

A PROTOCOL FOR TACKLING ANTI-SOCIAL BEHAVIOUR IN CHARNWOOD

LINKS TO MAJOR POLICIES

Charnwood Together

Charnwood Community Strategy

Charnwood Crime and Disorder Reduction Strategy (2002 – 2005)

Housing Strategy

AIM

Signatories to this Protocol are committed to promoting a safe and secure environment in Charnwood so that residents are able to live peacefully in their own communities. The Council aims to achieve this as landlord by enforcing tenancy and occupancy conditions in appropriate circumstances; and, with the other signatories, across all housing tenures by exercising powers under the Crime and Disorder Act 1998 and the Anti-Social Behaviour Bill 2003 (ASB Bill 2003) in appropriate circumstances to deal with Anti-Social Behaviour by any resident.

OBJECTIVES

- By establishing clear guidelines and procedures for staff, in terms of the investigation of complaints, and the appropriate action to be taken.
- By recognising that neighbour disputes and anti-social behaviour may be a result of wider social issues and by establishing a clear protocol for inter-services and inter-agency co-operation in addressing such matters.
- By ensuring that staff are adequately trained to implement the Protocol.
- By establishing targets for performance monitoring, the results of which will be reported as required by the signatories to this Protocol.
- By regularly reviewing both the policy and the procedures.

DEFINITIONS

Anti-Social Behaviour

The Crime and Disorder Act 1998 defines Anti-Social Behaviour as behaviour which causes or is likely to cause alarm or distress to one or more persons not of the same household, or where a course of conduct has been pursued which causes or is likely to cause alarm or distress.

Anti-Social Behaviour Order

An Anti-Social Behaviour Order (ASBO's) can be made under the Crime and Disorder Act 1998 against a person aged 10 or over in any housing tenure i.e. owner-occupiers, private and public sector tenants. It is intended to tackle both behaviour, which is likely to escalate to the criminal level, and patterns of behaviour which cumulatively cause alarm or distress to the community but which do not consist of single acts which are sufficiently serious or sufficiently clear-cut to be prosecuted individually as criminal offences. The behaviour is not restricted to housing situations. The terms of an Anti-Social Behaviour Order can only be prohibitory, and only those necessary to protect people in the area from further anti-social behaviour. Under the Police Reform Act 2002, it is also possible to apply for an ASBO to be made at the same time as sentencing and attached following post criminal convictions. The Anti-Social Behaviour Bill 2003, will also enable ASBO's to be served to relatives and friends of someone subject to proceedings in the County Court where it is deemed appropriate.

Anti-Social Behaviour may arise from any one or several of the following:

- Noise nuisance
- Criminal behaviour
- Harassment of all types including racial harassment
- Intimidation
- Domestic violence and abuse
- Dealing in illegal drugs
- Alcohol and solvent abuse
- Nuisance from vehicles
- Nuisance from business use
- Overgrown gardens
- Verbal abuse
- Damage to property
- Disruptive or dangerous animals
- Rubbish and misuse of communal areas
- Joyriding
- Kerb-crawling
- Prostitution

POLICY AND PROCEDURES – Council Tenants

Policy Issues

The Council will clearly establish and publicise:

- The behaviour standards expected from Council tenants and from former Council tenants who have purchased their home.
- The actions, which will be taken by the Council if these standards, are breached.

Where complaints about behaviour are received:

- It will be easy for complainants to report problems.
- All complaints reported will be investigated.
- Every effort will be made to resolve disputes amicably, including the use of mediation services where appropriate.
- Complaints will be confidential (unless legal action becomes necessary).
- Complainants will be kept advised of progress at every stage.
- A series of warnings will be issued to tenants or former Council tenants who have purchased their home, where complaints are found to be justified.
- Legal action will be considered and may be taken against tenants or former Council tenants who have purchased their home, if no effort is made to amend or modify behaviour and complaints continue to be received.
- Inter-services and inter-agency co-operation will be initiated where necessary and in line with the Framework as outlined in Appendix C.

Legal Action

Where council tenants or former council tenants do not modify their behaviour as required, the Council may utilise one or more of the relevant interventions listed in Appendix A, including application for an Anti-Social Behaviour Order in terms of Section 1(1) of the Crime and Disorder Act 1998.

