

# Public Document Pack



ASHTON-UNDER-LYNE · AUDENSHAW · DENTON · DROYLSDEN · DUKINFIELD · HYDE · LONGDENDALE · MOSSLEY · STALYBRIDGE

## PLACE AND EXTERNAL RELATIONS SCRUTINY PANEL

**Day:** Tuesday  
**Date:** 12 September 2023  
**Time:** 6.00 pm  
**Place:** Committee Room 1 - Tameside One

Item No.	AGENDA	Page No
1.	<b>APOLOGIES FOR ABSENCE</b>	
2.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest from members of the Scrutiny Panel.	
3.	<b>MINUTES</b> To approve as a correct record, the Minutes of the proceedings of the Place and External Relations Scrutiny Panel held on 25 July 2023.	1-2
4.	<b>CRIME AND DISORDER</b> The Panel to meet Councillor Vimal Choksi, Executive Member (Towns & Communities); Julian Jackson, Director of Place; Emma Varnam, Assistant Director, Operations and Neighbourhoods; and Mike Walsh, Superintendent, Greater Manchester Police, to receive an update on implementation and effectiveness of the GMP neighbourhood model; and forward plan of activity for the Community Safety Partnership.	3-34
5.	<b>RESPONSE TO LGSCO FOCUS REPORT</b> The Panel to meet Councillor Vimal Choksi, Executive Member (Towns & Communities); Julian Jackson, Director of Place; and Emma Varnam, Assistant Director, Operations and Neighbourhoods; to receive a response to the Local Government and Social Care Ombudsman Focus Report, Out of Order – learning lessons from complaints about antisocial behaviour, published August 2023.	35-68
6.	<b>RESPONSE TO LGSCO FOCUS REPORT</b> The Panel to receive a response of the Executive to the Local Government and Social Care Ombudsman Focus Report, Not in my back yard – Local people and the planning process, published August 2023.	69-98
7.	<b>CHAIR'S UPDATE</b> The Chair to provide a verbal update on activity and future priorities for the Panel.	

---

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Paul Radcliffe, Policy and Strategy lead, to whom any apologies for absence should be notified.

Item No.	AGENDA	Page No
----------	--------	---------

**8. DATE OF NEXT MEETING**

To note that the next meeting of the Place and External Relations Scrutiny Panel will take place on Tuesday 7 November 2023.

**9. URGENT ITEMS**

To consider any additional items the Chair is of the opinion shall be dealt with as a matter of urgency.

---

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Paul Radcliffe, Policy and Strategy lead, to whom any apologies for absence should be notified.

## Place and External Relations Scrutiny Panel 25 July 2023

**Commenced:** 6.00pm

**Terminated:** 7.35pm

**Present:** Councillors Reid (Chair), Chadwick, Ferguson, Glover, Gwynne, McLaren

**Apologies:** Councillors Alam, A Holland, Robinson, Roderick

### 8. DECLARATIONS OF INTEREST

There were no declarations of interest submitted by members of the Scrutiny Panel.

### 9. MINUTES

The minutes of the meeting of the Place and External Relations Scrutiny Panel held on 6 June 2023 were approved as a correct record.

### 10. NEIGHBOURHOOD ENFORCEMENT

The Panel welcomed Councillor Denise Ward, Executive Member (Climate Emergency & Environmental Services); Councillor Vincent Ricci, Assistant Executive Member (Armed Forces & Enforcement); Julian Jackson, Director of Place; Emma Varnam, Assistant Director; Nick Sayers, Head of Operations and Greenspace; Mike Robinson, Regulatory Services Manager; and Dave Smith, Partnership Manager, to inform a review of the place-based approach to Neighbourhood enforcement, with links to street scene and cleanliness.

Members received an update specific to key challenges and issues related to fly tipping, service improvements and planned actions. It was reported that challenges and issues related to fly tipping include:

- Resident behaviour and awareness about proper waste disposal ('Duty of Care')
- Issues with property type and those with little or no space for bin storage or recycling
- Over production of business waste
- Deliberate fly tipping – on private and public land
- Enforcement options and legal processes (e.g, identification of the offender and sufficiency of evidence)

Panel members heard that improvements have contributed to:

- Greater collaboration between services partners
- The fly tipping removal function transferring to the street cleansing service
- A service review and the addition of 3.5 enforcement officers
- Improved customer journey – developed the 'Tell Tameside' App to report fly tipping and better process for triaging complaints
- Training for operational staff
- Greater policy oversight and enforcement monitoring undertaken by the Enforcement Panel, chaired by the Assistant Executive Member

Panel members received information on the Council's Litter Hub Networks that enable residents and community groups to book free litter picking equipment. Tameside currently has 14 live litter hubs that are starting to link together and expand across the borough.

Members received an update on the 'Days of Action' launched together with 'Our Streets' campaign in August 2022. The work initially focussed in the town centres and concentrated hotspot areas, which excellent results to date.

The presentation also provided an update on the Council's Anti-Social Behaviour (ASB) Team and structure, with detail provided on the Public Space Protection Order (PSPO) in Ashton town centre, since the inception in November 2022. To date 20 fixed penalty notices have been issued for PSPO breaches.

Data specific to ASB in the borough was reported on local incidents, responses of the Council and partners. In terms of the ASB reports received, the vast majority have an overarching element of a neighbour dispute. The ASB service also submits intelligence to the Greater Manchester Police Force Intelligence Hub through partnership arrangements.

In terms of general ASB prevention, services are working with Neighbourhood Watch; promoting safer communities / 'Litter Hubs'- love where you live "Active Citizenship" / work with the Prevention Hub ensuring right agency support for dealing with repeat and high demand issues.

Councillors and officers responded to a number of questions from the Panel on:

- The breadth of fly tipping issues and impacts
- Repeat offenders of fly tipping
- Communications, behaviour change and enforcement options
- Connection and correlation between planning and street scene
- Having the right infrastructure in know hot spots for fly tipping
- FPN data published to the Council's website relating to litter and dog fouling

**Resolved:** That Councillors and officers be thanked for attending the meeting.

## **11. ANNUAL WORK PROGRAMMES**

The Chair presented the agreed Scrutiny Annual Work Programmes for 2023/24.

## **12. CHAIR'S UPDATE**

The Chair advised members that a meeting of the Executive with Scrutiny Chairs and the Chair of Overview took place on 22 June 2023, to discuss activity and plans for the year ahead.

The Scrutiny Annual Work Programme report is to be tabled at the next meeting of Overview Panel on 1 August 2023.

## **13. DATE OF NEXT MEETING**

To note that the next meeting of the Place and External Relations Scrutiny Panel will take place on Tuesday 12 September 2023.

## **14. URGENT ITEMS**

The Chair reported that there were no urgent items for consideration at this meeting.

**CHAIR**





# Tameside Neighbourhood Policing Team



In March 2023 a new neighbourhood model was launched in GMP, which dedicates 2 inspectors, 6 sergeants and 32 PCs into neighbourhood policing. We work together with our partner agencies to fight crime and solve local problems, like burglary, drug dealing and road safety issues..

Through the back to basics approach , members of the public will know who their dedicated named teams who will be visible in communities and more accessible than ever before with a commitment made from our Chief Constable that they will be ring fenced on their neighbourhoods rather than backfilling other duties.

The neighbourhood teams also benefit from the support of neighbourhood Prevention Hubs and Neighbourhood Crime teams, to help them reduce and investigate crime in a way which secures the best possible outcomes for victims and communities. The PH work will also work with partners to address repeat offending and demand , while the NCT and NPT work together to target the offenders.

**Fight, prevent and reduce crime. Keep people safe. Care for Victims.**



# Operational Structure

Neighbourhood policing teams – North, East, South, West  
Prevention hub  
Neighbourhood Crime Team



# North Neighbourhood Policing Team

## G1 NEIGHBOURHOOD POLICING – NORTH

ASHTON TC / HURST / WATERLOO / ST PETERS / ST MICHAELS



OPERATIONAL SUPPORT OFFICER  
70045 KEENAN



CHIEF INSPECTOR  
01309 GALT



OPERATIONAL SUPPORT OFFICER  
72498 STANGER



INSPECTOR  
09364 SWIFT

**RADIO PREFIXES**  
0 - DROP 0, ADD 15  
1 - ADD 1  
2 - ADD 1  
4 - DROP 4, ADD 18  
6 - DROP 6, ADD 14  
7 - DROP 7, ADD 13



SERGEANT - C RELIEF  
16467 FROGGATT



SERGEANT - A RELIEF  
11093 HALSALL

**ASHTON TC**  
B1 - C RELIEF

**HURST**  
A3/A4 - C RELIEF

**WATERLOO**  
B2/B3/C3 - C RELIEF

**ST PETERS**  
C1/C2/B4 - A RELIEF

**ST MICHAELS**  
A1/A2 - A RELIEF



NBO  
15212 FAHY



NBO  
VACANT



NBO  
19415 GRANGE



NBO  
16642 WILSON C2/B4



NBO  
13341 TERRY



NBO  
15626 IMRAN



PCSO  
68825 JONES



PCSO  
61286 WILD



NBO  
04913 HILL C2/B4



NBO  
18992 HUTCHESON



NBO  
VACANT



PCSO  
69467 CHADWICK



PCSO  
65186 CHAPPELL



NBO  
15813 COCKS C1



NBO  
VACANT



PCSO  
69496 HAMZA



PCSO  
65546 BROCKETT



PCSO  
71354 HALL C2/B4



PCSO  
65155 SCHOFIELD



PCSO  
71089 CRABB



PCSO  
70846 TOLAN C1

NEIGHBOURHOOD CONTACT DETAILS  
EXT: 69350 EMAIL: [TAMESIDENORTH@GMP.POLICE.UK](mailto:TAMESIDENORTH@GMP.POLICE.UK)

- KEEPING PEOPLE SAFE
- REDUCING HARM AND OFFENDING
- HELPING TO STRENGTHEN COMMUNITIES

# East Neighbourhood Policing Team



## G1 NEIGHBOURHOOD POLICING – EAST

DUKINFIELD / DUKI STALY / S'BRIDGE SOUTH / S'BRIDGE TC / RIDGEBROOK / CARRBROOK / MOSSLEY



**OPERATIONAL SUPPORT OFFICER**  
70045 KEENAN

**OPERATIONAL SUPPORT OFFICER**  
72498 STANGER

**CHIEF INSPECTOR**  
01309 GALT

**INSPECTOR**  
09364 SWIFT

**SERGEANT - B RELIEF**  
15566 MARSDEN

**RADIO PREFIXES**  
0 - DROP 0, ADD 15  
1 - ADD 1  
2 - ADD 1  
4 - DROP 4, ADD 18  
6 - DROP 6, ADD 14  
7 - DROP 7, ADD 13

DUKINFIELD G1/G2 - B RELIEF	DUKI STALY G3/G4/L4 - B RELIEF	S'BRIDGE SOUTH L2/L3 - B RELIEF	S'BRIDGE TC / RIDGEBROOK L1/L5/L6 - B RELIEF	RIDGEBROOK L1 - B RELIEF	CARRBROOK M1 - B RELIEF	MOSSLEY M2/M3 - B RELIEF
NBO 16868 PEARSON	NBO VACANT	NBO 08861 MORRIS	NBO VACANT	NBO 19032 GREEN	NBO 17095 DAVIES	NBO 1441 WILD
PCSO 61266 JACKSON	PCSO 72948 CHADWICK	PCSO 71120 SHEARMAN	PCSO 65120 ELLIOTT	PCSO 70839 HIRST	PCSO 65478 LISIC	PCSO 65478 LISIC
PCSO 70644 BAUER			PCSO 70839 HIRST	PCSO 23572 BARLOW	PCSO 61325 GORDON	PCSO 61325 GORDON
			PCSO 23572 BARLOW			

NEIGHBOURHOOD CONTACT DETAILS  
EXT: 69350 EMAIL: [TAMESIDENORTH@GMP.POLICE.UK](mailto:TAMESIDENORTH@GMP.POLICE.UK)

- KEEPING PEOPLE SAFE
- REDUCING HARM AND OFFENDING
- HELPING TO STRENGTHEN COMMUNITIES



# South Neighbourhood Policing Team

## G2 NEIGHBOURHOOD POLICING – SOUTH

HATTERSLEY / LONGENDALE / HYDE GODLEY / HYDE NEWTON / HYDE WERNETH



OPERATIONAL SUPPORT OFFICER  
62771 CONNEELY



CHIEF INSPECTOR  
01309 GALT



INSPECTOR  
02282 KNIGHT



SERGEANT -  
13332 SUDDONS - B RELIEF

RADIO PREFIXES  
0 - DROP 0, ADD 15  
1 - ADD 1  
2 - ADD 1  
4 - DROP 4, ADD 18  
6 - DROP 6, ADD 14  
7 - DROP 7, ADD 13

HYDE WERNETH  
J1/J2 - B RELIEF

HYDE GODLEY / HYDE TC  
H3/H4 - B RELIEF

HYDE NEWTON  
H1/H2 - B RELIEF

HATTERSLEY & LONGENDALE  
K1/K2/K3/K4/K5 - B RELIEF



NBO  
VACANT



NBO  
19145 ASIF



NBO  
09878 HILL



NBO  
16111 HUSSAIN



PCSO  
69375 DAVIDSON



NBO  
01208 MITCHELL



PCSO  
71225 SIMMONS



NBO  
17037 GOSSAN



PCSO  
70171 MIAH

NEIGHBOURHOOD CONTACT DETAILS  
EXT: 69350 EMAIL: [TAMESIDENORTH@GMP.POLICE.UK](mailto:TAMESIDENORTH@GMP.POLICE.UK)

- KEEPING PEOPLE SAFE
- REDUCING HARM AND OFFENDING
- HELPING TO STRENGTHEN COMMUNITIES



# West Neighbourhood Policing Team



## G2 NEIGHBOURHOOD POLICING - WEST

DROYLSDEN WEST / DROYLSDEN EAST / DENTON WEST / DENTON SOUTH / DENTON NORTH & EAST / AUDENSHAW



**OPERATIONAL SUPPORT OFFICER**  
62771 CONNEELY

**CHIEF INSPECTOR**  
01309 GALT

**INSPECTOR**  
02282 KNIGHT

**RADIO PREFIXES**  
0 - DROP 0, ADD 15  
1 - ADD 1  
2 - ADD 1  
4 - DROP 4, ADD 18  
6 - DROP 6, ADD 14  
7 - DROP 7, ADD 13

**SERGEANT**  
09351 CHARLESWORTH - A RELIEF

**SERGEANT**  
11826 TEECE - C RELIEF

AUDENSHAW E1/E2 - A RELIEF		DROYLSDEN WEST D1/D5 - A RELIEF		DROYLSDEN EAST D2/D3/D4/D6 - A RELIEF		DENTON NORTH/EAST F4/F5 - C RELIEF		DENTON SOUTH F1/F6 - C RELIEF		DENTON WEST F2/F3 - C RELIEF	
NBO 17683 SULTAN	NBO 18096 SMITH	NBO VACANT	NBO 19553 SHAZAD	NBO VACANT	NBO 19633 SADIQ	NBO 61345 NEWTON	NBO 17374 RAHMAN	NBO 04800 RYDER	NBO 15778 SMALE	NBO 18098 SHOUT	PCSO 65350 HILL
PCSO 69738 EASTWOOD	PCSO 69489 GRUMMET	PCSO 69491 LEACH	PCSO 65042 HEWITT	PCSO 60450 BAISTOW							
			PCSO 68989 MANTEL								

NEIGHBOURHOOD CONTACT DETAILS

EXT: 69350 EMAIL: [TAMESIDENORTH@GMP.POLICE.UK](mailto:TAMESIDENORTH@GMP.POLICE.UK)

