



THE MORAY COUNCIL ANTISOCIAL BEHAVIOUR POLICY & PROCEDURE

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Policy

1. Background

- 1.1 The Scottish Executive has made tackling antisocial behaviour one of its main priorities. Moray's Community Planning Partnership has strategic responsibility for implementing the drive against antisocial behaviour, and this is achieved and monitored under the direction of the Moray Community Safety Partnership. The Moray Council also employs an Antisocial Behaviour Co-ordinator who sits on the Community Safety Partnership and manages the development of services and initiatives associated with antisocial behaviour in Moray.
- 1.2 Surveys of people resident in Moray have revealed that a wide range of antisocial behaviour ranging from alcohol and drug induced behaviour to vandalism and dog fouling are areas of particular concern to them. The Council is committed to reducing and tackling antisocial behaviour by responding firmly and effectively to complaints. This policy and procedure will provide a framework for action relating to complaints of antisocial behaviour. This policy and procedure also links with and complements the Council's Community Safety Strategy, the Information Sharing Protocol, The Adult Support and Protection (Scotland) Act 2007 and its associated Code of Practice and the Council's policy for dealing with Neighbourhood Disputes.
- 1.3 Where people live close together there is always the scope for friction and disputes. Clashes of lifestyles where people are from different age groups, come from different cultural backgrounds, or have different working or sleeping patterns can easily give rise to arguments. The spectrum of antisocial behaviour is wide: it might threaten the physical or mental health, safety or security of other households or individuals.
- 1.4 This policy and procedure is not intended to address behaviour that is merely different and will not be used to promote the harassment of individuals, groups or vulnerable persons for behaviour that results in being of a different race, origin or belief system.
- 1.5 The Council is committed to encouraging tenants to report incidents of antisocial behaviour and to dealing with complaints of neighbour disputes or antisocial behaviour in a consistent and sensitive manner.

2. Principles behind the policy and procedure

- 2.1 The principles underpinning the Council's antisocial behaviour policy are:-
 - The incidence of severe cases of antisocial behaviour is low, but where it does occur, it can cause severe stress. The Council recognises the stress that extreme instances may cause.
 - Any response to antisocial behaviour complaints often requires a multi-agency approach. The Council will therefore seek to work co-operatively with relevant agencies in dealing with cases.

- Where appropriate, the Council will take early action to prevent disputes escalating.
- The Council will seek to act in a manner that is consistent with accepted good professional practice.
- The Council will ensure that it does not act in a discriminatory manner when dealing with antisocial behaviour complaints.

3. Definitions of antisocial behaviour

3.1 Antisocial behaviour – a legal definition:

Section 143 of the Antisocial Behaviour Etc (Scotland) Act 2004 provides that a person engages in antisocial behaviour if they:-

“... act in a manner that causes or is likely to cause alarm or distress; or pursue a course of conduct that causes or is likely to cause alarm or distress,

to a least one person who is not of the same household.”.

“conduct” includes speech and “a course of conduct” must involve conduct on at least two occasions. From this it can be seen that behaviour is defined as antisocial by the effect, or perceived effect which it has on individuals or the wider community.

3.2 Antisocial behaviour – a working definition:

The expression “antisocial behaviour” carries the implication that the behaviour in question is blameworthy. The terms “antisocial behaviour”, “neighbour nuisance”, and “neighbour disputes” are often considered to be interchangeable. However, neighbour nuisance does not carry such strong negative connotations as antisocial behaviour but does imply that neighbours might reasonably be annoyed by the behaviour in question. Where the reasonable response of neighbours is or is likely to be alarm or distress, such behaviour may however, more appropriately be classed as antisocial behaviour. Neighbour disputes focus on the existence of conflict without necessarily implying that it is appropriate to attribute blame. One example is noise travelling between adjacent properties. The purpose of this policy and procedure is to set out processes which will be operated where a complaint of antisocial behaviour as defined above is received by the Moray Council.

4. Scope

- #### **4.1**
- This policy and procedure applies to all complaints of antisocial behaviour not made against a council tenant, for which see the related Moray Council Neighbour Disputes and Antisocial Behaviour Policy and relative procedure, or against a person under 16 years of age, for which see the Moray Council Antisocial Behaviour Young Persons Process. Similarly complaints made relative to premises owned by a Registered Social Landlord (RSL) should be referred, in the first instance, to the RSL. All complaints will be evaluated by the Antisocial Behaviour Co-ordinator and allocated appropriately for action.

Procedure

5. Making a complaint

5.1 In this procedure the person making the complaint will be referred to as the “complainant” and the subject of the complaint will be referred to as the “alleged perpetrator”.

5.2 The Council will accept complaints in a number of ways:-

- By letter
- In person
- By telephone
- In the course of an interview
- By e-mail
- Via an elected member/MSP/MP

6. Confidentiality

6.1 All complaints will be treated in confidence if the person making the complaint asks for this. However it will be made clear that they may be able to be identified from the details of the complaint. In addition, where total confidentiality is requested, this may limit the action we are able to take. Anyone making a complaint will be offered a choice of suitable venues to discuss their complaint(s).

6.2 It will not normally be possible to act on anonymous complaints unless simple and independent verification of the complaint is possible, for example through visual inspection of a public area. In the event that an anonymous complaint is received that may involve other departments, the Antisocial Behaviour Co-ordinator will forward the complaint on to the relevant department.