Appeals

Where a complainant is unhappy with progress made on decisions reached by the investigating officer, the case will be reviewed by a senior Officer who has not been involved in the case up to that point.

- Where legal action is being considered against a tenant/former tenant, the tenant will be invited to attend an interview to discuss steps taken by the Council to that point. A senior Officer will conduct this interview.
- Where legal action is being considered against a tenant/former tenant, and that tenant is under 18, a responsible adult must be present when interviewed to discuss steps taken by the Council to that point. This is also the case where the tenant/former tenant has learning difficulties/mental health problems. A senior Officer will conduct this interview

POLICY AND PROCEDURES - OWNER OCCUPIERS AND PRIVATE TENANTS

Policy Issues

Where complaints about Anti-Social Behaviour are received in relation to non-council tenants by any of the lead agencies identified in Appendix B, the lead agencies will ensure:

- It will be easy for complainants to report problems
- All complaints reported will be investigated
- Every effort will be made to resolve disputes amicably, including the use of mediation services where appropriate
- Complaints will be confidential (unless legal action becomes necessary)
- Complainants will be advised of progress at every stage
- Relevant and appropriate action will be taken in line with the lead agency's respective procedures, enforcement policies and inter-agency agreements – this includes their duty to publish policies on how they deal with Anti-Social Behaviour
- Inter-service and inter-agency co-operation will be initiated where necessary in line with the Framework outlined below

Other landlords and owner-occupiers must try all reasonable means at their disposal to resolve complaints before approaching the Council or the Police with a request to intervene or make an application for an Anti-Social Behaviour Order.

The Council, the Police or Registered Social Landlords may, having exhausted all other available options outlined in Appendix A apply for an Anti-Social Behaviour Order in circumstances which warrant such action to address behaviour which causes, or is likely to cause, alarm or distress to the people of Charnwood.

The Council, the Police and Registered Social Landlords (where applicable) will work together in considering an application for an Anti-Social Behaviour Order, following consultation with other relevant agencies through the framework set at Appendix C.

Before making an application for an Anti-Social Behaviour Order, the Council or the Police must be satisfied that the person complained about has acted in an anti-social manner and that an Anti-Social Behaviour Order is necessary to protect the community from further anti-social behaviour. The following criteria will be applied in considering such requests:-

- The behaviour which is to be used as justification for an application has taken place after 1 April 1999.
- The person complained about is aged 10 or over.
- The behaviour is sufficiently serious to warrant the intervention.
- All other appropriate preventative measures e.g. negotiation, mediation, warnings, enforcement of tenancy agreements, etc. have been tried.

If it is decided that it is appropriate to apply for an Anti-Social Behaviour Order, any costs and/or legal costs incurred will be the responsibility of the landlord or lead agency (owner-occupier) requesting the application.

Who can apply for an Order?

Agencies able to apply for orders are defined as “relevant authorities” in Section 1 (1A) of the Crime and Disorder Act 1998. These are:

Local authorities

Police Forces (including British Transport Police) and

Registered Social Landlords

Procedures

All complaints about tenants of Housing Associations and private landlords must be made in the first instance to the relevant landlord, who should follow their own policy and procedures for dealing with such complaints. Registered Social Landlord’s can take action themselves but are encouraged to liaise with the Police and Council. Where such policies and procedures have been unable to resolve the complaint and the complaint clearly involves or is likely to involve Anti-Social Behaviour, an application may be made to the Council or to the Police to consider applying for an Anti-Social Behaviour Order.

Requests by landlords or owner-occupiers for applications for Anti-Social Behaviour Orders must be made on the appropriate form to the relevant Lead Agency (see list at Appendix B) or to the Council’s Anti-Social Behaviour Case Officer at Charnwood Borough Council, Southfields, Loughborough, LE11 2TR

Where an application is received it will be dealt with, in accordance with the Framework set out below including:-

- Consulting with the Police and relevant Council services and other agencies as appropriate.
- Writing to the person against whom the Order would be sought, offering a meeting to discuss the matter and advising him/her to seek independent legal advice.
- Applying any relevant interventions short of an ASB listed in Appendix A.
- Deciding the terms to be sought in an Order, including the duration.
- Keeping the complainant, the Police, relevant agencies and anyone else affected by the Anti-Social Behaviour informed.