- KEEPING PEOPLE SAFE
- REDUCING HARM AND OFFENDING
- HELPING TO STRENGTHEN COMMUNITIES

# Prevention hub



Page 10

- 1 Inspector**
- 1 Sergeant**
- 1 Licensing Officer**
- 2 Missing From Home Officers**
- 2 School Engagement Officers**
- 1 Dedicated Tameside General Hospital Officer**
- 1 Operational Support Officer**
- 1 Apprentice**
- 1 Caseworker**



# Neighbourhood Crime Team



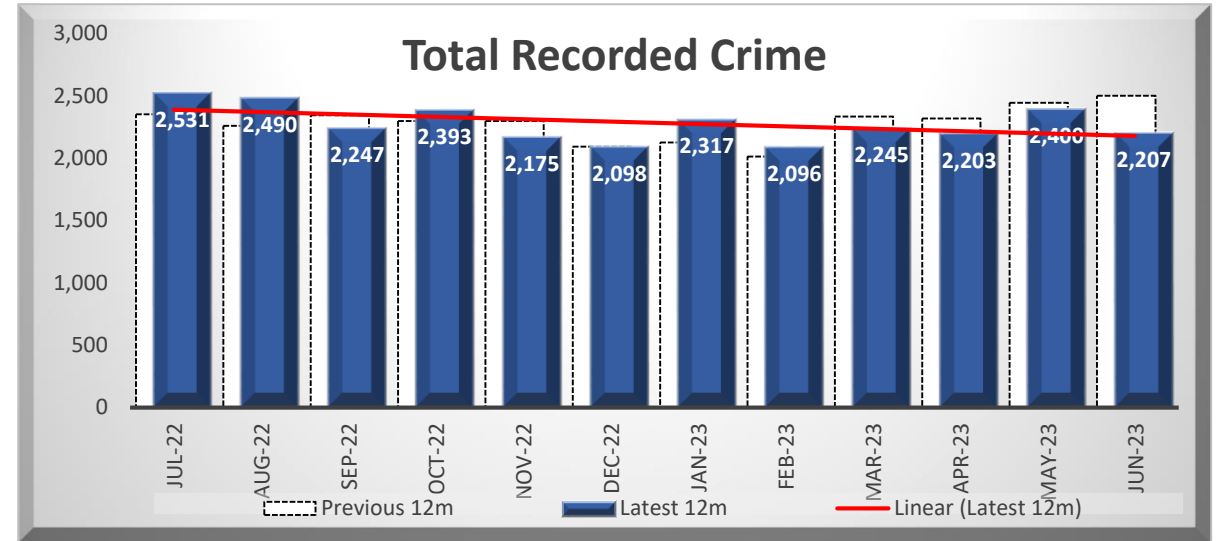
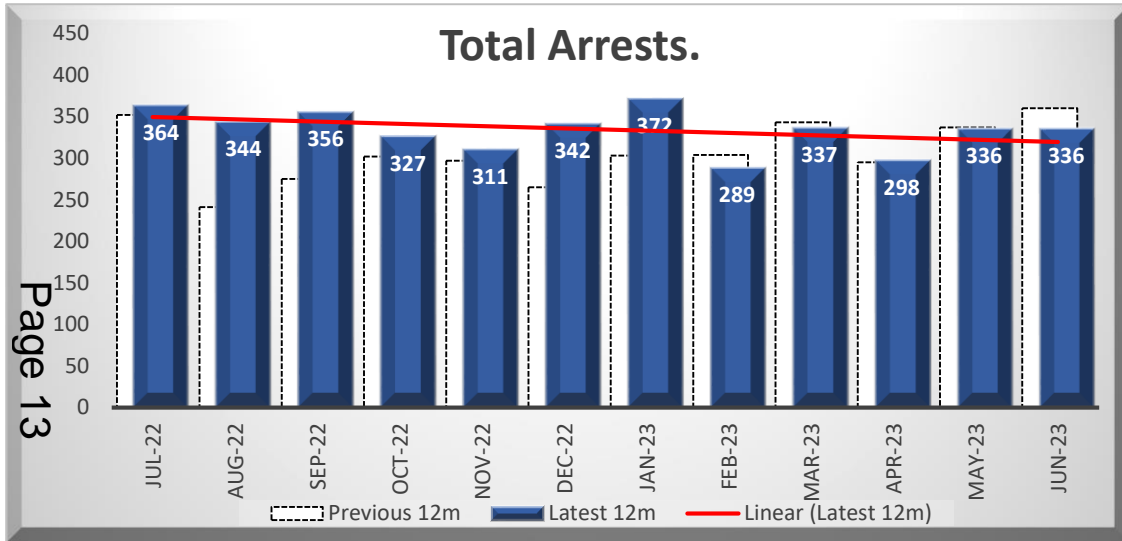
Page 11

- 1 Detective Inspector**
- 1 Sergeant**
- 5 Police Constables**
- 1 Researcher**

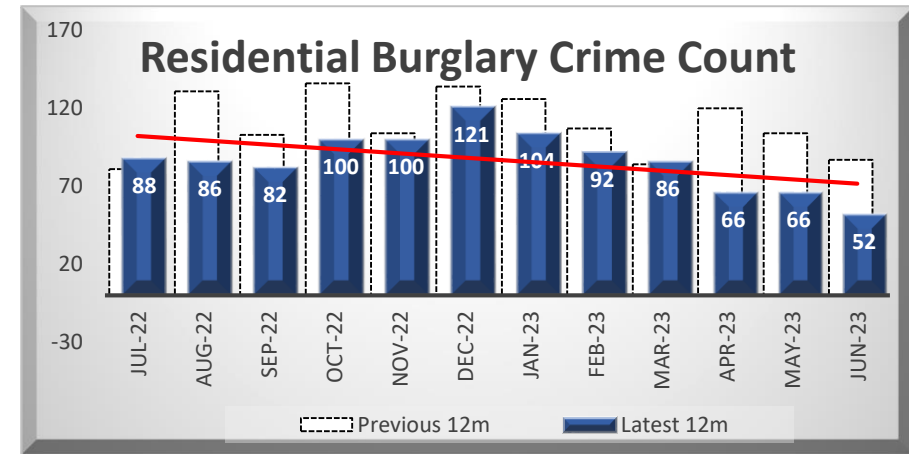
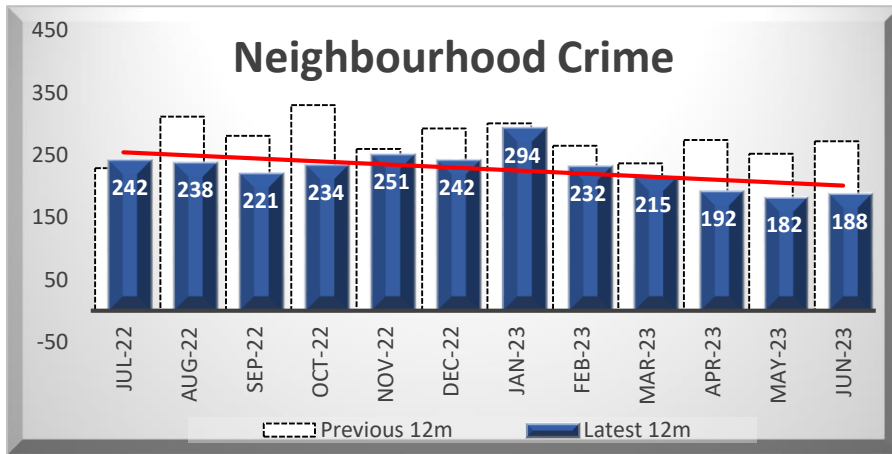
Fight, prevent and reduce crime. Keep people safe. Care for Victims.



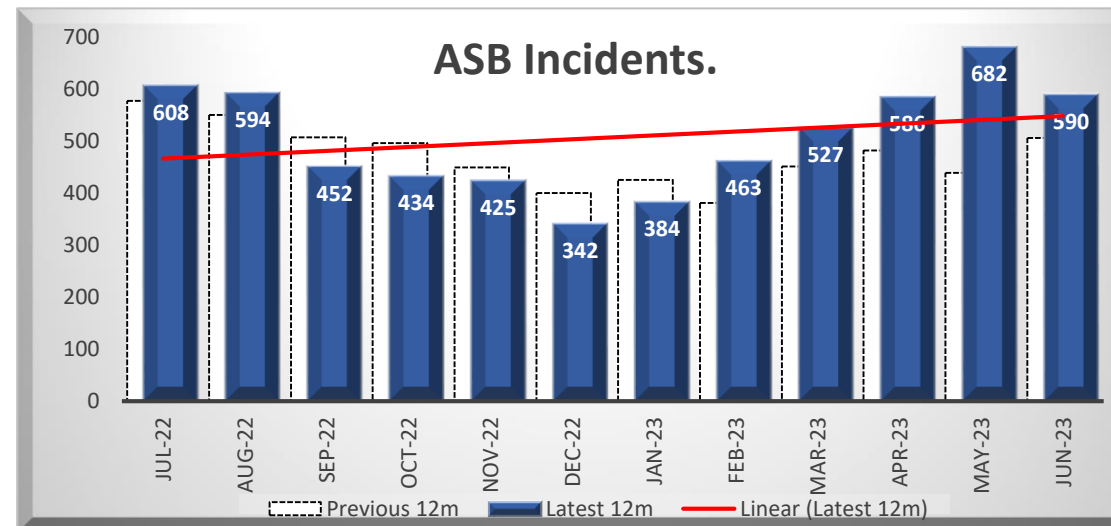
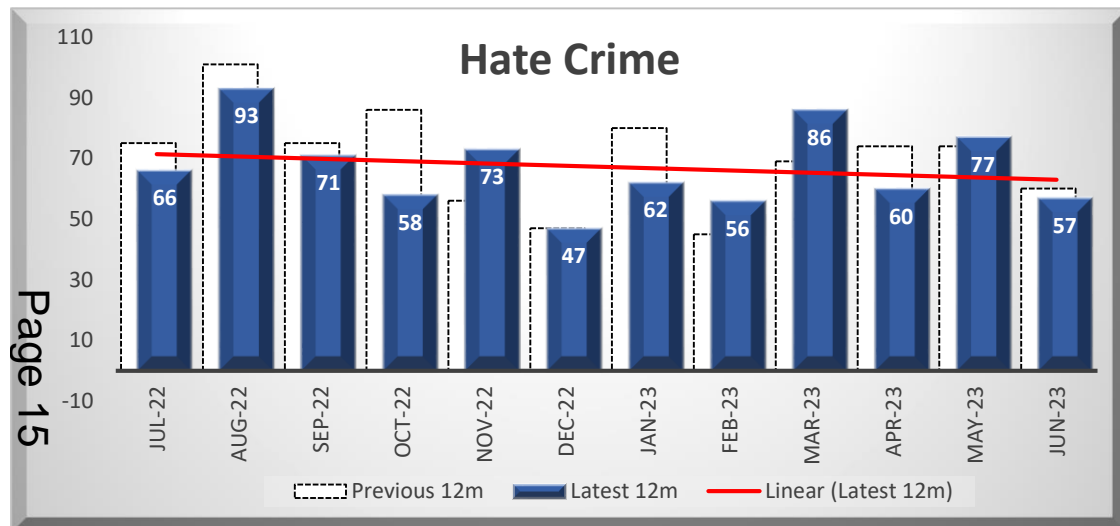
# Performance Data



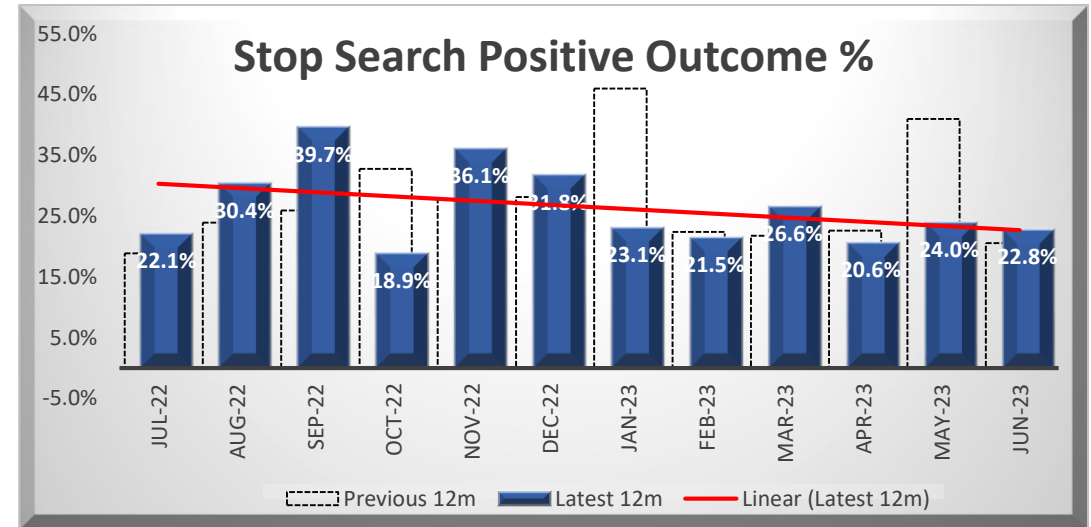
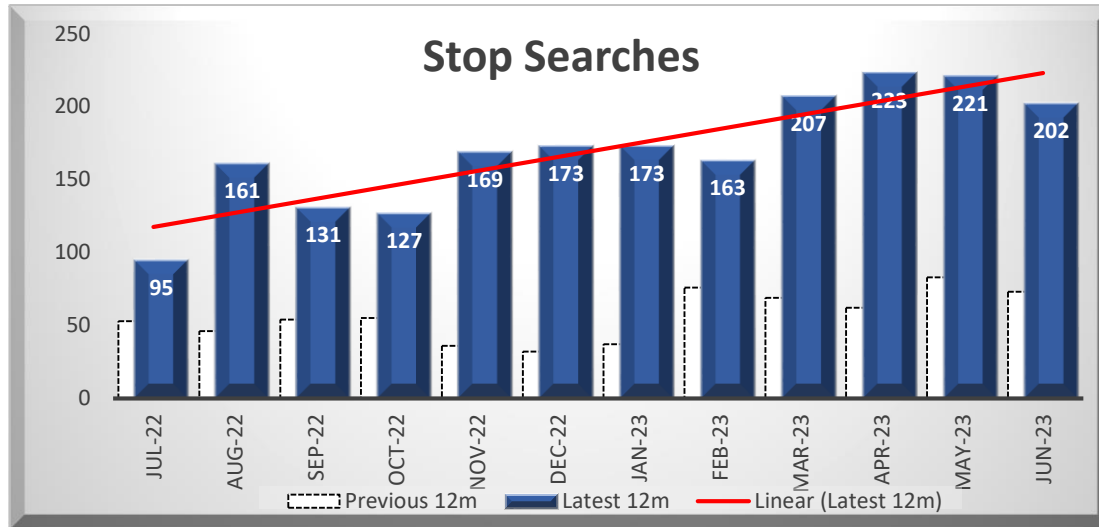
In 2021 – 2022 Tameside made 3674 arrests, in 2022 to 2023 this increased to 4012 arrests, a 9.2% overall increase, this is despite our recorded crime only increasing by 18 crimes. Our crime to arrest ratio has increased by 9.1%.



In 2021 – 2022 Tameside recorded 3306 neighbourhood crimes, in 2022 to 2023 this reduced to 2731 crimes, a 17.4% overall reduction. Our positive outcomes for burglary increased from 4.4% to 7.7%, despite the recorded crimes reducing by 274 in a year.



Our Hate crimes have reduced overall by 4.3% from 2021/2022 to 2022/2023, however, our ASB incidents have started to rise (7.5% increase from last year).



Stop search has increased by over 200% from 21/22 to 22/23. This is alongside a positive outcome rate of an average 26.5%, however, the previous year (21/22) our positive outcome rate was 28% so has dropped slightly – This has to be taken against a backdrop of an additional 1400 stop searches .

# Cannabis Farm disruption on two disused pubs



Officers in Tameside have uncovered two cannabis farms in separate derelict pubs this week and made an arrest.