6.3 The terms of data protection legislation will be adhered to within this policy.

7. Categorising a complaint

7.1 The Council is committed to responding to complaints of antisocial behaviour as quickly as possible. However, it is important to ensure that the most serious complaints are investigated without delay. Accordingly progression of complaints must be prioritised.

Category A: Severe antisocial behaviour, where the involvement of the police is necessary.

For example:

- violence towards another tenant
- threatening behaviour
- drug dealing

- harassment (including racial harassment)

Category B: Antisocial behaviour, where the behaviour is of a serious and/or persistent nature.

For example:

- threats
- vandalism/damage to common areas
- serious disturbance
- noise nuisance (more serious, persistent or recurring)

Category C: Disputes solely between two neighbours.

For example:

- use of common areas
- maintenance/use of boundaries
- noise (due to lifestyle differences and or general domestic noise)

Category D: Ordinary breach of tenancy conditions.

For example:

- not keeping garden tidy
- parking in unauthorised areas on housing property
- failing to control pets

8. Acknowledging a complaint

8.1 Target times for an initial response, from the investigating person, to the different categories of complaint are outlined below:-

- **Category A:** visit/interview complainant and contact police within 1 working day.
- **Category B:** carry out initial investigation and assess appropriate action. Contact complainant by phone/letter/visit within 2 working days to advise of assessment.
- **Category C:** investigate complaint and contact complainant by phone/letter/visit within 5 working days.
- **Category D:** investigate complaint and contact complainant by phone/letter/visit within 5 working days.

8.2 Customers' preferred means of communication will be used if possible. If a customer prefers to communicate by email, response letters will be emailed as PDF attachments.

9. Resolution timescale

9.1 The target timescale for investigating and resolving a complaint is 20 working days from the date the initial acknowledgement letter is sent. In exceptional cases, it may not be possible to investigate and resolve complaints within this

timescale, for example, if further information is needed to respond. In these cases the Antisocial Behaviour Co-ordinator will contact the customer to confirm a revised response date and a reason for the delay

10. Dealing with a complaint

10.1 It is vital that all evidence is documented. This may include:-

- the initial report containing preliminary details of the complaint.
- witness statements.
- diary evidence.
- photographic evidence.
- interview statements.
- all communications including details of all telephone calls, visits/interviews, letters and other contact.

10.2 In cases involving harassment of any of the groups protected by the 2010 Equality Act (i.e. race, religion/belief, gender, age, disability, pregnancy/maternity, gender reassignment, and sexual orientation), a victim-orientated approach should be taken, on the basis that if the victim or any other person believes that the behaviour is motivated in relation to their protected characteristic, then this will be acted upon. The Antisocial Behaviour Co-ordinator will help the complainant to complete an Equalities Incident Monitoring Form and will offer relevant information and advice and sources of support. Procedures will be put in place to identify repeat victims and appropriate support and assistance will be offered.

10.3 In the event that the complainant does not want the complaint to be investigated or action taken, the Antisocial Behaviour Co-ordinator must explain to the complainant that unless independent evidence can be collated to substantiate the complaint, it may be impossible to take action against the alleged perpetrator. The Antisocial Behaviour Co-ordinator will offer information and advice regarding possible sources of support.

10.4 The Antisocial Behaviour Co-ordinator will advise the complainant that in the event of a serious dispute, his/her evidence or testimony may be required in order to secure legally enforceable remedies, for example Antisocial Behaviour Orders or interdicts. The Antisocial Behaviour Co-ordinator will request the complainant's consent, respect his/her views and advise of the implications.

10.5 The Antisocial Behaviour Co-ordinator will ensure that the complainant is aware of the need to liaise with other services, for example environmental health or the Police in certain circumstances. This may involve sharing personal information including the complainant's personal details. The Antisocial Behaviour Co-ordinator will comply with the terms of the Information Sharing Protocol and will either secure completion of a consent form or service of a fair processing notice as appropriate.

10.6 Following receipt of a complaint, the Antisocial Behaviour Co-ordinator will determine the nature and extent of the initial investigation which will include, as appropriate, the following:-

- initial response to the complaint.
- interview of complainant.
- interview of alleged perpetrator.
- re-assessment of situation.
- course of action decided upon.
- relevant further steps taken.
- closure of the case.

10.7 The Antisocial Behaviour Co-ordinator or other officer handling the relevant stage of the complaint will keep in contact with those involved in the dispute. It is vital that the complainant is kept updated with progress of the complaint. All contact and attempted contact must be documented on the relevant file.

11. Investigating a complaint

11.1 The Antisocial Behaviour Co-ordinator will instruct the appropriate Community Warden/partner agency to investigate the complaint. The investigation will be completed within a timescale that reflects the seriousness of the case. The level of investigation and the methodology used will be determined by the categorisation of the complaint. Certain complaints may be referred for expert investigation, for example, by environmental health or Grampian Police. It may not be necessary for the Community Warden to interview the complainant in every instance in order to verify the facts. Complaints of a more serious nature will require more in-depth investigation. The Antisocial Behaviour Co-ordinator will take a view as to appropriate action following the complaint only after initial investigation has taken place and a clear assessment can be made on the strength of the evidence. The Community Warden and Antisocial Behaviour Co-ordinator will remain impartial throughout the investigation process.

12. Initial investigation

12.1 On receipt of a complaint the Antisocial Behaviour Co-ordinator will establish if there have been any complaints in the previous months relative to the alleged perpetrator, in order to ascertain whether there is a pattern of behaviour.