Where an Order is sought the Courts will consider on the evidence whether the person has acted in an anti-social manner as defined by the Crime and Disorder Act 1998 and if so, whether an Order is necessary to protect the community from further anti-social acts.

If an Order is made the Council or Police will inform the applicant, and anyone else affected, of its terms and duration and advise that any breach of the Order is a criminal offence, which should be reported to the Police. The Council and Police will also consider at least annually whether the Order should be varied or revoked.

Application forms and general information and advice about the procedures for applying for Anti-Social Behaviour Orders will be available at:

- Environmental Health, Macualay House, Cattle Market, Loughborough
- Housing Services, Charnwood Borough Council, Southfields, Loughborough
- Legal and Democratic Services, Macualay House, Cattle Market, Loughborough
- Loughborough Police Unit, Community Unit, Southfields, Loughborough
- Policy Unit, Charnwood Borough Council, Southfields, Loughborough

Appeals

Each application will be considered on an individual basis and the decision as to whether to take legal action will be based on the individual merits of the case. There will be no right of appeal against that decision other than through the relevant agencies formal complaints procedure or to the relevant Ombudsman.

Training

Training will be provided to all relevant staff. Such training will be undertaken jointly between Services/Agencies/Police where appropriate and ongoing training requirements will be regularly reviewed.

Consultation

The policy is the product of a Working Group involving representatives of relevant Council Services and Leicestershire Police. In addition, consultations were also held with organisations as listed at Appendix D

Information And Marketing

A booklet for the public outlining procedures and advice for dealing with Anti-Social Behaviour will be drawn up and these will be made available in all appropriate Council offices, doctors' surgeries, libraries, etc. In addition, clear information about expected standards of behaviour will be provided to new Council tenants at the commencement of their tenancy.

Review Period

The policy will be reviewed as required, but initially after 12 months.

Monitoring

Key indicators will be developed and communicated at an early stage to all partners and lead agencies in order to allow IT and data management systems to be established and made consistent.

THE FRAMEWORK FOR CASE MANAGEMENT

The framework is arranged in levels of resolution and is designed to provide timely, effective and inexpensive remedies while at the same time evidencing that reasonable, considered steps have been taken prior to full and costly enforcement proceedings.

Signatories to the Protocol agree to inter-service and inter-agency assistance in relation to neighbour disputes and anti-social behaviour. Agreement has also been reached that appropriate services and agencies will participate in case conferences to agree an approach to dealing with incidences of anti-social behaviour.

Written inter-agency protocols and guidance to facilitate communication and disclosure of information will be developed and made available to all staff.

It has also been recognised that any one of those Services or agencies may be the "**Lead agency**" in cases as appropriate (see Appendix B). The "**lead agency**" is defined as that agency which takes/receives the first initial call of complaint. The "**lead agency**" can/could change as a case develops.

Lead Officer

The lead officer will be the officer from the service/agency that is leading on the initial complaint to an issue of anti-social behaviour. The aim is to resolve as many complaints at the earliest stages as possible, through normal working arrangements.

Anti-Social Behaviour Case Officer

The Framework involves relevant services and agencies working in partnership to seek resolutions in particular to the more serious/complex/problematic cases.

To facilitate an effective approach to Anti-Social Behaviour as outlined in this Protocol a role of Anti-Social Behaviour Case Officer will be established. The duties of the officer will be to:

- Facilitate the process
- Establish relevant membership of Reduction Team and Action Group
- Convene meetings
- Act as secretariat to the above
- Collect and record data on anti-social behaviour incidents supplied by services and agencies.
- Develop common partnership referral forms
- Develop an agreement supporting joint information sharing protocols

- Develop a communication and publicity strategy
- Lead the periodic review of this protocol
- Act as a filter for complaints referred to in level 2 of the framework

The case officer will **not** usually act as a lead officer at the outset; rather this role would be undertaken by a member of staff from the agency (Lead Officer – see above), primarily involved in the case at hand (see Appendix B). The Case Officer will work with the Lead Officer in managing individual cases through the Framework and will take on the Lead Officer role in particularly complex or difficult cases. The Council’s Policy Unit will provide secretarial support to the case officer and for the framework outlined below.