On Wednesday (24 May 2023) officers found around 200 plants inside the Bull's Head on Knowl Street, Stalybridge, after being alerted by a utility worker.

No arrests have been made as the investigation continues.

Page 17 However, a 37-year-old man is in custody after being arrested on suspicion of cultivation of cannabis and abstraction of electricity after a second farm was found in three days.

He remains in custody for questioning after officers found around another 200 plants in the former Woodman Inn on Oldham Road, Ashton-under-Lyne, today (26 May 2023).

Sergeant Rob Froggatt, of GMP's Ashton-under-Lyne Neighbourhood Policing Team, said: "Plants and production equipment have been removed from both locations for further examination."



# Off Duty Arrest



Page 18

Whilst off duty shopping at Crown Point North Denton, PC 19553 Shazad was made aware by Crown Point Security who he works with frequently that there was a shoplifter on site at Flannels. He made his way to the defendant's vehicle where they had attempted to flee. The defendants were surrounded by Security and the Officer who had shown his warrant card and he detained all parties involved until patrols arrived. The male and female were stop searched and items belonging to Flannels and other stores were recovered from their person.

Both defendants have been charged for Theft and will be facing CPS.



# Arson Arrest



On Thursday 18th May, Neighbourhood officers arrested a 14 year old male for Arson offences at Hyde Bus Station. Officers are conducting investigations into a series of other Arson offences in the area to identify offenders.

The Hyde Neighbourhood team will be taking a strict approach and a zero tolerance policy against anti-social behaviour in the area.

This page is intentionally left blank

# Place and External Relations Scrutiny Panel

12 September 2023



# *The implementation and effectiveness of the new GMP neighbourhood model*

Page 22



# *Forward plan for the Community Safety partnership and key activity planned*

Page 23



# Tameside Community Safety Strategy 2022 - 2025



The Community Safety Strategy was ratified at full council in February 2022. The CSP are continuing to work on and through a detailed action plan in order to deliver on the strategic priorities.

The Community Safety Strategy has 5 key priorities:

- Building stronger communities
- Preventing and reducing violent crime, knife crime & domestic abuse
- Preventing and reducing crime & anti-social behaviour
- Preventing and reducing the harm caused by drugs & alcohol
- Protecting vulnerable people and those at risk of exploitation

Page 24



# Examples of strategy in action



Community Safety have delivered community grants and awareness raising within schools and community organisations for a third successive year. Community Safety have launched the Hate Crime fund to support projects across Tameside that promote awareness of hate crime and how to report it.

Page 25





# Examples of strategy in action



Tameside's first Green Space Neighbourhood Watch group was launched in order to help protect playing fields from crimes such as fly tipping and Anti-social Behaviour.

King George V Neighbourhood Watch is the pilot scheme and the first of its type in Tameside to look after an area of green space. Neighbourhood Watch schemes work together in partnership with the Police and other voluntary organisations and individuals and families who want to make their neighbourhoods better places to live.





# Examples of strategy in action



A giant bee sculpture made up of over 1,000 weapons seized in an anti-violence campaign toured a number of Tameside schools to share a powerful message with pupils.

Tameside Council has worked alongside Greater Manchester Police and the Violence Reduction Unit (VRU), liaising with local schools to arrange for the piece to be exhibited in schools in an effort to educate pupils on the dangers of crime and spark conversations around anti-violence.

Page 27



# Community Safety Grant



The grant funding is provided by GM Deputy Mayor through the Greater Manchester Combined Authority (GMCA) and is made up of four main grants, they are:

Page 28

- **COMMUNITY SAFETY GRANT (£243,000)**
- **VOLUNTARY AND COMMUNITY SECTOR GRANTS (STANDING TOGETHER) (£100,000)**
- **HATE CRIME (£10,000)**
- **SERIOUS VIOLENCE (£150,000)**



# Community Safety Grant



This Grant is used to achieve both the local community safety priorities and the GM Standing Together priorities 2022-25.

Projects & Initiatives funded by this grant;

Page 29

- Safe Squad
- Water Safety
- Arts Award
- Community Development & Engagement
- Road Safety
- Personal Safety & Conflict Management
- Story makers
- OutLoud
- RespectME
- Theatre Tracks
- Just One Favour
- Mobile Police Unit
- Domestic Homicide Reviews



# Community Safety Grant



<p><b>Community &amp; Voluntary Sector Grant</b></p>	<p>The grant can only be allocated to Voluntary and Community Sector groups and organisations with the aim of supporting them to contribute to the delivery of Tameside Community Safety Partnership priorities and Greater Manchester police and crime priorities.</p>	<p>Over 40 Projects &amp; Initiatives supporting local groups have been funded by this grant</p>
<p><b>Hate Crime Grant</b></p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 30</p>	<p>One element of the funding is ring-fenced for a local small grants process. The other element is to be spent on hate crime work, either new activity or supplementing existing activities.</p>	<p>As the funding is aimed at raising awareness of hate crime, activity should support the GM Awareness Week in February 2024. Due to this, planned delivery of this grant is to be confirmed.</p>
<p><b>Serious Violence Grant</b></p>	<p>The Serious Violence Grant must be aligned to the following areas of need which continue to feature within the Greater Manchester Violence Reduction Unit Strategic Needs Assessment.</p>	<ul style="list-style-type: none"> <li>• Prevention &amp; Intervention Activity</li> <li>• Prevention of Education Exclusions</li> <li>• Trauma Informed Delivery</li> <li>• Education re-engagement</li> <li>• Youth Justice Practitioner role</li> </ul>



# Community Safety Partnership



- Meet quarterly to monitor and receive updates from various Partners
- Re-shaping CSP workshop including sub groups
- Revised Action Plan which refers back to key priorities
- Evaluate project outcomes and consider future CS Grant funded projects



## *Update on the development of the ASB policy*



# ASB Policy – Next Steps



- **Draft ASB Policy**
- **Presented to Partnership Engagement Network and consider the recommendations**
- **Cross reference with the Ombudsman ‘Out of Order’ Report**
- **The need to be aware of the national consultation on changes to the ASB Crime & Policing Act 2014**



# ASB Policy – Next Steps



- **Consider any recommendations from Place & External Relations Scrutiny Panel**
- **Report to Executive Cabinet to consult with Partners and our Communities**





**Out of Order: Learning lessons from complaint about antisocial behaviour (August 2023)**

**LGSCO questions for councillors (August 2023)**

**Executive / Service response**

Does your council scrutinise the outcomes of complaints?

ASB Officer's when finalising an ASB report must follow an internal case closure process, this process is implemented as a final check list to ensure that all complainants receive the same high level of service.

The complainant is regularly kept up to date in terms of the investigation, case development and outcomes. Any ASB cases that are open for longer than 3 months are automatically reviewed by a supervisor in a separate meeting, this promotes good practice and ensures that victims are being updated and cases are being dealt with appropriately.

In all ASB investigations, complainants receive an acknowledgement letter with their allocated ASB Officers name and contact details, this ensures the ASB officer is contactable at any stage by the complainant.

When a case is finalised by an ASB Officer, the complainant is updated verbally and in writing with what actions have been taken and rationale on the closure of their case.

If a complainant feels their complaint is not being dealt with satisfactory or they are unhappy with the outcome of the case, complainants are made aware (if eligible) of their right to activate an ASB case review (community trigger). Officers provide information on how complainants can activate an ASB case review and direct complainants to the Tameside Council website for further information and application process.

Tameside Council recognises the importance of customer complaints and welcomes complaints as a valuable form of feedback about its services. The Council is committed to using the information it receives to help drive forward improvements.

	<p>Cases are scrutinised within the Bi-weekly ASB meeting and discussed with colleagues and the team leader to ensure that the officer has explored all avenues within their investigation. Officers can also request for meetings to take place on a 1-1 basis with their team leader if they require assistance in resolving a case, this gives the opportunity for the team leader to assess the actions taken so far and advise on the next steps in case resolution.</p>
<p>Where things have gone wrong, how does your council learn from complaints? Are these processes effective?</p>	<p>Tameside Council have an internal ASB guide document, this document is for guidance for ASB Officer's on how to deal with customer complaints effectively, this document is constantly evolving and is updated regularly.</p> <p>The internal ASB guide is regularly updated and will be amended if lessons are learnt from investigations. Staff are regularly made aware of any changes to the process, through 1-2-1 coaching sessions and team meetings.</p> <p>Tameside Council inform complainants about their right for a community trigger, this ensures the council and partners are responding to cases of ASB appropriately and consider whether further action should be taken or if any internal processes should be reviewed.</p>
<p>How does your council use Ombudsman reports and decisions to develop its own policy and practice?</p>	<p>Tameside Council ASB Officers have been provided with additional training and launched an improved process with the aim of improving customer satisfaction, the ASB Team have since seen a significant reduction in repeat calls into the service.</p> <p>The last Ombudsman report for ASB team was in September 2022. In line with recommendations from the Ombudsman, all actions were completed within 30 days, this included amending community trigger information on the Tameside Council website, informing all ASB staff of the findings and what action to take in future investigations.</p> <p>In addition to the Ombudsman report, meetings are held with Legal Services who reviewed the reports and recommended further actions if required.</p>

<p>How do your council's ASB policies and practice put victims at the heart of its investigations?</p>	<p>Tameside Council's ASB policy has a service standard to be courteous and professional at all times, to support those who make reports of ASB and keep them informed of case developments from the initial acknowledgement of the report to the closing of the case.</p> <p>Involving the victims at all times throughout the process, we use informal sanctions such as verbal and written warnings, this can include Acceptable Behaviour Contracts.</p> <p>Tameside Council also consider using legal sanctions were informal ones have failed or is not appropriate due to the seriousness of the behaviour, this may include Community Protection Warnings, Community Protection Notices and Injunctions.</p> <p>ASB Officers will refer victims of ASB to appropriate agencies including Victim Support or mental health services, the information for all relevant services to refer victims is included within the ASB Guide.</p> <p>Officers are regularly made aware of any groups that our community safety partnership officers are working with that may be beneficial to both our victims and perpetrators and are updated in our team meetings with any new projects.</p> <p>Methods of contact are tailored to each victim and their preferences to ensure we meet the needs of our victims, in some circumstances victims may only wish to be contacted via letter or email or we can provide a more hands on approach with home visits if requested.</p>
<p>How do your council's processes promote good liaison and proactive working with other relevant agencies?</p>	<p>In many cases, it is not possible to resolve reports of ASB via one organisation and so we use a partnership approach in most reports to resolve the complaint.</p> <p>Regular Community Safety Partnership meetings are attended with partner agencies to identify repeat subjects and share information between agencies to promote a targeted pro-active approach in resolving cases and reducing ASB.</p> <p>PACT meetings are attended by ASB Officers to liaise with the police and the public to discuss ASB reporting, incidents and prevention.</p>

	<p>Events, drop in sessions and school presentations are attended by ASB officers to promote partnership working with both GMP and housing providers, building relationships with partners within their allocated areas.</p> <p>ASB Officers review reports of ASB and if appropriate, submit intelligence directly to the Police Intelligence Hub, information and education is provided to the public on how they to submit ASB reports directly through Crimestoppers/101.</p>
<p>Is it clear to the public what the ASB case review is, and how they can access this?</p>	<p>Tameside Council information on how the public can access the ASB case review is at <a href="http://www.tameside.gov.uk/reportantisocialbehaviour">www.tameside.gov.uk/reportantisocialbehaviour</a>.</p> <p>During an ASB investigation, Officer's will inform complainants of their right to an ASB case review and direct them to the above web site to submit their application.</p>
<p>Do officers understand they should signpost people to the case review process where appropriate?</p>	<p>All Council ASB Officers recently attended an ASB case review training programme provided by registered charity ASB Help in July 2023.</p> <p>Within this training programme it was explained in detail how ASB Officers should recognise the complainants right to activate an ASB case review. The ASB internal guide document has recently been updated, an ASB Officer must consider if the complainant has a right to activate a case review, and if so, the case review process will be provided to the complainant in writing.</p>

# ***‘Out of Order’:***

**learning lessons from  
complaints about antisocial  
behaviour**



# Contents

Ombudsman's Foreword	1
Background and legal context	3
Our role and experience	5
Common issues and learning points	6
- Gatekeeping	6
- Failure to make decisions	9
- Not using the full range of powers	11
- Delay and poor communication	13
- Referring to another agency without considering the council's own role	15
- Not liaising with other relevant agencies	19
- ASB case review (also known as the Community Trigger)	21
- Signposting to the ASB case review	23
Promoting good practice	25
Local Scrutiny: Questions for councillors	26



# Ombudsman's Foreword



One of the challenges in tackling antisocial behaviour (ASB) is defining what it actually is, and which organisation is best placed to respond to reported issues.

The [Anti-social Behaviour, Crime and Policing Act 2014](#) is the basis for the powers at councils' disposal. It describes antisocial behaviour as conduct which causes 'harassment, alarm, distress, nuisance or annoyance'. Few would disagree with this, but its broad definition does little to capture the real experience of those who suffer from it.

Antisocial behaviour may be something annoying or upsetting, like littering, dog fouling or inconsiderate parking. It may significantly impact someone's quality of life, such as late-night loud music from a neighbour. At its most serious, it can leave people in fear for their safety, suffering sustained harassment, intimidation and criminal damage.

The cases of Fiona Pilkington, who killed herself and her daughter after suffering a campaign of abuse from local youths, and Matthew Boorman, stabbed to death by a neighbour who had terrorised his community for several years, stand in stark and sobering testimony.

While no agency has the power to simply stop antisocial behaviour from happening, councils do have a broad range of tools and tactics available to them. When used properly, these can have a profound effect, both in terms of taking enforcement action against perpetrators and providing support to victims. And, while the courts have stronger powers to take action against those who commit ASB, with the serious delays and backlogs currently seen in the court system, councils have an increasingly vital role in providing relief to victims in the shorter term.

Unfortunately, in the investigations we carry out, we frequently find councils have failed to grasp the problem presented by antisocial behaviour, and their own powers to do something about it. This can leave people suffering the effects for longer than necessary. In the 2022/23 year, we upheld 74% of detailed investigations about antisocial behaviour.

The faults in these cases highlight a range of problems. There are sometimes long delays in councils responding to complainants, or acting on information they have received. We see cases where officers appear to lack the confidence to make decisions, despite having apparently compelling evidence to justify taking enforcement action – dragging matters out and leaving antisocial behaviour unchecked.

We see councils referring people to the police, believing antisocial behaviour is purely a police matter and they have no duty to act. We also see examples where councils have accepted a case for investigation but failed to liaise properly with the police, or other agencies, despite there being an obvious benefit to information sharing. And councils will often approach reports of ASB as separate episodes to be addressed on an individual basis, without considering how these episodes fit into an ongoing pattern of behaviour.

We also see cases where councils could have thought more creatively about the resources available to them. As potent as the powers in the 2014 Act can be, councils have informal tools and other support available within its other departments. For example, a council's adult care services may be able to help if someone's behaviour is caused by an unmet need.

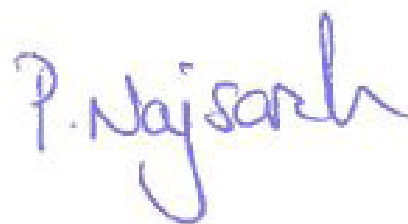


Most consistent of all though, are the problems we see with the Anti-social Behaviour Case Review, commonly called the Community Trigger. This process was introduced by the 2014 Act, and allows repeat ASB complainants to request a multiagency review of their case, to determine what, if anything, more can be done to tackle the problems they are experiencing.

In 2016, the advocacy charity ASB Help published a damning report on the Community Trigger, which showed how, in most areas, it was poorly publicised and made inaccessible by unnecessary bureaucracy. And, in some cases, even local authority officers were only dimly aware of the Community Trigger process, despite being responsible for implementing it. Few complainants had successfully activated the Trigger, and those who had often found it unhelpful. Sadly, in our experience, little has changed in the intervening seven years.