12.2 It may be appropriate for the Antisocial Behaviour Co-ordinator to encourage the complainant to speak to the alleged perpetrator, if he or she has not already done so. If the complainant refuses to do so, this does not mean action will not be taken using mediation principles, the Antisocial Behaviour Co-ordinator may recommend specific action to de-escalate the dispute and negotiate a compromise.

13. Gathering evidence

13.1 Dealing successfully with complaints depends primarily on the strength of the evidence gathered by the Community Wardens. In gathering evidence the Community Warden must ensure that:-

- he/she does not make judgements about who is at fault until a full investigation is completed.
- details are taken in full, are accurate, and where possible in chronological order.
- full names and addresses of witnesses are recorded, together with their relationship with the complainant e.g. friend, sister etc.
- details such as the time of day, weather conditions, visibility and witnesses to an incident which may be important are recorded.
- if the complaint is of a serious nature, as soon as possible after the complaint is made, the Community Warden will collect evidence with a view to preserving that evidence for a possible future court case. If this is not done at a very early stage, it may be impossible to pursue legal action later.
- all records of any interviews, phone calls, etc are signed by the community warden, dated and documented.
- information is recorded in a non-judgemental way, recording the facts of the case as they have been related to the Community Warden.
- where appropriate, the case against an alleged perpetrator is made stronger by evidence gathered from a number of witnesses. The Antisocial Behaviour Co-ordinator will ensure that Community Wardens are advised if more than one complaint has been made relative to the same alleged perpetrator.
- photographic evidence is taken where appropriate. Where photographic evidence is taken by the Community Warden, he/she will write his or her name, the date and time the photos were taken on the reverse and will sign the photo as soon as the print is available, recording also the name and address of the complainant.

13.2 In order to substantiate the facts, it may be necessary for Community Wardens to visit surrounding neighbours and ascertain the neighbours' views and comments. Detailed notes of neighbours' statements must be recorded. Care must be taken at all times to maintain the confidentiality of the complainant.

14. Liaison with other services and agencies

14.1 The Equality and Human Rights Commission (EHRC) in 2011 placed a duty on local authorities for all front line members of staff to be involved in identifying vulnerable persons, particularly in relation to incidences of anti-social behaviour. The Council is committed to Equalities Incidents Monitoring under the Equality Act 2010, which aims to eliminate discrimination and promote equality. Where incidents occur, they must be reported using the Equalities Incidents Monitoring Form.

- 14.2 The measures described in this policy are intended to provide protection to individuals and groups whose quality of life is undermined by the antisocial behaviour of others. Individuals who experience prejudice, for example on the grounds of race, religion or belief, gender, age, disability, pregnancy/maternity, gender reassignment or sexual orientation may also be more likely to be the victims of antisocial behaviour. The measures outlined are not intended to tackle behaviour that is merely different, or behaviour that is the result of a medical or mental health issue. In tackling antisocial behaviour, The Moray Council will pay due regard to its obligations under the Local Government in Scotland Act 2003.
- 14.3 Where antisocial behaviour appears to arise as a result of an individual's addiction to drugs, alcohol or other substance the Council will seek to involve appropriate agencies and every effort will be made to resolve the issue before legal remedies are considered.
- 14.4 Where an individual's antisocial behaviour relates to mental health issues the Council will liaise closely with health and social work services. If the behaviour is not addressed the Council will work with others to identify other options, such as more appropriate accommodation, before legal remedies are considered.
- 14.5 Where an individual appears to be vulnerable for any other reason the Council will liaise with any appropriate body in order to highlight this and in an attempt to resolve the issue before legal remedies are considered. For example, if a noise complaint is due to young children being left unsupervised for extended periods of time, the Antisocial Behaviour Co-ordinator will inform social work.
- 14.6 If the alleged perpetrator has a recognised "case worker" or is known to social work or community care, they must be advised of the situation. As always, liaison with these services should take place in accordance with the terms of the Antisocial Behaviour Information Sharing Protocol (see paragraph 15).
- 14.7 If the alleged perpetrator is not known to social work or community care, the Antisocial Behaviour Co-ordinator will complete a single shared assessment relative to the alleged perpetrator, or will obtain their permission to refer him/her to the relevant service. The single shared assessment is a tool to assist practitioners to assess the needs of individuals and facilitate information sharing between relevant services. Thereafter the relevant contact in social work/community care, etc must be kept informed by the Antisocial Behaviour Co-ordinator of any action and all such contact must be recorded in the file. Every effort should be made to resolve the problem through appropriate provision in a care package or through similar action, e.g. mediation, and any action planned relative to the alleged perpetrator should be suspended until there has been an opportunity to assess the success of the care package or similar action in this respect. Every effort must be made to resolve the situation via joint working with other agencies prior to considering referral to the Antisocial Behaviour Panel for further action.

- 14.8 The Moray Council will be unable to tackle nuisance and antisocial behaviour effectively without referral to other services and agencies. The terms of the Antisocial Behaviour Information Sharing Protocol will be observed when liaising with relevant outside services and agencies (see paragraph 15).

