TACKLING ENVIRONMENTAL ANTI-SOCIAL BEHAVIOUR

Fact Sheet

Anti-social Behaviour Unit
The effects of anti-social behaviour are most visible when the results of that behaviour ruin the places that we visit once we walk out of our front doors. Litter and dog fouling in our parks and playgrounds, graffiti and fly posting covering our shopping precincts and town centres, and waste fly tipped on railway land and down our country lanes signals to the community that anti-social behaviour is taking hold.

And as the distance from the front door to the enviro-crime reduces and local streets, gardens, and even homes are degraded by litter, graffiti and abandoned cars, the community’s confidence in all public services becomes severely undermined.

Reversing the trend is not impossible. Tackling enviro ASB pays real dividends - people feel safer when their streets, parks, schools and wider community are clean and maintained. Once public services have established that they can tackle these problems quickly, the local community can regain a sense of pride in, their area. This will make them more willing to act responsibly, take care of their neighbourhood, and report problems.

**TAKING ENFORCEMENT ACTION**

Tackling environmental anti-social behaviour effectively requires commitment from many partners who each have a responsibility in the local community. Evidence suggests that if graffiti, litter and other environmental damage is cleaned rapidly, it is less likely to come back. This should be accompanied by strong enforcement action against perpetrators using all available tools and powers.

Enforcement against enviro-ASB can also be complemented by other enforcement action to tackle ASB problems. For example, housing officers addressing nuisance neighbours have a range of powers to tackle anti-social behaviour which can be used in conjunction with enviro-ASB. City centre managers tackling begging and street drinking can also bring to bear a range of interventions which would be supported by environmental action including enforcement and community clean ups.

The Clean Neighbourhoods and Environment Act 2005, includes many new powers to deal with enviro-ASB. In particular, it provides extended enforcement measures to address local environmental problems, focusing on litter, fly-tipping, graffiti and fly-posting, abandoned cars, noise nuisance and dog fouling.
LITTER

Section 87 of the Environmental Protection Act 1990, as amended by the Clean Neighbourhoods and Environment Act 2005 makes it an offence to drop, throw, or deposit and leave litter anywhere. This offence includes dropping litter in water such as rivers, streams and lakes.

To effectively tackle litter, a number of approaches are available. These approaches are set out in more detail in “TACKLING LITTER - THE MOST COMMON FORM OF ASB Fact Sheet”, available at www.together.gov.uk

- Authorised officers of litter authorities (including parish councils and national park authorities), police community safety officers and persons accredited under the Police Reform Act 2002 have the power to issue fixed penalty notices (FPNs) of £75 for littering. Offenders have 14 days to pay or face prosecution in court
- The police and PCSOs (who have been designated with this power) can issue a Penalty Notice for Disorder of £50 for littering.
- Litter offences can be prosecuted in a Magistrates’ Court, where the maximum fine can be £2,500.
- The Environmental Protection Act 1990, as amended by the Clean Neighbourhoods and Environment Act 2005, also gives local authorities powers in particular areas where litter is a problem:
  - A Street Litter Control Notice (SLCN) can be used to require businesses which are likely to produce litter (such as fast food outlets and mobile vendors) to keep their frontage, or nearby street clear of litter.
  - Litter Clearing Notices can be served on any private land, if the litter is severely detrimental to the surrounding area. The notice requires the owner to clear the litter within a certain time.
  - Local authorities can also serve Litter Abatement Notices on statutory undertakers (such as Network Rail) and educational establishments if their land is covered by litter. These notices require the removal within a certain time.

FLY-TIPPING

Fly-tipping is the term used to describe the illegal dumping of anything from a private individual’s bag of rubbish, mattress or fridge to small scale cash in hand businesses dumping without a licence, to large scale illegal dumping of builders’ rubble in eight-wheeler lorries.

The legislation tackling fly-tipping is complex and can generally be found in the Environmental Protection Act 1990, as amended by the Clean Neighbourhoods and Environment Act 2005.

Private individuals and households can dispose of waste quite easily using domestic rubbish bins, municipal tips, or local authority collections. In most instances these are free or are paid for by the local taxes. In some circumstances, the local authority may charge for bulky waste collection.