THE FRAMEWORK

The Framework comprises 2 levels as follows:

Level One Anti-Social Behaviour Reduction Team

Level Two Anti-Social Behaviour Action Group

The Framework includes proposed triggers indicating when to move to the next level.

Appendix C sets the Framework out as a diagram including indicative timescales.

It is expected that ‘low level’ issues that might involve anti-social behaviour should be acted upon initially by the Lead Agency (with others as necessary) to achieve resolution through normal service procedures. If they are unsuccessful or are judged likely to be unsuccessful then the matter needs to be brought to the Anti-Social Behaviour Reduction Team. In all cases data about anti-social behaviour needs to be fed to the Anti Social Behaviour Case Officer.

The case officer will:

- Receive, record and acknowledge complaint
- Deal with it at local level and within agency policy/procedures
- Liase with other agencies if and when required, based on agreed inter-agency protocols

Level One - Anti-Social Behaviour Reduction Team (Housing, Environmental Health, Police, Social Registered Landlord etc)

Made up of Lead Officers and practitioners from relevant agencies with the aim of seeking resolution through joint intervention and action planning.

- Clarify the type and nature of the complaint
- Assess its severity
- Review the nature of the complaint, the current situation and interventions to date
- Consider available interventions
- Decide on action plan

- Gather information and evidence on specific cases and resolved incidents
- Consider warning letter to perpetrator
- Monitor case – send data to co-ordinator
- Resolve case
- Report back to originating agency
- Consider advising complainant/parties to case of progress made

The Anti-Social Behaviour Reduction Team will meet regularly (monthly) to monitor and review cases and the actions taken.

Trigger:

- *Situation remains unresolved in anticipated timescale – intervention has not worked and additional support is needed*
- *Escalation of situation*

Anti-Social Behaviour Reduction Team refers case and prepares for submission to next level with a view to seek legal sanctions

Level Two – Anti-Social Behaviour Action Group

A new group made up of managers from relevant partnership agencies that reviews referred cases and considers options for legal sanctions such as Anti-Social Behaviour Orders, Injunctions or to implement other interventions.

- Review the referred case including the Reduction Team’s Action Plan
- Review available information and substantiating evidence
- Consider any new interventions
- Consider a final warning
- Consider suitability and type of legal sanction appropriate
- Form Action Plan
- Seek relevant approval for legal sanction
- Start legal sanction process
- Monitor situation

Fast Track:

*It is intended that the framework will enable a fast track process for **acute and serious** incidents of Anti-Social Behaviour requiring an immediate intervention partnership approach i.e. the omission of Level One from the process outlined above, and immediate legal intervention by way of Level Two.*

SUMMARY OF POSSIBLE INTERVENTIONS

Environment and Facilities

Changes to the physical environment can play an important role in discouraging some anti-social behaviour, such as better lighting, adopting “designing out crime” principles, rapid repairs responses to vandalism, graffiti removal etc. Equally the provision of or support for community, recreational, cultural or other facilities and activities can be important. However, the effect can be lost if actions are piecemeal and not seen by the agencies involved as part of a wider package of measures, such as those mentioned below. These may also be medium/longer term actions that need to be considered alongside short-term interventions to deal with an immediate problem.

The Council will carry out an on-going ‘**nuisance audit**’ of its own housing stock in order to be aware of and to deal with those factors, which increase the potential for nuisance, such as poor sound insulation and inadequate home security. Any proposed remedies will be fed into the Council’s on-going Capital Programme of improvements to its housing stock.

Tenancy Support Schemes

The Council operates small-scale tenancy support schemes in partnership with a number of specialist agencies for specific groups of new tenants identified as vulnerable for a variety of reasons.

Such provision is currently largely focussed on Council tenants and further work will be required to include residents from registered social landlords and the private sector.