15. Information sharing

- 15.1 Liaison with other agencies can be critical to the effective management of antisocial behaviour. The Council has an Information Sharing Protocol in line with Section 139 of the Antisocial Behaviour etc (Scotland) Act 2004 with Registered Social Landlords, Police, the Procurator Fiscal, Children's Reporter, Grampian Police, Grampian Fire and Rescue Service and NHS Grampian. The protocol allows information to be shared in connection with tackling antisocial behaviour. Joint working will continue to be promoted to achieve to ensure multi-agency approaches to addressing problems.
- 15.2 The protocol addresses the identification and appointment of designated officers, the grounds for and extent of disclosure, confidentiality agreements and records of disclosure. Designated officers can decide on a case by case basis why the disclosure of information is necessary under the 1998 and 2004 Acts. Designated officers are able to request information in respect of individuals and are responsible for ensuring that the processing of personal data is in keeping with the principles of the Data Protection Act 1998. The sharing of information ensures that a proposed course of action is appropriate and relevant and also serves as protection for officers dealing with alleged perpetrators or those affected by antisocial behaviour.
- 15.3 Upon receipt of a request, the partnership organisations will acknowledge requests within 5 working days. An assessment will then be undertaken to consider the nature of the request and respond within 10 working days. If this timescale is insufficient, organisations involved will reach a mutually agreeable timescale.
- 15.4 Where the information requested is urgent, verbal requests for sharing information will be confirmed in writing within 5 working days.

16. Interviewing the complainant

- 16.1 Having completed an initial investigation of the complaint, the Antisocial Behaviour Co-ordinator will assess if a full interview with the complainant is necessary to collate more details. This will depend on the nature of the complaint and the categorisation awarded to it. It will not be necessary to interview the complainant in every instance.
- 16.2 The interview with the complainant can be vital to the investigatory process, especially as regards serious complaints. The interview must take place as soon as possible after receipt of the complaint. Timescales will vary in accordance with the categorisation given to the complaint. The Antisocial Behaviour Co-ordinator will contact the complainant by letter, phone or in person and invite him/her to attend an interview at a mutually agreeable time

or arrange for a Community Warden to conduct the interview. If requested, the Antisocial Behaviour Co-ordinator/Community Warden will interview the complainant in his or her home. If more than one person in the household has been affected, all relevant occupants will be interviewed in order to verify and substantiate the complaint. If the witness being interviewed is under 16 years of age, the person conducting the interview will ensure that a person over 16 years of age attends the interview (preferably the parent or guardian of the witness). If the alleged perpetrator is under 16 years of age, the Antisocial Behaviour Co-ordinator will refer the case under the young person's process.

16.3 The person conducting the interview must allocate enough time and ensure that confidentiality is maintained. The purpose of the initial interview is to:-

- establish the facts surrounding the complaint, as described by the complainant.
- establish what action (if any) the complainant has already taken.
- discuss with the complainant possible solutions, for example mediation, an interview with the alleged perpetrator, legal action etc.
- advise, where appropriate, of the significance of incident diaries and how they should be kept.
- discuss, where appropriate, the need for further evidence gathering, for example from other witnesses, diary sheets, photographs etc.
- provide the complainant with information about other agencies that can help, advise and support them.

16.4 The person conducting the interview will ask the interviewee to sign and date the statement taken during the interview. Before doing so the witness will be advised of the possible need for testimony to be given in court and will also comply with the provisions of the Antisocial Behaviour Information Sharing Protocol.

16.5 If the complaint concerns behaviour which recurs on a regular basis, the complainant and any others who may witness events must be advised to keep a diary. The complainants and any other witnesses keeping a diary must be advised that, if the situation continues and court action is deemed to be necessary, he/she may be called as a witness and the diary lodged and referred to in court. The purpose of lodging the diary is to ensure that there is a clear record of incidents as soon as possible after the event. This can make it easier to refresh the person's memory whilst giving evidence, if necessary.

17. Interviewing the alleged perpetrator

17.1 Having completed an initial investigation, the Antisocial Behaviour Co-ordinator will, if appropriate, arrange for a Community Warden to interview the alleged perpetrator in order to verify the complaint and substantiate the facts. The interview must take place as soon as possible after receipt of the complaint. Timescales will vary in accordance with the categorisation given to the complaint.

- 17.2 The Community Warden will, where appropriate, make initial contact with the alleged perpetrator and discuss the complaint, where appropriate, in the alleged perpetrator's home. Any contact made must not be accusatory nor infer prejudice, and should be done in a manner that will encourage a positive response.
- 17.3 If the alleged perpetrator does not respond to the contact made or does not cooperate with attempts made to discuss the complaint, the Antisocial Behaviour Co-ordinator will contact the alleged perpetrator and arrange an interview whilst continuing with other methods of investigation.
- 17.4 In the event that the alleged perpetrator continues to ignore the contact made or fails to attend interviews, the Antisocial Behaviour Co-ordinator may, if there is enough evidence to substantiate the complaint, nonetheless proceed with appropriate action.
- 17.5 If the alleged perpetrator engages in discussion regarding the complaint, the Community Warden must explain the purpose of the interview to the alleged perpetrator and in particular explain the nature of the complaint in a clear and succinct manner.
- 17.6 The Community Warden will complete an interview checklist during the course of the interview.
- 17.7 During the interview, the Community Warden must ensure that confidentiality is maintained, e.g. the Community Warden must not take to the interview any documentation containing the complainant's personal details.
- 17.8 The alleged perpetrator must be given the opportunity to respond to the complaint made. The Community Warden will record the responses given by the alleged perpetrator and will provide the alleged perpetrator with details of the Antisocial Behaviour Policy and Procedure and where this can be accessed. A copy of the notes taken at the interview must be kept on file and may be used as evidence if any further action is required. The Community Warden will ask the perpetrator to sign and date the statement taken to verify that the statement is accurate. Before doing so, the person conducting the interview will comply with the relevant provisions of the Antisocial Behaviour Information Sharing Protocol (see paragraph 15).
- 17.9 If the alleged perpetrator accepts that he/she or his/her family has/have acted as described by the complainant, the Community Warden will determine further action to take by reference to the nature of the complaint. The Community Warden will make it clear to the perpetrator that he/she is responsible for the behaviour of all household members and visitors and that the behaviour must stop. The Community Warden must advise the perpetrator that if the behaviour continues, further action will be taken which may include an Antisocial Behaviour Contract (ABC) or an application for an ASBO.