In its recently published ASB Action Plan, the Government has promised a raft of new measures to help relevant agencies. The Plan touches on many of the same issues we seek to highlight in this report, recognising the weaknesses and the dysfunctionality in some of our systems for dealing with antisocial behaviour.

It remains to be seen how effective the Plan will be. But, for it to bring about meaningful change, those at the frontline of tackling antisocial behaviour must fully embrace their role and powers. As the stories that follow will show, all too often that is not happening yet.



**Paul Najsarek**  
**Local Government and Social Care**  
**Ombudsman**  
**August 2023**

# Background and legal context

## Formal powers

Councils have a range of powers they can use to tackle antisocial behaviour which are set out in the Anti-social Behaviour, Crime and Policing Act 2014. They include the power to:

- > issue a community protection notice (CPN);
- > make a public spaces protection order (PSPO);
- > close premises for a specified period of time; and
- > apply to the courts for a civil injunction.

The 2014 Act also gives the police the power to disperse groups or individuals from specific locations. The Government's recently published [ASB Action Plan](#) proposes this power be extended to councils as well, but at the time of publication this change is yet to be implemented.

## Community protection notices

A community protection notice (CPN) can be used to stop someone committing ASB which spoils the community's quality of life.

It is particularly suited to environmental issues such as noise nuisance, litter on private land and graffiti. The council must first give the perpetrator a written warning. If they fail to stop the behaviour, the council can issue a CPN. The notice should explain what the recipient needs to do to avoid continuing to cause ASB. It can include things they must do and behaviour they must avoid. Failure to comply with a CPN is a criminal offence and the council can consider prosecuting the offender.

## Public Spaces Protection Orders

A council may make a public space protection order (PSPO) to stop individuals or groups committing ASB in a public space if it is satisfied the behaviour is having, or is likely to have, a detrimental effect on local quality of life. PSPOs are sometimes used to restrict begging, or to exclude dogs from certain areas, such as a children's play area. They are also used to prevent rowdy night-time behaviour by restricting alcohol consumption in a public space. A council can issue a fixed penalty notice for failing to comply with a PSPO.

## Closure notices and orders

A council can issue a closure notice requiring a premises to close for up to 48 hours. This means it can quickly close premises that are causing nuisance or disorder, or are likely to do so, to protect victims and communities. A closure notice prevents any person from accessing the premises, except those who normally live there. Within 48 hours of issuing a closure notice the council can apply to the magistrates' court to issue a closure order. An order can prevent access to all persons for up to three months. A failure to comply with a closure notice or order is a criminal offence.

## Injunctions

A council can apply to the courts for an injunction to stop individuals engaging in certain behaviour or requiring them to take certain action to address the underlying causes of their behaviour. If someone fails to comply with an injunction, the council may apply to court to issue a warrant for their arrest.

## Informal tools

Statutory guidance accompanying the 2014 Act sets out some other early and informal interventions which councils may use to address antisocial behaviour.

### A verbal or written warning

In deciding whether to use a verbal or written warning, the council should be satisfied there is evidence that ASB has occurred or is likely to occur. The warning should state the behaviour in question and explain why it is not acceptable, and the consequences of non-compliance.

### Mediation

Mediation can be an effective way of resolving an issue by bringing all parties together. It can be particularly helpful in resolving neighbour disputes. However, it is unlikely to be successful if it is forced on those involved. All parties should be willing to attend and support should be offered to those who are vulnerable. The mediator will facilitate a conversation between the parties, help them agree a solution and draw up any agreement reached for all parties to sign.

### Acceptable behaviour contracts

An acceptable behaviour contract (ABC) or agreement (ABA) is a written agreement between a perpetrator of ASB and the council whereby the recipient agrees to avoid, or to engage in, specific behaviour. There is no formal sanction for failing to comply with an ABC, but councils may use this as evidence to justify more formal action.

ASB cases can be complex, often involving a number of issues. Officers need to consider their full range of formal and informal powers and, where relevant, liaise with other departments within the council who have access to other powers. For example, environmental health powers where a complaint involves excessive noise or pollution, and licensing powers where a complaint is about rowdy behaviour in or around a licensed premises.

A council can also use the powers it has as a social landlord where the alleged perpetrator is a council tenant, although we have no jurisdiction to investigate complaints about this.

### ASB case review ('Community Trigger')

The 2014 Act provides a mechanism to review the handling of complaints about ASB. This is also known as the 'Community Trigger' process. When someone requests a review, relevant bodies (including the council, police and other agencies) should decide whether the local threshold has been met.

If the threshold has been met, the relevant bodies should undertake the review. They should share information, consider what action has already been taken, decide whether more should be done, and then inform the complainant of the outcome. If they decide to take further action, they should create an action plan. It is for relevant local bodies to agree their review threshold. But the ASB statutory guidance says to reach the threshold for considering the case, a complainant should not have to make any more than three reports of ASB within the last six months.

# Our role and experience

We make independent and impartial decisions on whether councils have properly investigated reports of antisocial behaviour.

Some of the issues we see include:

- > applying strict thresholds that a victim has to meet before the council will investigate, or 'gatekeeping';
- > failing to properly consider all options, including the full range of formal and informal powers available;
- > taking too long to respond to reports of ASB;
- > poor communication with complainants;
- > failing to liaise effectively with other bodies, such as the police;
- > officers lacking the confidence to make a decision despite having a significant amount of evidence, leading to a lengthy investigation with no resolution; and
- > problems with the ASB case review (Community Trigger) process, including a failure to signpost complainants to it, ignorance about the process and applying the wrong tests to applications.

Where we find fault by a council causing an injustice, we will make recommendations for it to put things right. We may recommend:

- > an apology;
- > the council investigates the issues complained of and takes action if necessary. This might involve carrying out a proper investigation of the complaints or reconsidering whether formal action should be taken; and/or
- > a symbolic payment to recognise distress and frustration caused by a delay in taking action.

We also recommend improvements to council policies and procedures to help avoid similar problems occurring in future. These 'service improvement' recommendations are mapped out for every council on the ['Your Council's Performance'](#) page of our website.

## Complaint statistics and trends

Last year (April 2022-March 2023) we carried out 69 detailed investigations regarding ASB. We upheld 51 of these investigations (74%) meaning we found fault in how the council had acted.

This report suggests ways councils can improve their service based on the learning from our casework. We also provide a set of questions to help councillors scrutinise their local authority's service in this area.

## The Housing Ombudsman Service

The [Housing Ombudsman Service](#) deals with all complaints about social housing. This may include complaints about antisocial behaviour involving residents and leaseholders of a council that is also a social landlord. We work with the Housing Ombudsman Service to share information and have the power to investigate complaints jointly if the issues in a complaint span the investigative powers of both ombudsmen.

The Housing Ombudsman has previously issued a [spotlight report](#) about noise complaints in social housing.



# Common issues and learning points



## Gatekeeping

We see cases where councils impose strict thresholds that a victim must meet before they will investigate allegations of antisocial behaviour. For example, a council may say it will only investigate allegations where the victim has reported a certain number of incidents within a certain timeframe, or may require them to provide independent evidence in support of the allegations. Sometimes, a council will wrongly refuse to investigate allegations on the basis that the behaviour reported does not amount to ASB. This leaves complainants with nowhere to go to resolve the matter, causing additional distress in an already stressful situation.

It is a general principle of administrative law that public bodies should not ‘fetter their discretion’. This means they should consider whether

there are exceptional circumstances that justify departing from usual policy to prevent injustice to applicants whose circumstances place them at a disadvantage.

We may find fault with councils for operating inflexible policies which do not allow them to use their discretion. Although councils can prioritise complaints to ensure efficient use of their resources, they should avoid policies which limit a person’s access to help and which place barriers to investigating allegations of ASB. Councils should consider the merits of each case and be flexible in departing from policy. They should also ensure that relevant staff are clear on what might constitute ASB.



## Joshua's story: failing to consider the individual circumstances of each case

Case reference: [20 003 839](#)

Joshua complained to the council about his neighbour's party. It lasted over 13 hours with loud music played through speakers in the garden. The council told Joshua to keep a log of each noise disturbance. The council's policy said it would only consider taking action if he recorded six incidents within 25 days. A few weeks later, Joshua recorded that his neighbour had held another long and loud party. But the council closed his case because it did not meet its criteria.

Our investigation found the council fettered its discretion because it did not consider whether to depart from its policy and investigate Joshua's complaints. We also said the council's policy was too inflexible and did not accord with its duty to consider each case on its merits.

Joshua had been left uncertain about whether the council would investigate any reports of noise nuisance he made in the future.

### How we put things right

The council agreed to our recommendations to:

#### Service improvements

- > review its policy on dealing with noise nuisance complaints, to ensure it properly considers its use of discretion to investigate complaints which may fall outside its current policy requirements.

By reviewing its policy, the council can make sure that, if Joshua complains again, it will properly consider whether to investigate even if there are not six incidents within 25 days. This means that the council's service improvement could also benefit Joshua personally if he experiences more noise disturbance.

### Learning point

Councils can have systems in place to prioritise complaints to ensure effective use of resources. However, avoid policies which lay down prescriptive rules about not investigating certain types of alleged nuisance.



## Lou's story: applying criteria too strictly

Case reference: [21 006 566](#)

Lou complained that someone in a neighbouring flat was shouting, ranting and banging objects for several hours in the day and night. This disturbed Lou's sleeping and working. The council contacted the authority that had placed the neighbour in the flat. It learned the authority was looking to move the neighbour. Lou continued to report the disturbance and record these on an app. Lou described the disturbance as absolute hell. The council told Lou it could not take action to stop shouting as this is not a noise nuisance in law.

Our investigation found the council was wrong to say that it could not take action. Its website says that where shouting or banging forms part of the 'normal domestic use' of a property then it will be unable to intervene. But this would not apply in cases where the disturbance was far greater than a normal domestic situation, which is what Lou persistently described.

The council also failed to make any analysis of the noise recordings to decide if it could take action. The council did not tell Lou what ASB powers it was considering or any decisions it made about this, and there was no evidence of the council's investigation, or what it found.

The council's failures caused Lou severe distress and frustration.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise
- > make a symbolic payment to Lou for a loss of service, and for the frustration it had caused him
- > review its investigation of the ASB and appoint a senior officer to draw up an action plan

#### Service improvements

- > issue guidance to staff on record keeping and in what circumstances it might act to stop shouting or raised voices
- > review how it checks the progress of open noise nuisance or ASB investigations to prevent them drifting; for example, producing reports for management to review where there has been no action for several weeks (we suggested eight weeks as a benchmark).

### Learning points

- > Make sure officers are clear on what might constitute ASB, and how they will investigate and assess ASB, including what powers might be appropriate.
- > Clearly explain the powers and policies to the public and maintain systems for checking on the progress of open investigations.





## Failure to make decisions

Antisocial behaviour investigations frequently generate a significant volume of evidence, including photos, videos, noise recordings, lengthy diaries, and statements, from both complainants and alleged perpetrators. The evidence may be inconclusive, it may contradict itself, or it may simply not prove anything at all. Sifting through and trying to make sense of this can be a very difficult and time-consuming job for officers.

But too often we see investigations which are left open and unresolved – in some cases for years – while officers continually seek out more evidence. Often it appears these are cases where a decision could reasonably be made on the evidence already available.

It is for officers to decide what evidence they need to make a robust decision, and provided the reason is clear, we will not criticise them for keeping a case open while they investigate further. But investigations which drift on without any purpose or goal, simply because the case officer does not feel empowered to make a formal decision, cause frustration not only to complainants, but also to the people being investigated. It can mean victims continue to suffer from antisocial behaviour, where enforcement action by the council could bring them relief.

Ensuring officers feel confident in making timely decisions, and are not 'over-investigating' complaints, can also help reduce the burden on council resources and allow it to provide a better service to everyone.



## Jim's story: a decision not supported by the evidence

Case not published

Jim's neighbour had several dogs, which they would often leave alone during the day. The dogs would bark frequently and loudly enough to disturb Jim, so he complained to the council about the noise.

The council investigated this, on and off, for more than three years. In that time, it made many visits to Jim's and the neighbour's properties. It installed noise monitoring equipment and worked informally with the neighbour to find ways to reduce the noise, but these efforts did not bring sustained improvements. The council explained to us that the neighbour was particularly vulnerable, which was a factor it had to consider in dealing with her.

However, during their visits, officers noted that they found the noise from the barking to be intrusive and that it lasted for long periods. On one occasion, an officer sat outside the properties in their car, and said that, even from there, barking was continuously audible for nearly half an hour. But, when it eventually came to make a decision, the council described these visits as "unsuccessful". It said it did not have evidence to find there was a statutory noise nuisance, and closed the case without taking formal action.

The council decided there was no statutory nuisance. However, we were not satisfied it had properly explained its decision. We were concerned the council had relied on an informal approach to the matter, despite it not working, and that it had focussed on the neighbour's vulnerability to the exclusion of Jim's rights not to suffer ASB. We pointed out it had gathered a significant volume of what appeared to be compelling evidence of a nuisance, but it had not explained why this evidence did not support taking formal action. We said it was particularly hard to understand why it had described its visits as unsuccessful.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Jim for its poor handling of the investigation
- > make a symbolic payment to Jim for the frustration he had suffered.

### Learning points

- > Highlight the importance of making a prompt formal decision once reliable evidence is available.
- > Ensure officers have the confidence to make formal decisions, even in difficult cases, and that they feel properly supported to do so.
- > Have a robust case review process, where managers can identify longstanding cases and guide officers towards a resolution. Where complaints of ASB are made against a vulnerable person, be alert to the need to balance their rights against those of the victim.





## Not using the full range of powers

A common fault we see is officers failing to consider the council's full range of powers when dealing with an antisocial behaviour case.

Officers in the ASB team tend to only consider the specific ASB powers arising from the Anti-social Behaviour, Crime and Policing Act 2014. However, we expect officers to take a broader view and consider all the powers available to the council, liaising with other teams or making referrals where necessary.

For example, where the alleged perpetrator of the nuisance is a council tenant, the council has powers as a social landlord to resolve the situation in conjunction with its specific ASB powers.

Other council departments also have powers which can be used in certain circumstances; for example, environmental health (where a complaint involves excessive noise or pollution), licensing (where the complaint is about rowdy behaviour in or around licensed premises) and planning (where a complaint is about inappropriate use of a building or land).



## Rebecca's story: Looking only at powers as a landlord

Case reference: [21 000 787](#)

Rebecca is the landlady of a flat, and she often visits the building to clean the communal areas. A council tenant, Tony, lives in a neighbouring flat, and Rebecca had been complaining to the council about his behaviour for a long time before she approached us. She said Tony made frequent antisocial noise, vandalised communal areas, and intimidated her and the building's residents. When she complained to us, Rebecca said a tenant of hers had moved out because of this, and she was afraid the new tenant would leave too.

The council issued warnings to Tony about his behaviour in its capacity as his landlord, and assured Rebecca it would ask him to sign an acceptable behaviour agreement if he continued. The council also liaised with the police to discuss evidence Rebecca had submitted of potential criminal behaviour by Tony. This led to his arrest and imprisonment for a time, but he returned to the building when he was released.

After Tony returned to the flat, Rebecca reported further incidents of ASB by him. The council decided to seek possession of Tony's flat and evict him. This was ongoing at the point Rebecca made her complaint to us.

Our investigation found that, although we could not consider the council's actions in its capacity as Tony's landlord because it is outside our jurisdiction, it had a range of other ASB powers it could potentially have used, such as serving a community protection notice. There was no evidence the council had considered these powers, and instead it had focussed exclusively on dealing with the problem as a tenancy management issue. It had therefore overlooked sanctions it could impose against Tony, missing the opportunity to improve the situation sooner.