Introductory Tenancies

The Council has decided to use its powers under the Housing Act 1996 and its powers under the Anti-Social Behaviour Bill 2003, to implement an Introductory Tenancy Scheme. These tenancies apply to all new tenants and the Council can ask the Court for an eviction order without having to prove a ground for possession during the first twelve months. The rationale is that the Council’s ability to obtain early possession and removes the “right to buy” in the case of a serious breach of tenancy will act as a deterrent and reduce the incidence of ASB at least among new tenants.

Mediation

The use of mediation can sometimes be a cost-effective method of attempting to resolve disputes before they escalate more seriously, although it can only be used if both/all parties agree and is not always appropriate, for example in cases involving violence, intimidation or harassment.

Further work is needed to identify local opportunities for mediation and to consider the provision of direct access from any source.

Anti-Social Behaviour Contracts (also known as Acceptable Behaviour Contracts) and Parental Control Agreements.

These contracts and agreements are typically individual written agreements between perpetrators and the local Housing Office and local Police for the perpetrator **not** to carry out certain identifiable acts, which could be construed as anti-social behaviour. These are voluntary agreements between perpetrators and their parents and the landlord, and although they are not legally binding, they may be used in evidence in any later legal action.

Reparation Agreements

These agreements typically involve the Police, registered social landlords and Youth Offending Teams in the provision of a scheme whereby youths caught damaging property work for a maximum of seven hours alongside staff employed to repair properties or remove graffiti. Candidates receive a certificate of achievement once their placement is completed with the intention of creating a positive outcome from a negative situation.

If the youth/parent/guardian does not agree to reparation or pay the cost of the damage then the Council seeks compensation via the County Court 'Small Claims Track'.

Children and Young People

Recent research (*Coles, England and Rugg 1998*) has stated that a number of housing management problems are often associated with high concentrations of children and young people living on estates.

The Anti-Social Behaviour Bill 2003(ASB Bill), will enable Schools, Local Education Authorities and the Youth Offending Teams to enter into parenting contracts to intervene in a child's anti-social behaviour.

Where, an ASBO has been sought by the Borough Council against a minor (10 years and plus), the Council will have access to a Youth Court for prosecution of a breach.

Other Preventative Measures

The Council has appointed **street wardens** on three estates in Loughborough, who play an important pro-active role in reporting actual and potential situations of ASB. The scheme is being closely monitored, with the possibility of future expansion if there are clear cost benefits in the fight against ASB.

Two other powers, available primarily to the Police and Social Services, were introduced by the Crime and Disorder Act 1998.

Parenting Orders may be obtained against a parent where an Anti-Social Behaviour Order or **Sex Offender Order** is made against a child aged between 10 – 17 in order to prevent further repetition of offences or ASB.

Child Safety Orders relate to children under 10, who are placed under supervision by the Orders.

The Council may develop its own **local lettings policies**, which would need to be transparent and objective, with safeguards to prevent unfair discrimination, if a need is identified in specific areas as a means of preventing or reducing ASB. This would require a change to the Council's allocations policy, but it should be noted that the Council would still have statutory duties to many of the vulnerable applicants, who may be future perpetrators of ASB.

The Legal Remedies

Injunctions can be sought from Courts and unlike possession orders can be used either directly to restrain or restrict the activities of tenants or against third parties, who are affecting the lives of tenants or disrupting a neighbourhood.

Injunctions (the actual Orders of the Court) can be obtained more quickly than a possession hearing, sometimes within hours, witnesses generally do not need to attend Court for an Interim Injunction and the action may avoid the need for an eviction if it is sufficient to stop the nuisance. Injunctions are considerably cheaper to obtain than ASBO's in terms of both financial cost and time.

Under the ASB Bill 2003, the circumstances in which housing injunctions can be used have been expanded and provide new powers to Registered Social Landlords.

Further work is needed to identify the potentially wider use of Injunctions as a legal remedy against ASB, including, for example, when they are considered appropriate and what pre-legal investigation needs to be carried out.

Anti-Social Behaviour Orders (ASBOs) have been available for use since April 1999 under powers granted by the Crime and Disorder Act 1998 to local authorities and the Police. They can be obtained from the Magistrates Court against anyone aged 10 or over, who has acted in an anti-social manner and where the Order is considered necessary to protect people from further anti-social behaviour. An ASBO under the Police Reform Act 2002 can also be sought prior to sentencing and becoming effective following post criminal. An ASBO normally remains in force for a minimum of two years and a breach is an arrestable criminal offence.