- 17.10 If the alleged perpetrator makes counter allegations, the Antisocial Behaviour Co-ordinator will record a new complaint and follow the appropriate procedure for that complaint.
- 17.11 If the alleged perpetrator denies the allegations made, the Community Warden will continue the investigation and if substantiated will liaise with the Antisocial Behaviour Co-ordinator regarding action (if required) appropriate to the categorisation awarded to the complaint.
- 17.12 Where it is inappropriate to attribute blame relative to the subject matter of the complaint, the Antisocial Behaviour Co-ordinator will consider specific action in an attempt to de-escalate the dispute. Again the nature of the complaint will determine the appropriate action.
- 17.13 The investigation will establish if the initial categorisation given to the complaint is correct. In that event the categorisation will be reviewed by the Antisocial Behaviour Co-ordinator and the file marked appropriately.

18. Mediation

- 18.1 During the course of the investigation the Antisocial Behaviour Co-ordinator will establish if either party has made any contact with the other in order to discuss and rectify the situation. If contact has not been made or if the Antisocial Behaviour Co-ordinator considers that the situation has arisen due to a lack of awareness or a difference in lifestyle, the Antisocial Behaviour Co-ordinator may consider that the first course of action is to arrange a meeting of both parties. Any such informal mediation will be conducted by the relevant Community Warden, in accordance with mediation principles. If this proves unsuccessful, the Antisocial Behaviour Co-ordinator may formally refer to the case to the Community Mediation on an individual cost basis.
- 18.2 Prior to a referral, the Antisocial Behaviour Co-ordinator will establish if the case is suitable for mediation by reference to the guidelines developed by the Community Mediation Service. These provide filtering criteria to identify suitable cases for mediation. Referrals may be accepted if at least one party agrees to mediation. Referral is unlikely to be approved: -
- if both parties are subject to legal action because of their antisocial behaviour.
 - if both parties have a history of violence towards staff or neighbours.
 - where allegations of racism or harassment have been made and are being investigated by the police.

19. Review of the complaint

- 19.1 Both during and on completion of the investigation process, the Antisocial Behaviour Co-ordinator must assess the current action taken and determine appropriate action in line with unfolding events. Following conclusion of the investigation process, the Antisocial Behaviour Co-ordinator must form a final

opinion on the scale and severity of the complaint, if the complaint can be substantiated and what action is required.

19.2 Options available to the Antisocial Behaviour Co-ordinator include:-

- Take no further action and formally close the file as initial action has resolved the problem. This applies to category C complaints if after a period of 21 days from the date of acknowledgement of the complaint, no further complaints are received.
- Continue with the investigation to obtain more evidence.
- Monitor the effectiveness of the action taken to date (if any).
- Improved evidence prior to taking legal action if satisfied that this is warranted.
- Consult with other agencies.

19.3 The course of action taken will depend on the severity of the case, with each case being assessed in its own merit. If at any point during the procedure, the Antisocial Behaviour Co-ordinator decides that the complaint may require the involvement of the Police, he will immediately refer the case to the Police. If on the assessment of the complaint, the Antisocial Behaviour Co-ordinator determines that:-

- the complainant/s or the public may be in danger, or
- staff safety and public safety may be at risk, or
- a criminal offence may have been committed, then

the Police **must** be contacted by telephone, a request for assistance made and a crime reference number obtained.

20. Collating more evidence

20.1 In certain complaints, the Antisocial Behaviour Co-ordinator may require more time to collect the evidence necessary to take action. This may include:-

- The use of a diary (if this has not already taken place).
- Arranging for Community Wardens to visit the location where the complaint has taken place more regularly.
- Contact with other agencies.

20.2 At all times, the complainant must be kept informed of the progress made and any action taken.

21. Enforcement action: adults

21.1 Upon completion of the investigation, the Antisocial Behaviour Co-ordinator must consider the possible courses of action available. The timescales for action depend on the level of nuisance and antisocial behaviour, the evidence available, and the action meantime taken. The reasons, causes and remedies for antisocial behaviour are complex and diverse. The most appropriate action

will not necessarily be legal action which will in most cases only be instigated when all other options have been exhausted. The complainant must be kept advised of the action taken.

- 21.2 Informal verbal warning: the Antisocial Behaviour Co-ordinator may decide that the most appropriate way to remedy the complaint is to verbally remind the perpetrator to respect the rights of the complainer. All action taken must be documented (including the date and method used) and recorded on the appropriate file.
- 21.3 Written warning: In the event that there is some evidence to substantiate the complaint, but the evidence is insufficient to refer the case to the Antisocial Behaviour Panel, the Antisocial Behaviour Co-ordinator will write to the perpetrator. The letter must set out in detail what the perpetrator has done and make it clear that the Council will not tolerate nuisance and harassment. The letter will advise that if the problem continues, the Council will take further action. The Antisocial Behaviour Co-ordinator will also write to the complainant advising them of the position. Copies of all correspondence must be kept in the appropriate file.