We also found the council had failed to consider or assess Rebecca's vulnerability, or to tell her about victim support services, despite this being an explicit commitment of its ASB policy.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Rebecca.
- > Pay her a symbolic amount to reflect the distress and frustration it had caused

#### Service improvements

- > review its guidance for staff dealing with complaints of ASB against council tenants, to ensure they understand the council's general ASB powers as well, and how to apply them
- > remind staff to signpost complainants to victim support where appropriate.

### Learning points

- > Make sure all those dealing with complaints of ASB understand the full range of powers open to councils, not just those which apply to their particular area of work.
- > Ensure staff are confident in using these powers themselves; or where exercising them sits better with another team, ensure there is a clear referral mechanism.
- > Councils should consider what other forms of support they can offer to complainants, especially where they may be particularly vulnerable to ASB.





## Delay and poor communication

Most people who complain to us about ASB say their main source of frustration is having to wait a long time for officers to respond to their calls, emails or other attempts to make contact. They often also complain about long delays in a council taking action, when it seemingly has evidence to justify doing so.

We know that, more than ever, council services are under immense pressure and often see councils with few dedicated ASB officers, dealing with excessive caseloads with little time to spend on each case. We do not seek to dismiss the difficulties councils face in these circumstances.

But the fact remains this type of delay can seriously impact a case, adding additional frustration onto the distress of the substantive problem. It can mean a person continues to suffer ASB when timely enforcement action by a council could have stopped it, or it may embolden a perpetrator because they believe they will not face sanctions.

And, even where it has done everything else on the case well, councils' work can be let down if it does not keep in touch with the complainant.



## Danielle's story: Delay and failing to tell the victim it had made a decision

Case reference: [22 001 218](#)

Danielle reported several times to the council she was suffering noise nuisance from the residents of a neighbouring flat. The council visited the building and heard the noise of children playing, and did not consider this amounted to antisocial behaviour. But it sent a letter to Danielle's neighbours asking them to try to reduce the noise if possible.

Danielle then made a complaint to the council. The council visited the building again and drew the same conclusion there was no ASB. However, it did not tell Danielle it had done this because she did not answer the phone when an officer called. The council later accepted it should have dealt with this matter as a formal complaint.

Some time later the council visited Danielle and told her she could use an app on her phone to record nuisance noise. Danielle continued to report incidents to the council, and it visited again but did not observe any noise. During this period Danielle repeatedly tried to call to speak to an officer, but could not make contact.

She then made another complaint, saying she could not access the noise app without the council approving her account, which she was still waiting for it to do. The council did not respond to this complaint. It then finally approved Danielle's app account – two months after it had invited her to use it – and she began to submit recordings. The council reviewed these and again decided there was no noise nuisance.

We found the council had taken appropriate steps to gather evidence about the alleged ASB, and we did not criticise its decision that the noise did not amount to a statutory nuisance. However, we found fault because the council took too long to approve Danielle's app account, and because it did not tell her when it made a decision about the evidence she was submitting, or that it had closed her case. We also criticised the council for the repeated difficulties Danielle had in contacting officers.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Danielle
- > pay her a symbolic amount to reflect the distress and frustration it had caused

#### Service improvements

- > remind staff of the importance of informing complainants when they have made a decision on a case.

### Learning points

- > Even where officers have investigated a complaint of ASB well, this can be let down by unnecessary delays and a failure to stay in reasonable contact with a complainant.
- > Ensure there is a robust system for complainants to contact officers during an investigation.





## Referring to another agency without considering the council's own role

In addition to councils, other agencies also have some responsibility for tackling antisocial behaviour, including the police and social housing providers.

We often see examples of councils telling complainants to report ASB to other agencies, particularly the police. Sometimes this may be a reasonable response, for example if there is an immediate threat of harm or a criminal offence may have been committed.

But councils cannot simply wash their hands of a matter by passing responsibility to another agency. If a council decides another agency, like

the police, is better placed to take the lead on a situation, we would still expect it to keep the matter under review, liaise with the police and other agencies and consider if it should take any action using its own powers. It should also keep accurate records of the reports it has received and follow-up with the complainant.

Joint-working and information-sharing between councils and other agencies is a critical part of effectively responding to ASB and councils should work with other agencies to identify, assess and tackle reports of ASB and coordinate a response.





## John's story: refusing to investigate ASB unless the police had investigated

Case reference: [22 005 953](#)

John contacted the council about ongoing noise from an extended family living in a neighbouring house. The council said the type of noise John described may be antisocial behaviour, but it no longer had an in-house ASB team. It advised John to report the matter to the police.

John contacted the police who said they could not help and suggested he contact the council. John subsequently contacted both the police and the council numerous times. The council again advised John to report the issues to the police saying they were "police matters".

John complained to the council. It reiterated it did not have an ASB team, which is why it had advised him to contact the police. It said that, despite what the police had told John, it could not investigate ASB unless the police had first assessed it.

We found the council was at fault for not doing more to consider John's concerns. It failed to own the issue and take his concerns seriously. The council also did not have clear and transparent processes for victims to report ASB concerns or how to work with other agencies to identify, assess and tackle the reported ASB and coordinate a response.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise
- > make a symbolic payment to John to recognise the distress caused
- > contact John to consider how it could help him to further present his concerns

#### Service improvements

- > ensure information about ASB procedures is available to the general public, including on its website
- > carry out a review of its current procedures and staff advice on how to respond to ASB complaints, to ensure it acts in line with government and local guidance and processes
- > consider whether a specific council policy on ASB was required.

### Learning point

Take reports of ASB seriously and consider whether you should use your available powers to tackle the situation, rather than simply referring the complainant to another agency.



## Mustapha's story: failing to consider whether behaviour is ASB

Case reference: [20 010 677](#)

Mustapha complained to the council about his neighbours' behaviour which included placing bagged dog faeces outside his kitchen window in a bin until collection day, obstructing access to his property with bins and plants, shouting abuse at him, throwing tennis balls at him, and physically assaulting him.

The council decided the neighbours' behaviour was not antisocial behaviour but related to a private dispute between them and Mustapha about rights of access over the courtyard area behind their properties. It said civil disputes between neighbours were not considered ASB and Mustapha should report the incidents to the police.

We found the council was at fault because it provided no evidence that it had considered whether any of the neighbours' behaviour could have amounted to ASB. It also provided no evidence that it had assessed the risk to Mustapha from that behaviour.

The council's failures caused Mustapha uncertainty about whether its decision would have been different if it had properly considered the matter.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise
- > offer mediation to Mustapha and his neighbours if it received reports of ASB in future

#### Service improvements

- > make changes to how it records ASB complaints.

### Learning point

Properly consider allegations of ASB rather than simply referring complainants to other bodies, such as the police. Consider whether the issues reported by the complainant amount to ASB and, if so, consider the range of available powers. If another agency should take the lead on the matter, liaise with the agency and report back to the complainant on what action is being taken and by whom.



## Alex's story: Failing to consider whether a planning issue is also ASB

Case reference: [21 011 958](#)

Alex lives close to a newly built housing estate. The plans for the estate included a pedestrian footpath linking to his road. Alex complained to the council about vehicles using the path as a shortcut to the estate, making it unsafe to walk on. He also reported an increase in incidents of antisocial behaviour and littering.

The council advised Alex the path was built in accordance with the approved plans so there was no breach of planning permission and it could not take enforcement action. It also said it would not deal with any antisocial behaviour concerns because these were a matter for the police.

The council did not refer the matter to its ASB team. It said the police was solely responsible for resolving the problem and did not liaise with them.

We found the council was at fault in failing to consider whether Alex's concerns were ASB. Although the police could have considered the matter as an offence of driving without due care and attention, the council has the power to consider ASB arising from vehicle nuisance and can consider using public space protection orders.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Alex and pay him a symbolic amount for his time and trouble
- > refer Alex's concerns to its ASB team and keep him updated on the progress.

### Learning point

It is not sufficient to simply tell a complainant that they should report a matter to the police and then take no further action. Consider whether the issues reported by the complainant amount to ASB and whether to use the powers available. Even if another agency has powers to deal with the matter, the council can also consider its own powers and take action itself.



## Not liaising with other relevant agencies

While councils have a range of powerful tools to tackle antisocial behaviour, in many cases other agencies will be, or should be, involved. Other council departments, outside the ASB team, may also be able to help towards a resolution. It is therefore important that effective communication channels exist between these different bodies.

Unfortunately, we often see examples of poor liaison during ASB cases, or no liaison at all. Even when different agencies have taken responsibility to manage a case, we sometimes find them to have been working independently, without any real understanding of what each is doing. Alternatively, councils may receive relevant information from another agency, but fail to give it proper consideration.

This can mean opportunities to resolve the matter are missed or complainant vulnerabilities are overlooked.

Council officers should think as creatively as possible about who else might have information, or who else might have a role in a case, both inside and outside the council. This could be the police, a housing provider, the council's own adult or children's social care departments, the NHS, or others. If so, they should contact or make referrals to these bodies as early as possible in the investigation.

And where they receive information from other bodies, officers should properly weigh its relevance to the case and, where appropriate, adjust their own plan of action accordingly.



## Adam's story: Failing to explore support options

Case reference: [20 009 572](#)

Adam has a number of significant mental health conditions and is a council tenant. After a window in his flat was damaged, a criminal gang used it to access the flat. The police notified the council of this and asked it to move Adam to a different flat.

The council noted Adam was very vulnerable and that the gang had threatened him with violence. Its policy required it to make an action plan to explore what could be done to help Adam, including:

- > referring him to other support agencies;
- > completing a vulnerability risk assessment;
- > considering alternative temporary accommodation; and
- > making a safeguarding referral.

But the council did not do any of this. Instead it simply repaired the damage and applied for Adam to have a managed move to different accommodation, which would inevitably take longer than finding him temporary accommodation.

In the meantime, the gang returned several times, breaking into Adam's flat, threatening and assaulting him. A month after asking the council to move Adam, the police made a safeguarding referral, and the council then placed him in a hotel. But Adam grew frustrated with this arrangement after several weeks and returned to the flat, where the antisocial behaviour continued.

Eventually the managed move was approved, and after four months the council moved Adam to new permanent accommodation.

Our investigation found fault with the council for failing to explore what it could do to support Adam during this period. We could not speculate what difference this may have made in real terms, but we considered the uncertainty and missed opportunities was an injustice to Adam.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Adam
- > make a symbolic payment to reflect the avoidable distress and frustration its fault had caused

#### Service improvement

- > remind the staff in its ASB team of the requirements of the council's policy, and give them guidance on how to implement the policy.

### Learning points

- > Ensure the vulnerability of ASB victims is given proper consideration at the earliest possible stage of any investigation. Where a victim is particularly vulnerable, this should form a central part of any consideration by the council of what to do to tackle the ASB.
- > Always think about what other support is available to help the victim, both inside and outside the council, and, where appropriate, make referrals to those agencies as soon as possible.





## ASB case review (also known as the Community Trigger)

Antisocial behaviour can be tough to crack. As this report shows, it often requires input from agencies with different powers and responsibilities. The ASB case review process is an opportunity for councils to review, alongside these other relevant bodies, what has been done so far, and what could be done to resolve it. The government guidance says that bodies will take a problem-solving approach when completing a review.

Our investigations have sometimes seen councils treat an ASB case review as another complaints process, focussing on reviewing only whether

those bodies involved so far had acted properly. In some cases we have seen councils review a situation but only what the council itself has done without involving other agencies. And in other cases, councils have told the person to ask for a review from the agency they had been complaining to, such as the police or a social landlord.

Ensuring that officers understand and use the ASB case review process gives councils the opportunity to have a thorough look at what more can be done, and to work proactively with other agencies to tackle the situation.



## Rouel's story: Missed opportunity to consider what else could be done

Case reference: [21 000 098](#)

Rouel is a housing association tenant. He reported several incidents of antisocial behaviour by his neighbours to the police and to his housing association. He was suffering from intimidating and homophobic abuse and assault. The council accepted Rouel's situation met the threshold for the ASB case review. It convened an ASB case review panel meeting with the housing association and the police.

The council told Rouel it had not 'upheld' his review request because the housing association and the police had investigated his concerns appropriately.

We found that the council had reviewed the actions taken but had not considered what it could do to tackle the ASB under its powers, either individually or working with other agencies. It misunderstood the aim of the ASB case review and so it missed the opportunity to proactively consider what action it could take. In this case, the police had closed the case because there would not be a realistic prospect of getting sufficient evidence for a criminal prosecution, but this did not prevent the council from taking action to address the ASB under its statutory duties.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > apologise to Rouel for the frustration and uncertainty it has caused him

#### Service improvements

- > review the ASB case review policy and procedures with its partners, to ensure that it reflects a pro-active approach in constructive consultation with partner agencies, looking at what more might be done by any of the partners to tackle the problem; and
- > ensure that the relevant officers and members receive training on how to effectively complete an ASB case review.

### Learning point

The Community Trigger review process is not merely an alternative complaints process looking only at whether the council and other agencies involved to date have acted properly. Councils should use this as an opportunity to proactively consider what other action it and other agencies might take to tackle the ASB.



## Signposting to the ASB case review

Of course, an Anti-Social Behaviour Case Review can only be an opportunity for a fresh approach, if it is used by the public. The guidance says that bodies should make it as straight forward and as accessible as possible to victims.

Councils will often respond to complaints of ASB, perhaps by talking to the victims, monitoring behaviour and liaising with other bodies. When things don't improve, victims will sometimes complain to a council that they are not happy with what it has done so far. But too often we see councils failing to tell the victim about the ASB case review process, or failing to make it clear on council websites.

Anyone suffering ASB and who has reported it more often than the threshold requires to any of the relevant bodies, can request a review. We have seen councils refusing to conduct an ASB case review because either it or another agency has investigated the person's reports. This is wrong. The only threshold is the number of incidents reported within a time frame. A person unhappy with the response to ASB, can request a review whether or not their earlier reports have been investigated, and acted upon.



### Chris and Paula's story: Failing to signpost to the ASB case review process

Case reference: [21 000 700](#)

Chris and Paula live close to a market square. They repeatedly complained to the council about noise nuisance and ASB. They were unable to relax at home and suffered from loss of sleep because of loud music and shouting outside.

Council officers liaised with the police and visited the area many times. The council also applied to the court for a civil injunction and implemented a public spaces protection order to stop individuals or groups of people behaving antisocially in a public place.

Chris and Paula repeatedly told the council they were not satisfied with the action it was taking to deal with the problems. According to the council's policy, this would usually activate an ASB case review. But the council failed to tell Chris and Paula about this process. This caused them an injustice as they were left with uncertainty about whether a different outcome may have been reached if the council had done so.

### How we put things right

The council agreed to our recommendations to:

#### Individual remedy

- > make a symbolic payment to Chris and Paula to reflect the frustration it had caused
- > write to Chris and Paula with information about the ASB case review process.

#### Service improvements

- > remind relevant staff about the ASB case review and when they should tell people about the process.

### Learning point

Ensure relevant staff are aware of the ASB case review process and when to signpost someone to it.



## **Fran's story: applying the wrong test when deciding not to investigate**

Case not published

Fran had been suffering antisocial behaviour by her neighbour for more than five years. This included assaults, threats and intimidation, criminal damage and invasion of privacy. Fran had reported these to the police. Fran raised an ASB case review request with the police, and it referred this to the council.

The council decided that Fran's case did not meet its threshold for an ASB case review, and that if she was dissatisfied with how the police had investigated she should raise it with them. The council did however, discuss the case at a multi-agency meeting, and then told Fran that as the police had found no evidence to take action, her case would not meet the threshold for an ASB case review. This was in accordance with the council's policy at the time.

Our investigation found the council's policy did not apply the correct test when deciding whether someone's case meets the threshold for an ASB case review. The police had investigated Fran's reports, but she was clearly not satisfied with the outcome. Whether the person's reports have been investigated is not relevant to whether their case meets the threshold. The council has since altered its policy to reflect this.

We also found that in any case, the council has discretion to consider a case for an ASB case review despite that it does not meet the threshold. In Fran's case, it had failed to consider whether the circumstances meant that it should accept it for a review.