The ASB Bill 2003 will also see the removal of reporting restrictions on Anti-Social Behaviour Orders made in the Youth Courts. Local authorities under the ASB Bill 2003 will be able to prosecute any breaches of ASBO's regardless of where they were obtained.

These can be expensive and time-consuming to obtain (approximately £5,000+ and involve several weeks/months preparatory work). Experience gained from environments where they have been sought, indicates that they should only be considered as a last course of action when other interventions have been tried and found to fail. Nevertheless, there may be cases where applications for such Orders are appropriate.

Possession Orders relate directly to the Tenancy Agreement and the terms and conditions of the tenancy and there are two main relevant grounds for possession under current legislation:

Breach of tenancy agreement
Nuisance and annoyance

Ground 1 Housing Act 1985
Ground 2 Housing Act 1985

The Council will use these grounds to obtain Possession Orders if all the factors above are satisfied and if it is firmly believed that the Court will consider it reasonable to grant possession. Any eviction as a result of a Possession Order is seen as a last resort and Council must still be aware of the possible consequences and effects of such action.

Abatement Notices can be served on those responsible for statutory nuisances, e.g. noise, graffiti or other forms of environmental pollution. Where a graffiti abatement notice has been served and there has been a failure to comply, the council may clean/remove it without fear of prosecution and reclaim their costs.

In addition, **Warning Notices** may be issued for single incident noise nuisance events although in order to do so, the Council must first adopt the provisions of the Noise Act.

ANTI-SOCIAL BEHAVIOUR – LEAD AGENCY

Noise	Charnwood Borough Council(CBC)Environmental Health/ CBC Housing
Criminal Behaviour	Police
Harassment	Police/CBC Housing/CBC Legal
Intimidation	CBC Housing / CBC Legal
Domestic Violence	Police
Drugs	Police / CBC Housing
Alcohol/solvent abuse	Police / CBC Housing
Nuisance from vehicles	CBC Housing/ Police/ CBC Environmental Health
Overgrown Garden	CBC Housing/ CBC Environmental Health/ CBC Development Control
Verbal Abuse	CBC Housing/ Co-ordinator
Damage to Property	Police/ Co-ordinator
Disruptive/Dangerous Animals	CBC Environmental Health/CBC Housing
Boundary Disputes	CBC Housing/Co-ordinator/ CBC Legal
Rubbish	CBC Environmental Health/ CBC Technical Services
Misuse of Communal Areas	CBC Housing
Other	Co-ordinator (initially)

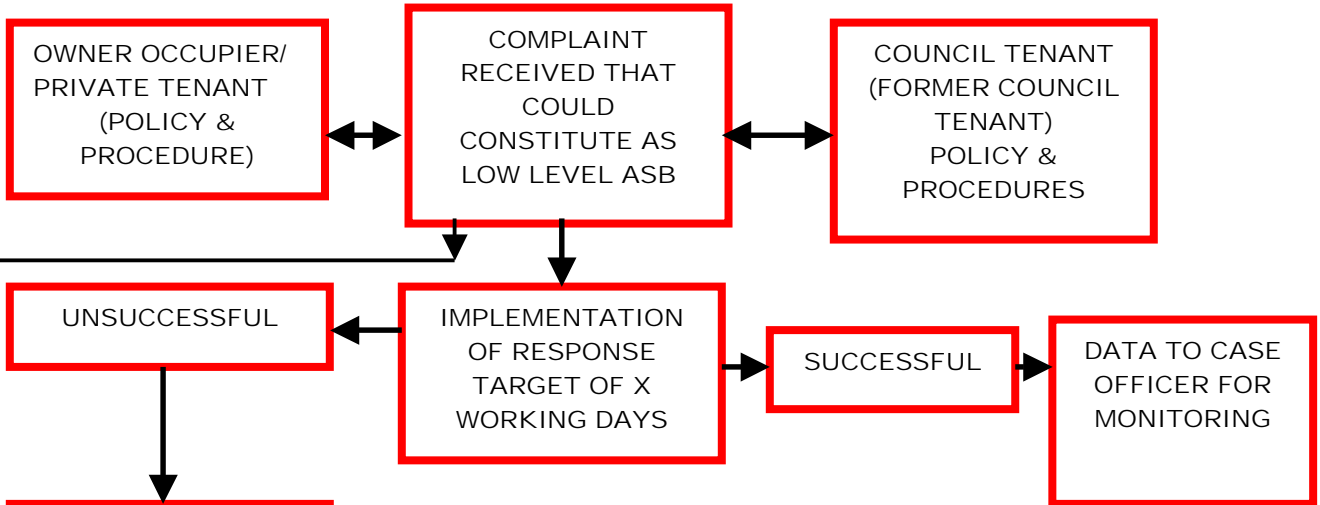
Inter-agency protocols should set out who leads in individual cases depending on the specific case details