22. Acceptable Behaviour Contracts (ABCs): adults

- 22.1 ABCs may be considered where the complainant's behaviour disturbs or distresses others within the community and clearly set out details of:-
- actions or behaviour by the perpetrator (which are unacceptable).
 - specific actions and agreements the perpetrator will and will not abide by.
 - consequences if the offending actions are repeated.
- 22.2 Prior to agreeing to an ABC, the referring agency or department will collate evidence in conjunction with any partner agencies, for example, the Police and discuss the case with them, then complete a referral form from which an ABC will be produced. Reports from relevant support agencies may be required in order to conduct a review.
- 22.3 The referring agency or department will write to the perpetrator and invite him/her to attend an appointment where they will detail the evidence collated and explain the terms and conditions of the ABC. The referring agency or department must use 'best endeavours' to ensure that the perpetrator understands and is aware of the terms and the consequences involved in breaching the ABC.
- 22.4 The ABC will be reviewed a minimum of once a month or as required.
- 22.5 If an ABC is breached, the referring agency or department must review the case and consider appropriate further enforcement action. The Antisocial Behaviour Co-ordinator must be informed of the breach.

23. Acceptable Behaviour Contract: young people

- 23.1 There may be young people who are not known to any services who meet the criteria of behaving in an antisocial manner. When considering the use of ABCs to manage this behaviour it is important to realise the status of an ABC and the repercussions that can follow a breach i.e. it may be used as evidence to obtain an Antisocial Behaviour Order (ASBO). The Community Safety Partnership policy on ABCs which has been adopted by The Moray Council will be adhered to.
- 23.2 If the referring agency or department proposes that an ABC may be appropriate course of action, they will complete the ABC referral form which would be sent to the Antisocial Behaviour Co-ordinator.
- 23.3 The Antisocial Behaviour Co-ordinator will contact the Youth Justice Co-ordinator and Children's Reporter and they will jointly examine the evidence. The evidence will detail the action already taken prior to referral. As a minimum, this should be that the young person and their parents have been spoken to about the behaviour and that this has been followed up in writing.
- 23.4 Young person not known to the system: if the young person referral is appropriate then the Antisocial Behaviour Co-ordinator will return the referral form to the agency or department allowing them to negotiate the contract with the young person using an independent restorative justice facilitator.
- 23.5 Review: the Youth Justice Co-ordinator will be responsible for organising any support package required and monitoring compliance. An ABC can be used initially for up to three months. A review will take place monthly or immediately following a breach.
- 23.6 At the three-month point the ABC can either be extended or will be deemed to be completed satisfactorily. The referring agency or department will complete the review form and request any relevant reports from support agencies and forward relevant paperwork to the Antisocial Behaviour Co-ordinator. If the ABC has failed then a meeting will be arranged with referring agency or department, Antisocial Behaviour Co-ordinator and Youth Justice Co-ordinator where consideration will be given to referring the young person into the Local Integrated Assessment and Planning process (LIAP).

24. Antisocial Behaviour Panel

- 24.1 Cases will be referred to the Antisocial Behaviour Panel when they involve either complaints which have been categorised as serious in which case they may be fast tracked for consideration by the Panel after minimal initial investigation, or complaints which have a complex or protracted history where the enforcement action detailed previously has either failed to resolve the complaint or legal action otherwise requires to be considered. Cases may also be referred directly to the Panel by the housing service, by Grampian Police by a Registered Social Landlord (RSL) or as a youth referral.

- 24.2 All evidence gathered during the investigation will be placed before the Panel for their consideration.
- 24.3 All legal remedies will be considered by the Panel, subject to the level of evidence required being available. Legal remedies that the Council may request include the following:-
- Interdict.
 - Interim Interdict.
 - Antisocial Behaviour Order/Interim Antisocial Behaviour Order.
 - Antisocial Behaviour Notice.
- 24.4 Cases referred to the Antisocial Behaviour Panel by a RSL are referred for consultation, in order to ensure that a consistent approach to ASBOs is taken through Moray. The decision whether to proceed with an ASBO will however remain that of the RSL.

25. Antisocial Behaviour Orders

- 25.1 Before making an application for an ASBO agencies are required to:-
- consult the Chief Constable of Grampian Police,
 - consult the Chief Constable of each force area for an area where there is an affected person,
 - consult each local authority in whose area there is an affected person, and
 - consult the Principal Reporter.
- 25.2 The terms of the ASBO will be agreed in consultation with partner agencies and must:-
- be reasonable, clear and unambiguous.
 - be the least necessary to restrict the behaviour complained of.
 - relate to the area where the antisocial behaviour occurred and where it is reasonable to expect that it could happen in the future.
- 25.3 The duration of the ASBO will be determined in consultation with partner agencies, taking into consideration the seriousness, persistence, age and maturity of the person subject to the application.
- 25.4 Court: in cases considered to be the most serious, notably where threatening behaviour or actual harm has occurred, the applicant will ask for the perpetrator to be given a reduced period of notice in order to have the ASBO application called in court in the shortest possible timescale.
- 25.5 Interim ASBOs: may be granted by a Sherriff at an initial court hearing in advance of a full hearing for an ASBO. An interim ASBO will take the same form as a full ASBO but will last only until the application for the full ASBO is determined or the interim ASBO is otherwise earlier recalled. Prior to making an interim ASBO application the applicant will satisfy itself that

victims, witnesses or members of the wider community require immediate protection from antisocial behaviour. When a full ASBO cannot be obtained at the initial court hearing, a request for an interim ASBO will usually be made at the earliest opportunity. The decision whether to grant an interim or full ASBO is one for the Sheriff alone.