### **How we put things right**

The council agreed to our recommendations to:

#### **Service improvements**

- > circulate guidance to relevant staff members, explaining an ASB case review application can be accepted 'under threshold' if there are compelling reasons to do so, such as where the complainant is particularly vulnerable, or where the alleged antisocial behaviour is particularly severe.

### **Learning points**

- > Ensure relevant staff understand that a person can access an ASB case review regardless of whether or not their reports of ASB have been investigated.
- > Ensure that relevant staff properly consider whether the individual circumstances of the complaint warrant conducting a review despite that it does not meet the threshold.

# Promoting good practice

While remedying individual injustice is an essential part of what we do, we also help councils, care providers and other public bodies tackle systemic failures and improve the way they deal with complaints.

In many cases we ask local services in our jurisdiction whether other people are currently, or could be, affected by the same issues raised in a complaint.

Drawing on our casework, we have identified some positive steps councils can take to improve services.

- > Invest in training for officers and members so they are aware of the full range of tools available to tackle antisocial behaviour, including the ASB case review.
- > Ensure ASB investigations are efficient and officers are equipped to make robust and prompt decisions.
- > Take steps to guard against applying policies too strictly and make sure officers are empowered to consider each case on its individual circumstances.
- > Promote good liaison with relevant agencies and ensure that the council fully considers its own role in tackling ASB.
- > Make sure the victim is at the heart of the council's consideration; that their vulnerability informs any action; and other services are in place to support the victim.
- > Make clear that the ASB case review is not another complaint process, but provides opportunities for the council and other agencies to proactively consider what more action might resolve the ASB and support the victim. Ensure officers signpost victims to the ASB case review process where appropriate.

# Local Scrutiny: Questions for councillors

We want to share learning from our complaints with locally elected councillors, who have the democratic right to scrutinise the way councils carry out their functions and hold them to account.

Below we have suggested some key questions elected members could ask officers when scrutinising services in their authority.

- > Does your council scrutinise the outcomes of complaints?
- > Where things have gone wrong, how does your council learn from complaints? Are these processes effective?
- > How does your council use Ombudsman reports and decisions to develop its own policy and practice?
- > How do your council's ASB policies and practice put victims at the heart of its investigations?
- > How do your council's processes promote good liaison and proactive working with other relevant agencies?
- > Is it clear to the public what the ASB case review is, and how they can access this?
- > Do officers understand they should signpost people to the case review process where appropriate?

**Local Government and Social Care  
Ombudsman**

PO Box 4771  
Coventry  
CV4 0EH

Phone: 0300 061 0614  
Web: [www.lgo.org.uk](http://www.lgo.org.uk)  
Twitter: [@LGOmbudsman](https://twitter.com/LGOmbudsman)

This page is intentionally left blank



**Not in my back yard: Local people and the planning process**

**LGSCO Key Questions (August 2023)**

**Executive / Service response**

Does the council conform with our good practice suggestions in this report?

It is assumed that this relates to the recommendations set out on page 20 of the report. I can therefore comment as follows:

- Photograph site notices – This is undertaken in the vast majority of cases. The need can be reaffirmed with officers.
- Care when preparing neighbour letters – neighbour letters are sent by technical support staff. This is checked by the case officer when the file is received. It is also checked by the senior officer as part of the decision making process.
- Clear record of site visits (normally with photos) – This is undertaken in the vast majority of cases. The need can be reaffirmed with officers.
- Use the officer report to summarise comments – All reports set out the publicity carried out and a summary of the representations made as a result.
- Officer report on the website – All officer reports have been published on the website as a matter of course as of January 2022. This is alongside the rest of the public planning file.
- Good understanding of the council’s constitution and code of conduct – Training is undertaken with members of the Speaker’s Panel as to the planning code of conduct. There has also been training with new members. Council wide training has not been undertaken and should be considered. Officers are aware of the code of conduct, but refresher training would be beneficial.  
The constitution is a complex document, where training is difficult. A review is perhaps required on this.
- Policy for dealing with amendments to planning applications and decisions – The terminology used by the LGSCO is not quite correct in this section, as a ‘major’ amendment is not something we look at. There are processes in law around agreeing non-material and minor-material amendments to developments where planning permission has been granted. Having said this, having a policy is very difficult. National Planning Practice Guidance does not define amendments in law as the context is very important. A minor change within one development, may require a new application in another. Whether third parties may want to comment is an essential consideration and is something that is taken into account. Otherwise, officers dealing with applications for amendments to planning and related applications set out the reasons for accepting changes or otherwise in a report/correspondence.

	<ul style="list-style-type: none"> <li>Develop an enforcement plan – current information as to how planning enforcement matters will be dealt with is set out on the website. However, a council wide enforcement policy is being developed, below which a new planning enforcement policy will sit. This will set out what to expect when a complaint is made, including timescales. The service has also recently gone through a redesign where additional resource will be available in the near future. The policy will need to reflect the changes.</li> </ul>												
<p>What is the council’s target for building new homes and is it likely to achieve this? Failure to provide new homes can have a significant effect on the local economy and housing market.</p>	<p>This is a complex area of planning, but can be summarised as follows.</p> <p>The provision of housing is fundamental to meeting the needs of residents in Tameside and its economic growth. It is not simply about meeting the needs of the market, although this is important, it is also about providing affordable housing as well as housing for those with particular needs such as the elderly.</p> <p>Details of the current housing requirement for Tameside is set out in the <a href="#">Strategic Housing and Employment Land Availability Assessment (SHELAA)</a>. Whilst a revised document is currently being prepared, the figure for 2021 to 2022 is 691 dwellings per annum (net) based on the Government’s standard calculation (including a 5% buffer). The document shows that there are 3.3 years supply of deliverable sites for housing from April 2022 to March 2027, less that the Government’s requirement of 5 years.</p> <p>Places for Everyone (PfE) is a joint development plan document covering 9 of the 10 local authorities in Greater Manchester. The plan is currently being examined by inspectors appointed by the Secretary of State. The plan sets out the scale, distribution and phasing of new housing over a 15 year period. In terms of housing requirement, this sets out the following proposal for Tameside, set within the context of proposals for the 9 authorities. Once adopted, this will replace the requirement in the first paragraph above.</p> <table border="1" data-bbox="654 970 1055 1217"> <thead> <tr> <th></th> <th>Annual Average</th> </tr> </thead> <tbody> <tr> <td>2022-2025</td> <td>236</td> </tr> <tr> <td>2025-2030</td> <td>485</td> </tr> <tr> <td>2030-2039</td> <td>568</td> </tr> <tr> <td>Overall</td> <td>485</td> </tr> <tr> <td>Total</td> <td>8,245</td> </tr> </tbody> </table> <p>The shortcomings of the housing land supply, as per the SHELAA, are acknowledged,. Proposals to reduce the requirement along with the proposed allocation of two sites that are currently in the Green Belt are also set out in PfE (Godley Green and South of Hyde). As a result, the council will ensure that there is sufficient housing land supply to meet its requirement.</p>		Annual Average	2022-2025	236	2025-2030	485	2030-2039	568	Overall	485	Total	8,245
	Annual Average												
2022-2025	236												
2025-2030	485												
2030-2039	568												
Overall	485												
Total	8,245												

	<p>All local planning authorities are subject to a housing delivery test. Where housing delivery falls below set percentages, additional buffers and an action plan is required to be put into place to ensure that homes are being built on the ground.</p> <p>Progress made towards the adopted of PfE, updates to the SHELAA and progress on a new local plan specifically to look at Tameside's needs, will ensure that housing delivery is on track.</p>
<p>What type of applications are currently decided by officers and should this be reviewed?</p>	<p>Arrangements for decision making are set out in part 3a of the Council's Constitution. Whilst the full authority is not set out here here, matters delegated to the Director of Place includes all applications for planning permission, listed building and advertisement consent, subject to a number of exceptions. The exceptions include applications such as all major developments; departures from the development plan, and where applications should be 'called in' for determination by Speaker's Panel.</p> <p>In terms of major developments, whilst many have much public interest and are complex cases, there are also those applications that are essentially major on paper, that are straight forward and where there is no public interest. More generally, no account is taken of the recommendation to be made by officers, or the level of public interest in a case.</p> <p>A review of delegated authority may be helpful in ensuring that appropriate applications are being dealt with by both officers and members and that the time spent on decisions by the latter is appropriate.</p>
<p>How does the "call in" procedure work and how often is it used?</p>	<p>The constitution allows members to 'call in' applications for consideration by the Speaker's Panel. This is with the exception of householders and advertisements. Notwithstanding this, it had been custom and practice for any application called in by a member to be put before the Speaker's Panel, but this has recently changed and the provisions of the constitution are now being complied with.</p> <p>Members call in applications on a regular basis. These applications, along with defined major applications generally form the majority of the agenda.</p> <p>The main issues that arise as a result are as follows:</p> <ul style="list-style-type: none"> <li>• Members do not always articulate why an application should be determined by Speaker's Panel to the case officer. It would be advantageous to set this out in the report to inform members of the Panel as to why it is for their consideration and not for officers.</li> <li>• Members do not always attend and address the Speaker's Panel when they have asked for an application to be considered by them. This also means that members are not necessarily aware of the reasons why the application should be considered by them and not delegated to officers.</li> </ul>

	<ul style="list-style-type: none"> <li>Members use of call in is regardless of the recommendation to be made by officers. The majority of applications that members are concerned about are those that are to be approved, where a member is objecting. However, applications are regularly considered where the recommendation is to refuse and members are supporting this recommendation. As Speaker's Panel meetings take place every 4 to 5 weeks, this can create delay and uncertainty for residents and applicants, when a decision can be made more quickly.</li> </ul>
<p>How many of the council's decisions are overturned by the Planning Inspectorate?</p>	<p>The number of council decisions overturned by the Planning Inspectorate is set out below. Figures relate to appeal decisions reported to Speaker's Panel (Planning) over the last 3 years, out of the total reported.</p> <p>2021 10 out of 28  2022 5 out of 20  2023 3 out of 17 (to end of July 2023)</p> <p>Where decisions are overturned, officers discuss the case at a regular meeting as a learning experience. This means that awareness and principles of good practice and consistency form part of the decision making process.</p>
<p>How many complaints does the council receive about decisions on planning applications, what are the outcomes and how has the council used them to improve its services?</p>	<p>For the last 3 years, the number of complaints about decisions on planning applications are as follows:</p> <p>2021 18  2022 7  2023 2 (as of end August)</p> <p>The figures show that there has been a significant decrease in the number of complaints specifically about decisions on planning applications. It should be noted that a number of the complaints in 2021 related to two sites, but were from more than one individual.</p> <p>The complaints received relate to a number of issues including the following:</p> <ul style="list-style-type: none"> <li>Lack of notification;</li> <li>All of the relevant matters were not considered;</li> <li>The decision was incorrect or wrong; and</li> <li>There was a lack of communication during the determination period.</li> </ul>

In the vast majority of cases, reference to the planning database and officer report are helpful in explaining the council's position and no maladministration was found. Officer reports have been made available as a matter of course as of January 2022 which has given easy access to residents about the decision and the reasons for it.

Residents commonly raise matters that are not material to the planning decision such as the content in deeds, encroachment or impact on house value. This is understandable but an explanation as to why these issues cannot not be taken into account is given in the response. It may be that a review of the information available on the website may be helpful.

This page is intentionally left blank





***Not in my back yard:***  
**Local people and the  
planning process**

# Contents

<b>Introduction to the 2023 edition</b>	<b>3</b>
<b>Legal Background</b>	<b>4</b>
<b>Role of the Ombudsman</b>	<b>6</b>
<b>Role of local councillors</b>	<b>7</b>
<b>Putting things right - How we remedy injustice</b>	<b>8</b>
<b>Common issues and learning points</b>	<b>9</b>
- Failure to check whether a planning application is valid	10
- Failure to publicise an application	11
- Conduct of site visits	12
- Failure to consider objections and evidence	13
- Failure to consider the impact of a development on neighbouring properties	14
- Delegation	15
- Failure to explain the reasons for a decision	16
- Bias	17
- Failure to take enforcement action and delay	18
- Failure to consider own policies and procedures	19
<b>Getting things right</b>	<b>20</b>
<b>Encouraging local accountability – questions for scrutiny</b>	<b>22</b>

# Introduction to the 2023 edition

In 2014, the Local Government and Social Care Ombudsman published its first Focus Report about our investigations into complaints about planning and development.

In the years since, our role in the planning process remains the same. But it continues to be a topic about which we are regularly asked by local authorities, councillors and MPs to share more information from our investigations.

And we continue to receive many complaints on the subject. Often these are from people who disagree with a council's decision to grant planning permission, feel like their voices have not been heard, and hope we can overturn the decision.

This updated 2023 edition of the report includes new case studies from our investigations – now with links to the published decisions on our website. We have updated references to legislation, our approach to recommended remedies and added more detail on the types of complaints we are likely to investigate in detail.

This report aims to:

- > help local people understand more about the planning process and the impact they can have on planning decisions
- > help explain our role and powers in providing redress and supporting independent scrutiny of decisions
- > encourage greater transparency in the way councils reach decisions through sharing the lessons from our complaints.

The first section looks at the legal background for councils and the roles of the public, local councillors and the Ombudsman in the planning process.

In the year ending March 2023, authorities in England received more than 395,000 planning applications. In the same period, we decided 1,906 complaints and enquiries about planning and development. Of these, we investigated 438 in detail and found fault in 211 cases, meaning we upheld 48% of investigations.

The second section includes new personal stories from our complaints, which highlight some of the common faults we find and the significant impact of poor planning decisions. These show issues such as:

- > failure to check the validity of an application
- > errors in advertising applications
- > not considering objections
- > not explaining reasons for decisions properly
- > failure to consider the impact on neighbouring properties
- > allegations of bias
- > failure to take enforcement action.

The third and final part of the report shares learning from complaints to help support better service delivery. This includes a checklist of good practice based on our experiences of good administration from councils.

We also understand the importance of the role of councillors who have a democratic mandate to scrutinise local public services. We provide a list of questions elected members may wish to consider asking, to assure themselves their local planning services are effective and transparent.

# Legal Background

## Town and Country Planning Act 1990 & Local Plans

Planning applications can take many different forms. The most common are applications for new developments or extensions to existing buildings.

Most councils have a Local Development Plan which sets out planning policies within their area. Policies can relate to issues such as the location of new employment uses and how a council will deal with a planning application for development in the 'Green Belt'. The Local Plan will also identify land that may be suitable for housing or industrial development. This is linked to council and government targets for house building and employment.

Councils must consider planning applications against policies in their Local Development Plan and other material planning considerations, such as the impact on residential amenity. However, councils can also take account of emerging policies being considered at local and national level and must take account of government policy such as the [National Planning Policy Framework](#).

The Localism Act 2014 introduced the neighbourhood planning system. This gives communities the opportunity to shape development and growth in their area. Once approved, a Neighbourhood Plan holds the same legal status as a Local Plan.

## Publicising planning applications

The process councils follow to publicise planning applications is often referred to as a 'consultation'. However, councils are not under any duty to 'consult' local people. The law says councils must publicise planning applications in the local area to let people know how to make comments. Councils must consider any comments they receive.

The type of publicity required depends on the type of application. Some council policies may require more publicity than the law requires. Councils will generally publicise applications using one or more of the following:

- > writing to people in neighbouring properties
- > putting up a notice near the development site
- > putting an advert in a local newspaper.

Councils are not required to write to people in neighbouring properties in every case unless their own policies require them to do so. Local consultation policy can be found in the council's Statement of Community Involvement.



## Role of local people

By making comments on planning applications people can feel they are contributing to decisions being made in their area. However, councils are not able to give weight to some of the common issues raised by objectors, such as the impact on their private rights. There could also be tensions between the need for more development in an area and the concerns of local people about the impact this will have on their lives. The council's role is to balance these competing issues when making decisions on applications.