All agencies including other key-partners such as Registered Social Landlords must be prepared for the increase in workloads that this protocol will generate. Quantifying this should be an indicator in these monitoring processes to allow all agencies to adapt their Service Delivery Plans and service procedures accordingly

The lead agency will set targets for the implementation of a response and the completion of a review.

ASB FRAMEWORK

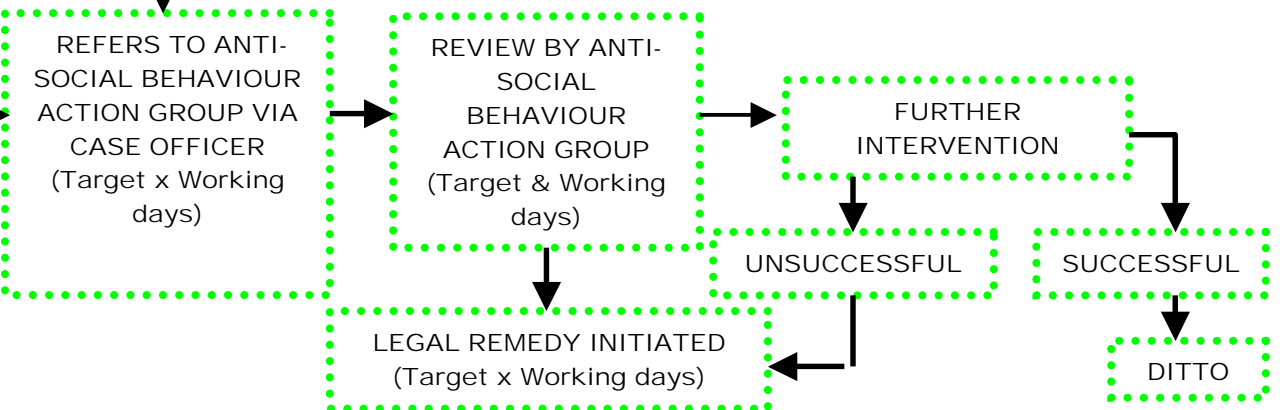
LEVEL ONE



Definite multi-agency issue

FAST TRACK

LEVEL TWO



LIST OF CONSULTEES

All Saints Residents Association
Ashby Road Estates Community Association
Association of Charnwood Tenants
Charnwood Borough Council Directors
Charnwood Borough Council Heads of Services
Charnwood Community Safety Partnership
Charnwood Community Voluntary Services
Charnwood Racial Equality Council
Charnwood Shelter Project
Citizens Advice Bureau
Equality Working Group
Faith Communities
Government Office for the East Midlands
Leicestershire and Rutland Probation Services
Leicestershire County Council - Community Safety Team
Leicestershire County Council - County Youth Services
Leicestershire County Council - Leicestershire Education Authority
Leicestershire County Council – Social Services
Leicestershire Mental Health
Leicestershire North Neighbourhood Watch Association
Leicestershire Police – North Area
Loughborough College
Loughborough Nightstop
Loughborough Students Union
Loughborough University
Magistrates Court
Parish and Town Councils and Parish Meetings
Primary Care Trust
Private Landlords Forum
Registered Social Landlords
Rural Community Council (Leicestershire and Rutland)
Shelthorpe Residents Group
Storer Road Residents
The Bridge
Youth Offending Team