- 25.6 Appeals: either the applicant or the defender can appeal the Sheriff's decision. In terms of Sections 27 and 28 of the Sheriff Court (Scotland) Act 1907, the person appealing can choose whether to appeal to the Sheriff Principal or Court of Session.
- 25.7 Under Section 6 of the Antisocial Behaviour Etc (Scotland) Act 2004, the Order remains in force pending the outcome of the appeal. It is however possible to apply for an order to be varied or revoked while an appeal is pending.
- 25.8 Review of ASBOs: the Antisocial Behaviour Panel will review ASBOs at least every six months, where possible there being representation on the Review Panel by all agencies involved in approving the original application. The purpose of the review is to consider if the terms of the ASBO are adequate and if the ASBO still requires to be in force.
- 25.7 The factors considered in determining the decision to apply for an ASBO will form the basis of the review of the ASBO. In most cases ASBOs will be revoked if no complaints have been received in the previous two year period.
- 25.8 Applications may be made to the Court to revoke the ASBO or vary the terms of the ASBO.
- 25.9 Appropriate consultation with partner services and agencies and the community will take place prior to making such applications all in accordance with the Panel's procedural rules.
- 25.10 Variation or Revocation of ASBOs: can be applied for in accordance with the rules of procedure of the Antisocial Behaviour Panel.
- 25.11 In cases involving persons under 16 years of age, the matter should first have been considered through the local authority planning process and due consultation with the Principal Reporter must have been carried out.
- 25.12 Where a defendant applies for an order to be varied or revoked, the Sheriff must obtain the views of the original applicant and, in cases involving 12-15 year olds, the Children's Reporter before coming to a decision.
- 25.13 ASBOs cannot be transferred between local authorities. If an individual moves to another authority area a fresh ASBO would be required if their behaviour justifies it. If there is no continuing need for the original order, the applicant should consider applying to the Sheriff to have it revoked. However, the order may be kept in place once the individual has left the authority area if

it is reasonably suspected that the individual may return and engage in the prohibited antisocial behaviour.

- 25.14 Breach of an ASBO: this is a criminal offence which should be reported immediately to Grampian Police.
- 25.15 Grampian Police will investigate all such allegations and where there is sufficient evidence, report the person for breach of an ASBO. Section 11 of the Antisocial Behaviour Etc (Scotland) Act 2004 provides the Police with a statutory power of arrest for breach of an ASBO or interim ASBO. This ensures that where a constable reasonably believes that a person is committing or has committed an offence under Section 9(1) of the Act, that the constable may arrest the individual without warrant.
- 25.16 Persons aged 16 or over will appear in court either on a written undertaking or from custody to ensure that the alleged offender appears in court soon after the incident.
- 25.17 Persons aged under 16 will be released into the care of their parent or guardian or local authority. In certain cases Grampian Police may detain the child under Section 43 of the Criminal Procedure (Scotland) Act 1995.
- 25.22 Grampian Police will inform all relevant services and agencies of the reported breach of an ASBO and the action taken at the earliest opportunity and no later than the next working day.
- 25.18 The Moray Council will consider any necessary follow up action in consultation with partner services and agencies. It is the policy of the Crown Office Procurator Fiscal Service (COPFS) to prosecute cases for breached ASBOs for persons aged 16 or over subject always to the Procurator Fiscal's overriding discretion to deal with cases which are appropriate for prosecution. Grampian Police will notify the relevant services and agencies of the court dates for cases and the outcome of cases referred for prosecution.
- 25.19 In cases involving persons under 16 years of age, COPFS will refer cases to the Children's Reporter unless the breach of the ASBO is considered to be a serious offence. It is expected that most breaches of ASBOs by those under 16 will be dealt with through the Children's Hearing System, although again, the decision whether to do so remains at the discretion of the Children's Reporter.
- 25.20 Record of ASBOs: The Antisocial Behaviour Co-ordinator will maintain a register of all ASBOs and interim ASBOs relevant to The Moray Council whether originally applied for by the Council or by a RSL. Legal services will be provided with an updated copy of the Register following each amendment. This register is not available for public inspection and details from the register will only be disclosed in accordance with relevant Data Protection and Freedom of Information legislation
- 25.26 When the Moray Council is advised that a person subject to an ASBO plans to move or has moved from Moray, the Antisocial Behaviour Co-ordinator will

inform the “receiving Council”. He will record this and inform relevant services and agencies and the ASBO will be reviewed.

25.21 The Antisocial Behaviour Co-ordinator will hold a record of all revoked ASBOs. Details will be removed from this record once an ASBO has been revoked for 2 years.

25.22 Notification and Publicity: following the grant of an ASBO, The Moray Council will advise all persons who have been or who are likely to be affected by antisocial behaviour by the person subject to the ASBO. The information provided will confirm:-

- the identity of the person subject to the ASBO.
- the terms of the ASBO.
- what should be done if further antisocial behaviour occurs.

25.23 Generally the media will not be used to publicise individual ASBOs but may be used where the antisocial behaviour involved has either caused significant concern in the community or is such that publication may be expected to deter similar instances of antisocial behaviour.

25.24 The identity of the person subject to the ASBO will not generally be disclosed by the Council to the media but may be in the circumstances outlined in para 25.22 above.

25.25 It is recognised that convictions for breached ASBOs are more likely to attract media publicity and The Moray Council will seek to ensure reasonable and factual media reporting in such situations.