Councils can only take account of 'material planning considerations'. [Government Guidance](#) and the [Royal Town Planning Institute](#) have produced information about this. The [National Planning Policy Framework](#) sets out the government's planning policies and explains what councils should consider when drawing up local plans and reaching decisions on applications.

Some of the most common objections raised in complaints to us are not material planning considerations. These include:

- > loss of property value
- > private disputes between neighbours
- > loss of a view

However, we also receive many complaints from local people who have raised material planning considerations with their local council. The most common of these include:

- > overshadowing
- > loss of privacy
- > traffic and parking
- > impact on trees

We deal with lots of people who organise campaigns against controversial developments in their area. Often this results in councils receiving petitions and hundreds of copies of the same objection letter. However, the strength or volume of local opposition is not a material planning

consideration. The voices of local people are generally more effective if their objections are focussed on issues that can be taken into account.

We regularly hear from objectors who say officers have warned councillors on a planning committee that the council will incur costs if a decision to refuse planning permission is overturned by the Planning Inspectorate. This is a relevant consideration for officers and councillors, as councils are under increasing financial pressure and defending a decision which is likely to be overturned at appeal is not a good use of public money.

Planning decisions are usually taken in full view of the public. Local people have a right to look at applications and plans. Local people often attend council planning committee meetings to see certain decisions being made. Increasingly, councils make video recordings of these meetings available on their websites.

# Role of the Ombudsman



We make decisions on unresolved complaints about councils and care providers. Our service is free to use, and we are completely independent. In terms of planning, we are often the only way for people who object to seek a remedy. This is because objectors have no right of appeal – besides asking us for an independent review of the decision, the only other option is to take action in court, but this is often costly.

Some people misunderstand our role and expect us to act as an appeal body and try to persuade us the council's judgement is wrong. We are a review body. We cannot make planning judgements, but instead we check the decision-making process for administrative fault in the way the decisions are made.

Planning can be an emotive issue and sometimes local people are frustrated at development in their area even if they are not directly affected by it. However, we make decisions on individual complaints about fault causing injustice. This means we are unlikely to investigate complaints from objectors who are not directly affected by a development, unless we consider there is wider public interest in doing so.

We consider whether there is any fault in the way the council reached a decision and whether it is likely it would have reached a different decision if there was no fault. We cannot question whether a council's decision is right or wrong just because

someone disagrees with it. We are a review, not an appeal, body.

There are some planning complaints that we cannot or will not investigate. These include complaints:

- > where the key issue has been considered by the Planning Inspectorate
- > where the complainant is not a member of the public – for example, we do not investigate complaints from councillors on behalf of residents
- > about planning decisions that were made more than 12 months ago and the complainant was aware of the decision at the time
- > where the complainant has not experienced significant injustice. This might include situations where the complainant does not live near the development they are complaining about – for example, a landlord
- > where we are unlikely to find the council at fault

Our investigations can subject planning decisions to independent scrutiny and hold them up to account if there is fault in the decision-making process. If we do not find fault, they can provide assurance that decisions were made in a proper and transparent manner.



# Role of local councillors

Local councillors have a major role in planning decisions made in their area. Every council has a constitution which includes a delegation scheme explaining who has the authority to make certain decisions. Decisions about small developments are usually made by the council's planning officers. Decisions about large scale or controversial developments are generally made by the council's planning committee.

Most council constitutions have delegation schemes which allow local councillors to 'call in' applications. This means they can ask the planning committee to consider an application that would usually be decided by an officer. When this happens, applications which might be controversial or impact on sensitive local issues can be decided in a more open forum.

Local councillors should be aware of the 'call in' procedure in their area and how to use it.

Each council has a planning committee made up of local councillors. The planning committee consists of councillors from different political parties within the council and will generally reflect the political make-up of the council as a whole. Decisions on planning applications should be administrative rather than political decisions, which means they must be made in line with planning policy and the law, and not based on political affiliations or public pressure.

Therefore, it is important that local councillors undergo training to understand planning law and their role in making decisions.

Most decisions are made by officers. However, where a committee makes a decision, councillors will usually consider a report written by a planning case officer. The report will set out the officer's recommendations and reasons along with details of any relevant policies, guidance and legislation. The officer must make a recommendation whether planning permission should be approved, approved with conditions, or refused.

Generally, the report is sufficient in explaining the committee's decision if it votes in favour of the officer's recommendations. Where a committee

votes against an officer's recommendation it must provide its reasons for granting or refusing planning permission and those reasons must take account of material planning considerations.

Where a committee or an officer fails to give adequate reasons or explain its decision, the council can be left exposed to costs defending a decision that ultimately may not be defensible.

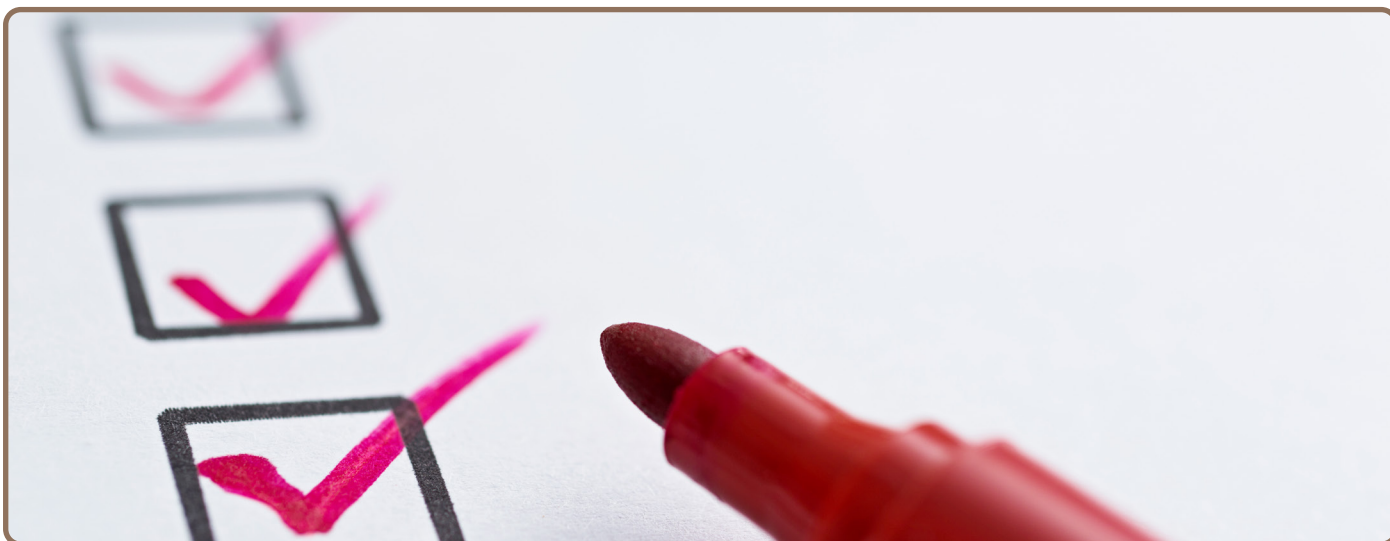
Council officers who grant permission under delegated powers are required to produce a written record of that decision along with the background papers they relied on. Councils must make the record available at their offices and on their websites. These written decision records must be kept for a period of six years and any background documents must be kept for four years. This only applies to decisions made by officers with delegated powers but there is no reason why councils should not extend this to decisions made by committee.

Councils will often ask councillors on town and parish councils for their view on planning applications.

This can help give a local voice on issues arising from proposed developments. Town and parish councils may recommend that planning permission is granted or refused. However, town or parish council views are given no more or less weight than any other comments a council receives.

The Local Government Association has produced [guidance](#) for councillors and officers, available on its website, which explores the roles of officers and councillors in the planning process and more detail on many of the issues covered in this report.

# Putting things right



## How we remedy injustice

Fault in the planning process can have a significant impact on a person's home life and can lead us to recommending that councils pay financial remedies if decisions are not taken properly.

When there is fault in the planning process, complainants often ask for the decision to be overturned. Only the High Court can quash a decision. In very exceptional circumstances, we can only recommend asking a council to consider making a revocation order. The injustice we find can usually be remedied by a council paying money, taking practical action to correct things and improving its services.

Where development has not yet been completed, the council may be able to informally negotiate an amendment to the permission with the developer to prevent injustice to the complainant. Examples include:

- > obscured glazing in overlooking windows
- > fast-growing or established shrubs or trees in a planting scheme
- > a wall, fence or trellis along a boundary

It may also be possible to reduce the impact by taking action such as:

- > redesigning the complainant's garden
- > erecting an acoustic barrier
- > installing double glazing for parts of a house affected by noise

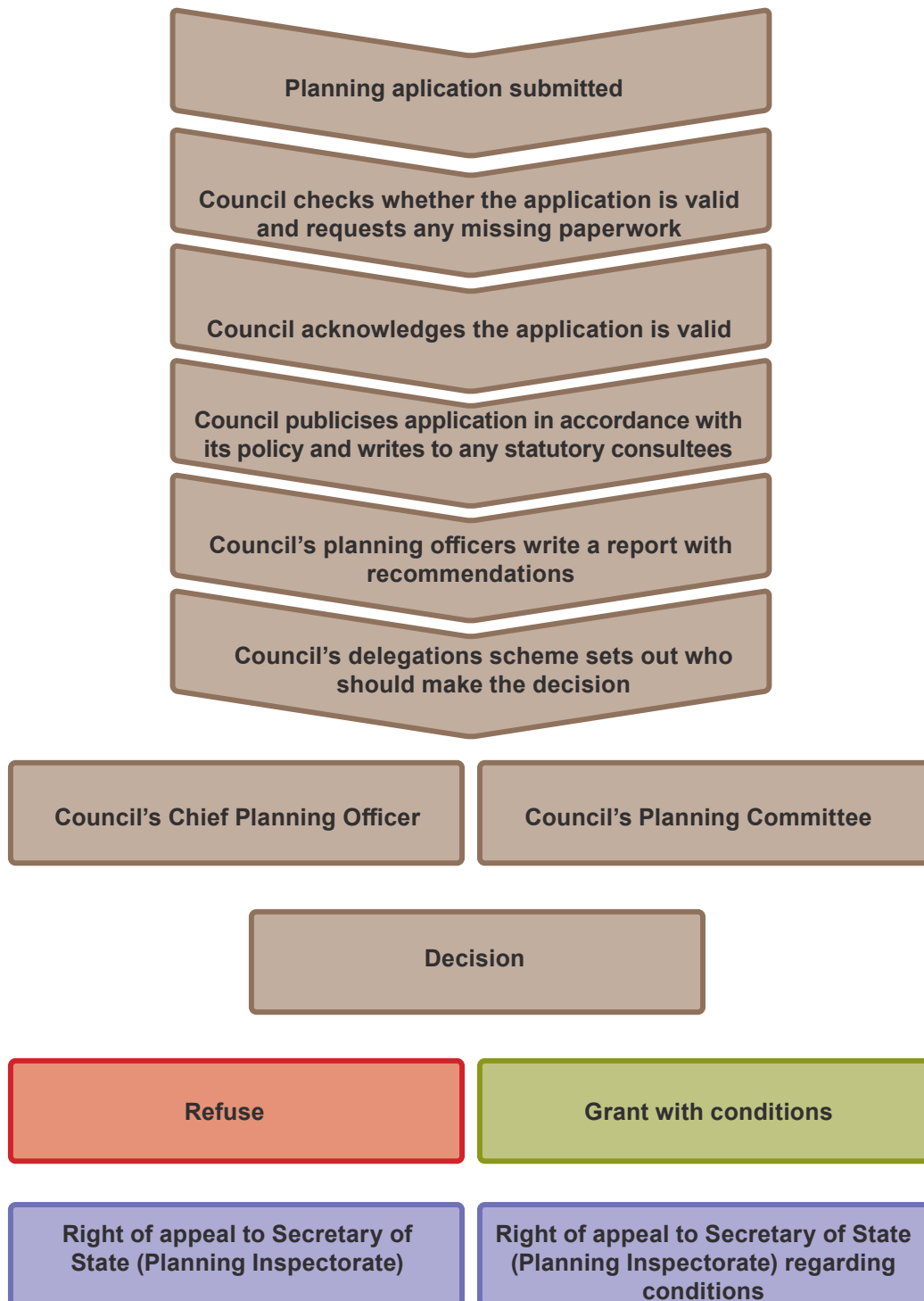
If it is not possible to reduce the effects of a development, and it is unlikely the planning application would have been approved in its current form had there been no fault, we may recommend the council pays the complainant for the loss of amenity or the loss of value to their property.

Payments for loss of amenity usually range between £1,000 and £5,000 depending on the circumstances and severity of the loss. In rare cases we may ask the council to assess the loss of value to the complainant's property. A 'before and after' valuation may be needed to determine this. We usually recommend this is carried out by the District Valuer based on what the value the complainant's property would have been had there been no fault.

If the loss of amenity is temporary, we may recommend a payment in the range of £100 to £500 a month, depending on the circumstances, until a permanent solution is found.

# Common issues and learning points

## Summary of the planning process



*Note: Only the applicant has a right of appeal*

Most of the planning complaints we receive are about councils' decisions on planning applications. A smaller number of complaints are about planning enforcement.

In this section we set out some of the more common faults we come across, as well as our views on how they might be remedied. Before discussing enforcement complaints, our examples will follow the planning process, from validation to publicity, and consideration of the application to the planning decision.

## Failure to check whether a planning application is valid

Planning applicants must provide certain information and forms to a council in order for their planning application to be valid. This includes applications to discharge planning conditions attached to a planning permission.

There may be fault if a council reaches a decision on an application where the applicant has not provided all the information required. However, we will only recommend the council takes action if the objector is disadvantaged by the fault.



### Terry's story

Case reference: [21 001 597](#)

Terry complained the council had decided an application even though it was not valid, and the drawings had omissions and inaccuracies which did not follow the council's published guidance.

The council had received a planning application for a development which had already started and the applicant was not the owner of the land. The applicant provided a certificate which should only be used by the owner of the land. Following Terry's comments, the applicant told the council he could provide the correct certificate, but the council determined the application before this was received.

We found fault in how the council dealt with the application as it failed to secure the new certificate before deciding the application. However, we said this did not cause Terry significant personal injustice because the ownership issue did not prevent him from making representations about the development. It was for the courts to decide whether a planning application should be quashed. In this case, no one had applied to do so.

The applicant also included plans and drawings of the development, which showed the existing site conditions and the proposed plans. The council's guidance said plans should say 'retrospective' for commenced developments and they should set out how existing and proposed site conditions should be shown.

We found the plans and drawing failed to adhere to some of the council's guidance but met legal requirements. The council was therefore entitled to reach its view that it had enough information to assess the development and accept the application.

The council agreed to apologise to Terry for the distress caused by its failure to follow due process. When considering Terry's initial complaint, the council had already identified staff training as a way to avoid similar problems recurring.



## Failure to publicise an application

It is rare to find a council has not, in some way, publicised a planning application in its area. However, we have criticised councils for not publicising applications in line with the law or their own policies.

When this happens, it can mean objectors lose the opportunity to comment on an application and have those comments considered by the council. We will consider what objectors would have said and whether it is likely to have had an impact on the council's decision.



### Susan's story

Case reference: [21 010 361](#)

Susan complained the council failed to tell her about her neighbour's planning application. She had therefore been unable to raise any objections and comments.

The council approved her neighbour's application, and Susan first found out when building works started. She complained the council had failed to consider Local Development Plan policies, heritage issues, and the development impact on her amenity due to it overlooking her home.

The council's policy said it will put site notices up or send notification letters to neighbouring properties of a development. It had no records it had done either in this case, and agreed it was at fault.

Due to Susan's representations, the council reviewed its planning decision and found it was unlikely the development would have been approved. It accepted she had experienced an impact on her residential amenity. However, the council decided it would not be appropriate to use its discretionary power to revoke or modify the planning permission.

