitable qualifications and experience.

Officers who undertake enforcement will be conversant with the provisions of the relevant legislation, including the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, and the Regulation of Investigatory Powers Act 2000.

## **5. PUTTING VICTIMS FIRST**

### **5.1 Support for Victims**

What is seen as anti-social behaviour will vary from victim to victim and community to community. Mole Valley District Council will ensure that it takes reports of anti-social behaviour not by focusing on the behaviour itself but on the impact on the victim. The most appropriate response will depend on a range of factors, but most importantly, on the needs of the victim and the impact the behaviour is having on their lives.

A key driver of the new legislation and of this policy is on the provision of effective support to victims of anti-social behaviour, ensuring that the impact ASB can have on victims' lives is appreciated and ensuring processes are in place to protect them from further harm.

Priority is given to the identification and protection of high risk or vulnerable victims. A vulnerable person is one who's experience of ASB, and resulting harm, is likely to be more significant because of their individual personal circumstances. The Council manages cases involving high risk or vulnerable victims through local Community Incident Action Group (CIAG) meetings (see section 6). Support that is needed for victims will vary on a case by case basis but could range from referrals to Victim Support through to counselling or home security improvements.

### **5.2 Community Trigger**

The Community Trigger gives victims and communities the right to request a review of their ASB case and where they are concerned that the original response was not addressed appropriately. Where appropriate, this can bring agencies together to take a joined-up, problem-solving approach to reviewing the case and finding a solution for the victim. The Community Trigger can be initiated by a victim of ASB or another

person acting on their behalf such as a carer, family member, Local Councillor or MP. If the Community Trigger application is upheld, the victims and witnesses of ASB will be provided with a comprehensive action plan for how the ASB will be addressed.

The Community Trigger can be initiated when:

- a) a victim has reported, three times in the last six months, separate but related incidents to agencies and the problem persists or
- b) a victim is aware that other people in the community have on five or more occasions in the last six months, reported separate but related ASB incidents to agencies and the problem persists.

It is recognised that individuals who are vulnerable are likely to be less resilient to anti-social behaviour so when making an assessment the Council will also consider the harm, or the potential for harm to be caused to the victim.

The Community Trigger will help to reassure victims that agencies take their reports of anti-social behaviour seriously. Mole Valley District Council will endeavour to raise awareness of the Community Trigger with partner agencies and residents. The Community Trigger procedure, including the single point of contact guidance, is published on the Council's website.

One of the aims of the Community Trigger is to encourage those who are most vulnerable, or who may not otherwise engage with agencies, to report incidents of anti-social behaviour. When the victim is considered vulnerable, the Council will assess the additional practical and emotional support that should be offered.

There are appropriate safeguards in place to prevent inappropriate use of the Community Trigger and abuse such as a clear and transparent application process and guidance on the Council's website, together with a decision-making process and assessment criteria. Senior officers will make a judgement as to whether or not the Community Trigger threshold has been reached and consider the strength of evidence to support the application.

## 6. WORKING IN PARTNERSHIP

The Council works in partnership with local agencies on a regular basis. The ASB Crime and Policing Act 2014 provides powers that allow the Council and its partners the ability to deal with problems quickly to ensure the best results for victims. Each agency brings with it a range of expertise and experience that when brought together can assist in resolving issues more effectively. The more complex cases of anti-social behaviour are dealt with via a multi-agency referral approach, usually through the Joint or Community Incident Action Groups:

The **Joint Action Group** (JAG) examines reports of anti-social behaviour on a geographic or crime type basis and identifies partnership actions to address problems.

The **Community Incident Action Group** (CIAG) is a multi-agency group which discusses and agrees action to reduce the negative impact problem individuals and families have on victims through their anti-social behaviour.

Using the expertise that exists on both groups they will identify desirable outcomes

and determine what interventions will be used to achieve this. Both groups are made up of partners such as the Local Authority, Surrey Police, Housing Associations and youth work providers.

## **7. INFORMATION SHARING**

When addressing incidents of anti-social behaviour, Mole Valley District Council may need to share sensitive case information with its partners in order to ensure that the issue can be managed effectively. In doing so the Council will comply with the Surrey-wide Information Sharing Protocol and the terms of the Data Protection Act.

## **8. MINIMUM STANDARDS WHEN DEALING WITH ASB**

The Council adheres to a set of minimum standards that victims or those reporting ASB can expect. The Council's ASB Charter can be found at [www.molevalley.gov.uk](http://www.molevalley.gov.uk)

## **9. EQUALITY AND DIVERSITY**

All decisions to use the powers will be fair, impartial and objective. They will not be influenced by age, ethnicity, national origin, gender, religious or political belief, disability or sexual orientation. Due regard will be given when dealing with juveniles or other vulnerable people. Decisions will not be affected by improper or undue pressure from any source.

## **10. CHANGES TO THE POLICY**

The Council will keep this policy under review and may amend the policy where appropriate.

## **11. COMPLAINTS**

The Council operates a corporate complaints procedure. If there are any complaints regarding the Council's application of this policy, then they may be made and dealt with in accordance with the corporate complaints process.