25.26 Where appropriate the use of ASBOs will be publicised to demonstrate actions being taken to address antisocial behaviour. This may include reference to individual ASBOs in accordance with para. 25.22 above, but will more commonly include only general information.

25.27 Press releases for media publicity will be co-ordinated and approved by the relevant PPR officer of The Moray Council in liaison with the Antisocial Behaviour Co-ordinator and the service which referred the matter to the Panel.

26. Antisocial Behaviour Orders: young people (12 – 15 year olds)

26.1 If the Antisocial Behaviour Co-ordinator feels it would be appropriate to apply for an Antisocial Behaviour Orders (ASBO) against a young person, that person will usually have had a history within the Local Integrated Assessment and Planning (LIAP) process. The Co-ordinator will have evidence of all the interventions and/or diversionary measures instigated prior to considering an ASBO. However, where a young person’s antisocial behaviour has escalated greatly over a short period of time, the case may be referred directly to the Panel.

- 26.2 In cases which are not fast tracked to the Panel, the application for an ASBO for a young person will be made by submitting a full referral form to an extended LIAP, which will consider the evidence and behaviour of the young person. The extended LIAP can refer the application back to the co-ordinator with recommendations that other measures should be explored or agree that the ASBO process should continue. The application including evidence will be forwarded to the Children's Reporter who has a key role to play in the process. At this stage a full assessment will be carried out on the young person and a detailed support plan will have been developed.
- 26.3 The Reporter will have access to detailed records on the young person which are crucial to informing the extended LIAP when considering a ASBO. The Reporter will act as a gatehouse for the Children's Hearing system and will chair the extended LIAP when considering an ASBO.
- 26.4 If the extended LIAP supports the application for an ASBO and the Children's Reporter agrees, all relevant documentation must be forwarded for consideration by the Panel in the usual way.

27. Case Closure

- 27.1 The Antisocial Behaviour Co-ordinator will close a case when all possible action has been taken. A case will only be closed when:-
- the nuisance or cause of the complaint has stopped (after a period of monitoring).
 - the complainant will not allow the Antisocial Behaviour Co-ordinator/Community Warden to investigate his/her allegations or take any action.
 - there is no evidence to substantiate the complaint and all best endeavours to collect evidence have been made.
- 27.2 The Antisocial Behaviour Co-ordinator will consult with the complainant and any other agencies involved prior to closing the case.
- 27.3 When a case is closed, the Antisocial Behaviour Co-ordinator must write to the complainant and explain that:-
- the case is closed.
 - the case can re-open if the nuisance or antisocial behaviour happens again or further evidence is obtained that allows action to be taken.
 - he/she has the right to appeal a decision.
- 27.4 When a case is closed, the Antisocial Behaviour Co-ordinator must write to the alleged perpetrator to explain that:-
- the case is closed but will continue to be monitored.
 - the case can re-open if the nuisance or antisocial behaviour happens again, or further evidence is obtained that allows action to be taken.
 - he/she has the right to appeal the decision.

27.5 Appeal against closure by the complainant or alleged perpetrator will lie to the Head of Planning and Economic Development Services of the Moray Council.

27.6 In the event the complainant or the alleged perpetrator is not satisfied with the response provided by the Head of Planning and Economic Development Services, he/she will be referred to the Moray Council's Complaints Procedure.

28. Complaint not substantiated

28.1 If after investigation of the complaint the Antisocial Behaviour Co-ordinator concludes that no action is required, for example, because there is not enough evidence to substantiate the complaint, the Antisocial Behaviour Co-ordinator must write to the complainant and advise him/her that:-

- the complaint made has been investigated but not found to be actionable
- the case can reopen if the nuisance or antisocial behaviour happens again
- further evidence is obtained that allows action to be taken
- he/she has a right of appeal

28.2 The Antisocial Behaviour Co-ordinator should write to the alleged perpetrator stating that no further action will be taken at this stage but emphasising the need to have consideration for his/her neighbours.

29. Complaint not resolved

29.1 Following conclusion of investigations and collation of all reasonably attainable evidence, the Antisocial Behaviour Co-ordinator will reassess the complaint within the timescale originally identified.

29.2 Following conclusion of investigations the Antisocial Behaviour Co-ordinator or the appropriate Community Warden should contact the complainant to assess if the complaint has been resolved. If not, and further action is to be taken or the complaint is to be re-categorised, the Antisocial Behaviour Co-ordinator must inform the complainant and ensure that he/she is continually updated with regard to any action taken.

30. Monitoring

30.1 The Antisocial Behaviour Co-ordinator will be responsible for ensuring that antisocial behaviour complaints are effectively managed and monitored in the Moray area in accordance with the Antisocial Behaviour Policy and Procedure.

30.2 The Antisocial Behaviour Co-ordinator will extract management information on a regular basis in order to monitor incidences, case loads and outcomes to demonstrate the following:-

- The number of community dispute complaints received.
- Categories of community disputes received.

- Number and type of legal remedies sought with outcomes.
- Cases categorised under the racial incident monitoring framework on outcomes.
- Emerging neighbourhood patterns.

30.3 The management information provided above will help inform performance monitoring within the Council and will assist under initiatives with partner agencies in managing antisocial behaviour.

31. Training

31.1 In order to achieve the roles set out for them, staff dealing with complaints of neighbour disputes and anti-social behaviour will require the appropriate training. This may include training on interview skills, use of legal remedies and mediation skills.

31.2 The Council will seek to raise awareness of its policy on neighbour disputes and anti social behaviour within Council Services and other appropriate agencies.