Our investigation found the council had properly considered the planning issues relating to its decision, and so this was a decision it was entitled to make.

The council agreed to apologise to Susan and pay £3,500 to acknowledge the serious distress and impact on her amenity its faults caused. The payment was intended to help Susan adopt measures to reduce the impact of the development.



## Conduct of site visits

Planning officers usually visit sites before making their decisions. There is no legal requirement for a site visit to be carried out, but councils may have policies about how they should be conducted.

Site visits can form an important part of the planning process as they allow officers and councillors a chance to visualise how a development might impact on the surrounding area, which may not be available from photographs, online maps, or local knowledge.

Where site visits are carried out, officers usually make notes and sometimes take photographs to record what they found. This can help them to remember what they saw when they are in the office considering the application.



### Tariq's story

Case reference: [20 012 190](#)

Tariq complained the council had approved his neighbour's planning application for a two-storey side extension. The application referred to Tariq's home as a storage unit.

Tariq said he had not received any planning notifications and first became aware the council had approved the application when he spoke with his neighbour.

The council's planning officer did not do a site visit and was unaware of the development's proximity, and impact on loss of light, to Tariq's home. The council suggested he applied for planning permission for a new window to reduce the severity of the loss of light.

Tariq paid the planning application fee and was granted planning permission for the new window. However, he was unhappy with the council's role in the matter, and the costs he had incurred.

We found fault in the council's handling of the planning application. While it was not required to conduct a site visit, it should have been aware of Tariq's home and considered the development's impact on his amenity before it approved the application.

The council agreed to apologise and pay Tariq a contribution of £1,000 towards the costs he incurred.

## Failure to consider objections and evidence

Councils may receive a huge volume of objections and comments to a single planning application, or only a single letter from a concerned neighbour. But whatever the amount, it is important that the material planning considerations raised and taken into account in reaching a decision, are recorded and addressed. Setting them out in the report allows objectors to see whether their voice has been heard and can help local people understand why a council has reached its decision.

Councils can also consult different bodies such as the Environment Agency, as well as other council departments. We may consider whether any fault with information provided by these other bodies made any difference to the outcome.



### Stuart's story

Case reference: [21 003 711](#)

Stuart's neighbour applied for planning permission for a two-storey front and side extension. The council sent notification letters to neighbouring properties and Stuart made objections to the proposal.

The case officer's report said objections had been considered but he found the development would not cause harm in terms of outlook, loss of privacy or overshadowing of Stuart's property. The council approved the development.

Stuart complained the council had failed to properly consider his objections and the evidence available before it made its decision. He said this was evident as the case officer had failed to understand the layout of his home and the impact the development would have on his amenity.

Our investigation found the council at fault. Stuart's objections and evidence were clear and showed his neighbour's development would directly impact on habitable rooms in his home but there was no evidence this had been considered. This would have been apparent to the case officer if Stuart's representations had been properly considered.

The council accepted it had incorrectly assessed the development's impact on Stuart's home and it would not have approved the development in its current form. It offered Stuart a goodwill payment.

We found the council's offer was not enough. The council agreed to our recommendation to pay Stuart £4,500 to remedy the loss of amenity he had experienced, and an additional symbolic amount for the time and trouble to bring his complaint.





## Failure to consider the impact of a development on neighbouring properties

Objections from local people, and town and parish councils, can help councils to identify specific local issues that may not be apparent from plans submitted by a developer. However, councils must still consider the impact of development

on neighbouring properties even if they do not receive any objections. Councils not only have a duty to protect existing residents but also anyone who might move to a property in the future.



### Leo's story

Case reference: [21 000 108](#)

Leo complained the council failed to consider the impact its planning decision had on his family life and enjoyment of his home, which he rented.

The council considered a planning application to turn a disused bank building into a gym. Leo and his family lived above the business premises; however, the planning document and the officer's report did not refer to Leo's property at all.

The council put up a site notice and consulted with its Environmental Protection Team, which did not object. The council approved the application without any conditions. When the gym opened, Leo complained to the council as he was experiencing noise disturbance from 5.45am each day.

During our investigation, the council's Environmental Protection Team told us it was not aware of Leo's flat above the business, nor was it clear what type of business would be developed. If it had known, it would have recommended conditions for noise containment measures and restrictions on hours of operation.

We found the council at fault for failing to consider the development's impact on the amenity of all neighbouring properties, including Leo's.

We recommended the council apologise and pay Leo a symbolic amount to recognise the distress its faults caused. It also agreed to complete a comprehensive noise assessment to establish the impact the gym was having on Leo and his family. It should then put in place whatever actions it now could to reduce any identified noise to acceptable levels.



## Delegation

We often receive complaints from local people who feel a decision should have been made by the planning committee rather than officers. It is important that local councillors are aware of the 'call in' procedure and that officers are aware of limits on their decision making powers.

Local Schemes of Delegation will set out in what circumstances an application can be called in to committee and how it will be decided. Where we find fault, we must determine what difference, if any, it would have made to the outcome.



### Sophia's story

Case reference: [19 020 588](#)

Sophia complained the council did not act in line with its scheme of delegation and did not refer a planning application to the planning committee for determination as it should have.

The council's scheme of delegation says applications will be referred to the planning committee if the development is over 0.25 hectares or outside the settlement boundary. Due to the size and location of the development, the application should have been decided by the planning committee.

Our investigation decided the council was at fault, but the evidence showed the case officer considered Sophia's objections and addressed her concerns in their report. Because of this, we thought it was likely the planning decision would have been the same had the application gone to the planning committee.

The council agreed to pay Sophia a symbolic amount for the distress, uncertainty and lost opportunity, as she was not able to put her objections forward to the committee. The council also agreed to remind officers and members of its scheme of delegation.



## Failure to explain the reasons for a decision

The law says councils must give reasons for their decisions. This not only helps local people understand why decisions have been made but helps developers and builders understand what is required of them. It can also help future planners understand why decisions were made or conditions imposed, if they are considering taking enforcement action.

It is also important that councils reach decisions that can be defended in the face of an appeal to the Planning Inspector.



### Lilly's story

Case reference: [20 005 120](#)

Lilly complained to the council about how it dealt with her neighbour's planning application. Lilly said the council failed to properly explain how the application had overcome the reasons for refusing previous applications for the site. Lilly said the extension has a significant impact on her home.

The planning officer recommended the application be refused due to the overbearing impact on Lilly's home. However, permission was granted by the council's planning committee against the officer's advice.

Our investigation said the planning committee did not explain why it reached a different conclusion to the planning officer. The council's failure to

provide clear reasons for its decision was fault and called into question the planning decision.

However, the committee was entitled to reach a different conclusion to the planning officer and members were aware of the material planning matters before deciding to grant permission. Therefore, we said it was likely the decision to grant planning permission would be the same had there been no fault and had the committee properly explained its reasons.

The council agreed to apologise to Lilly and pay her £500 to recognise her distress and time and trouble. The council also agreed to provide training to members on how to properly explain its decisions.

## Bias

Allegations of bias are common in the complaints we receive about how councils have dealt with planning applications. However, it is rare for us to find that officers or councillors have used their position improperly to influence a planning decision.

It is important that officers and councillors are aware of what the law and their council's constitution say about personal interests. This will protect against allegations of bias and give local people confidence in decisions the council makes.



### Ahmir's story

Case reference: [21 015 578](#)

Ahmir contacted the council to complain his neighbour was operating a business from their home without permission. Ahmir said the commercial activities caused noise and disturbance. The council started an enforcement investigation and said the evidence showed the commercial use of the site had been ongoing for about 20 years and was therefore immune from enforcement action.

As Ahmir remained unhappy, the council agreed to keep the case open and asked him for further evidence. It also asked Ahmir's neighbour for additional information, this included a request to provide evidence to show there had been no significant change to the business over the last 10 years.

Following this, the council decided not to take any further action. It said while there had been a material change in use of the site to include business activity, this had been continuous for more than 10 years and was therefore immune from enforcement action.

Ahmir said the council showed bias by working with his neighbour to find evidence to defend their position and support its predetermined decision not to take enforcement action.

Our investigation found no evidence of bias and said the council was not at fault for asking Ahmir's neighbour for further information. We recognised why Ahmir may have viewed the council's requests as showing bias and predetermination. So we suggested the council may wish to keep in mind how interested parties may perceive such actions when carrying out future enforcement investigations.

## Failure to take enforcement action and delay

Sometimes development takes place without planning permission or planning permission that has been granted is breached. Although councils have powers to stop development, they do not have to take action in every case. Government guidance says “enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control”. (National Planning Policy Framework, 2020, paragraph 59)

We expect councils to carry out proper investigations into complaints and consider the range of enforcement options open to them. Failure to comply with an enforcement notice is a criminal offence and some councils have recovered significant sums of money

using the Proceeds of Crime Act 2002. This deprives offenders of financial benefit gained from committing the offence and a proportion of the money recovered goes directly to the council. Other options open to councils include ‘under enforcing’ which may give permission for an unauthorised development but control the parts of it that have an impact on neighbouring properties. Even if a council decides not to take enforcement action, or delay action, we would expect it to record its reasons for doing so and explain its decision to any complainants. As with other delegated decisions that grant permission, a licence, or affect the right of an individual, the council should publish reasons for its decision along with any background papers on its website.



### James’s story

Case reference: [21 016 993](#)

The council granted James’ neighbour planning permission to develop their home. The development included two balconies. James complained to the council that the balconies were not being built in line with the approved plans. James said they were not the correct shape and did not include privacy screens. James said his neighbour would have direct views into his property.

The council agreed there had been a planning breach and told James’ neighbour to make a non-material amendment application stipulating screens and bars on the balconies to protect James’ privacy. The council granted planning permission and said the privacy screens should be installed within three months.

After 10 months James contacted the council again as the privacy screens had not been installed. He said the delay was having a significant impact on his privacy. The council did not respond to James’ concerns, and he had to contact it many times before he received a response.

Our investigation found the council was not at fault for how it dealt with James’ initial concerns about the planning breach. We also said we would not expect the council to monitor the development after it granted permission for the non-material amendment.

However, we did find fault with how the council dealt with James’ concerns about the second planning breach. We said the council’s delay caused James to suffer a loss of privacy for around 14 months longer than he should have. We also said the council failed to properly communicate with James in line with its enforcement policy and did not respond to his complaint as it should have.

The council agreed to apologise to James, pay him £1,000 to recognise his loss of privacy and pay a symbolic amount for his time and trouble.



## Failure to consider own policies and procedures

Councils should follow their own policies unless they have good reasons not to. Even though the council is a planning authority, it still needs planning permission for its own developments. These applications are usually dealt with by

planning committees to ensure the decision making process is open to public scrutiny. Although a council cannot take legal action against itself, we expect it to apply the same standards it requires of other developers.



### Russell's story

Case reference: [22 005 197](#)

Russell complained the council failed to comply with planning conditions that applied to the construction of a new leisure centre near his home. The council, as local planning authority, granted planning permission for the development. It was also the applicant.

The planning permission was subject to conditions. One of which said the developer must submit a Construction Management Plan (CMP) and adhere to it during the construction works. The CMP included restrictions on the use of the site entrance and working hours. The plan also said the developer must monitor the condition of the public road near the site and implement measures to reduce noise and control dust.

Russell complained the CMP was not being complied with. He said the wrong site entrance was being used and there was mud from the development site on the public road and

pavement. Russell said that dust from the site was not being controlled and work was being carried out outside the permitted hours. Russell also complained his home had been damaged by spray painting at the development site.

Our investigation found the council considered if there were grounds to take any formal action in relation to the requirements of the CMP, and it took appropriate action to address Russell's concerns where necessary. However, the council was at fault for not following up with Russell in relation to possible damage to his home caused by the spray paint. We recommended the council contact Russell to assess if the paint spray affected his house and arrange for any damage to be rectified. The council agreed to our recommendation.

# Getting things right

Drawing on our experience, we have identified a number of specific recommendations based on examples of good practice in councils.

## > Photograph site notices

There is no legal requirement for a council to provide photographic evidence that it has put up a site notice, but taking a photograph and keeping a record on file can help councils demonstrate that they have fulfilled the publicity requirements.

## > Take care when preparing neighbour notification letters

Notification letters are the most direct way of alerting neighbouring properties to nearby planning applications. Some councils rely on computer systems to produce these letters. When this happens, extra care should be taken to ensure every property that is entitled to a letter, gets one.

## > Keep a clear record of site visits

A good record of a site visit, normally with photographs, can help officers recall what they saw when they are in the office making their decisions. It can also help others to understand what they considered and why they reached their conclusions about the development.

## > Use the officer report to summarise comments

Councils need to show they have taken account of comments from residents and other consultees. Summarising comments and including these in their reports can help show how the public has been listened to. Some councils separate these into material and non-material considerations which can help local people better understand the process and how their objections have been considered.

## > Make officer reports easy to find on the council's website

Councils must produce a written record of decisions made by officers under delegated powers and make it available to the public for six years.

Councils must also keep background material for four years in addition to keeping information as part of the statutory planning register. Case Officer reports can help local people understand the reasons why a council has reached its decision. These are generally available online and many councils include them within the online planning file. However, when the decision was made by committee, some councils only include the reports with committee papers which can be hard to find. It is good practice to also to save a copy of the Case Officer's report with other documents on the council's planning portal or website.

Some councils have begun to attach case officer reports to the 'informative' section at the end of decision notices. This can be helpful, but councils should still ensure they publish enough information to show the main planning issues have been properly considered.

## > Maintain a good understanding of the council's constitution and code of conduct

A council's constitution and its delegation scheme will set out which decisions should be made by committee, and which can be made by officers. Constitutions can change and it is important officers understand the extent and limits of their powers. Officers and councillors should also be aware of the relevant code of conduct to protect themselves against allegations of bias. Councils should also make sure that other policy documents, such as their Statement of Community Involvement, are consistent with their constitutions.



## **> Develop a policy for dealing with amendments to planning applications and decisions**

In some circumstances minor amendments to applications and decisions can be made without the need for any publicity. Each council can decide what constitutes a minor amendment and what constitutes a major amendment. Major amendments might require further publicity or a new application. By having a policy explaining how different amendments will be dealt with councils will make consistent decisions and local people can understand how amendments are considered.

However, as well as considering what impact an amendment will have, the council must also consider whether any third party might also want the opportunity to comment.

## **> Develop an enforcement plan**

Government guidance says councils should consider publishing a local enforcement plan to “manage enforcement proactively, in a way that is appropriate to their area.” Plans should set out how councils will investigate alleged cases of unauthorised development, the circumstances where they might take action, and the enforcement options they will consider. This will help officers make consistent decisions and understand the legal tools available to them. It will also help local people understand what to expect when they make a complaint. The enforcement plan should be reviewed and updated on a regular basis.

# Encouraging local accountability – questions for scrutiny

We want to share learning from complaints with locally elected councillors who have a democratic mandate to scrutinise the way councils carry out their functions and can hold them to account.

We suggest some key questions elected members can ask officers to ensure their services receive effective scrutiny and are accountable to local people.

- > **Does the council conform with our good practice suggestions in this report?**
- > **What is the council's target for building new homes and is it likely to achieve this?**  
Failure to provide new homes can have a significant effect on the local economy and housing market.
- > **What type of applications are currently decided by officers and should this be reviewed?**
- > **How does the "call in" procedure work and how often is it used?**
- > **How many of the council's decisions are overturned by the Planning Inspectorate?**
- > **How many complaints does the council receive about decisions on planning applications, what are the outcomes and how has the council used them to improve its services?**

**Local Government and Social Care  
Ombudsman**

PO Box 4771  
Coventry  
CV4 0EH

Phone: 0300 061 0614

Web: [www.lgo.org.uk](http://www.lgo.org.uk)

Twitter: [@LGOmbudsman](https://twitter.com/LGOmbudsman)

This page is intentionally left blank