For businesses disposing or transferring waste, they must make sure it is only passed to an authorised waste carrier or the local authority. They must also complete a written description of the waste and where it’s going. Businesses must keep this ‘transfer note’ for two years. This ‘duty of care’ ensures that the waste can be tracked and is disposed of in the correct manner. Householders are also under a duty of care to make sure their domestic waste is only passed on to authorised persons - this being the local authority.

When both private individuals and businesses illegally dump waste, or contravene their duty of care, the offence can be enforced by the local authority and the Environment Agency, usually in partnership with the police. The penalties for doing so, can be severe:

- Minor fly-tipping (such as dumping a bin bag) can be aggravated littering and the litter powers (e.g. FPNs) can be used successfully to enforce.
- The deliberate abandonment of any matter on land, in the open air or on any other land forming part of a highway is an offence, punishable by a fine of up to £2,500 and/or three months’ imprisonment (Refuse Disposal (Amenity) Act 1978, s.2).
- Fly-tipping fines for illegal dumping under section 33 of the Environmental Protection Act can be up to £50,000 or twelve months’ imprisonment (or both) if convicted in a magistrates’ court. If prosecuted in the Crown Court, the fine may be unlimited or five years’ imprisonment.
- Transporting controlled waste without a waste carrier registration is an offence punishable by a fine of up to £5,000.
- An Environment Agency officer, local authority officer or the police have powers to stop, search and seize vehicles suspected of being used to fly-tip waste. They also have powers to investigate incidents to help track down and prosecute those responsible for dumping the waste, and charge the offender for the costs (Control of Pollution (Amendment) Act 1989 as amended by the Clean Neighbourhoods and Environment Act 2005).
- Anyone transferring waste to another person who fly-tips may also be in ‘breach of the duty of care’
in respect of waste. The penalty for failing to comply with the duty of care is, upon conviction in a magistrates’ court, a maximum fine of £5,000. Serious breaches of the duty of care may result in conviction in Crown Court, where the penalty is an unlimited fine (Environmental Protection Act 1990). Local authorities and the Environment Agency also have powers to issue £300 FPNs for failure to produce waste carrier registration details or duty of care waste transfer notes.

GRAFFITI AND FLY-POSTING

Graffiti is criminal damage and unacceptable. The perpetrators of graffiti use a variety of materials to paint, draw or etch onto surfaces which are usually highly visible to the public.

Enforcement action should be taken to tackle people who graffitie and proactive measures should be employed to stop it occurring in the first place. Enforcement agencies should have particular regard for offensive graffiti and develop strategies for immediate removal where possible. Where it is racially motivated, it is a hate crime, and so prosecution should be sought where possible, and the police always notified.

Fly-posting is the display of stickers, posters and other advertising – without the consent of the owner of the property and contrary to Regulations made under the Town and Country Planning Act 1990. While fly posting can include local adverts for events such as car boot sales, local parties and pub gigs, the majority of fly posting advertises a commercial product or event.

Therefore, it follows that the interests of those who perpetrate fly-posting are usually commercial. In the majority of these cases, the fly-poster will work for a third party advertiser operating at arms length from the commissioning company. Tackling this type of fly-posting can be difficult as the perpetrators sometimes use intimidation. In addition, taking action against the beneficiary can be difficult, but changes introduced in the Clean Neighbourhoods and Environment Act 2005 has made this easier.

To effectively tackle graffiti and fly-posting, a number of approaches are available. The approaches for graffiti are set out in more detail in “TACKLING GRAFFITI – ONE OF THE KEY DRIVERS OF ASB Fact Sheet”, available at www.together.gov.uk

- Fixed penalty notices for fly-posting and minor acts of graffiti. The Anti-social Behaviour Act 2003 allows local authority officers, community support officers and those persons accredited under a community safety scheme to issue fixed penalty notices of £75 to individuals caught defacing property or fly-posting.
- Prosecution for criminal damage. Graffiti is criminal damage under the Criminal Damage Act 1971. In the magistrates’ court the maximum sentence is a fine of £5,000. For serious criminal damage the maximum penalty in the Crown Court is 10 years’ custody.
- Prosecutions for fly-posting. Although it is important to prosecute any individual who fly-posts, it is also effective to take action against those people or organisations who benefit from the advertising. It is an offence to display an advertisement in contravention of regulations and authorities have the power to remove posters without notice. Fines of up to £2,500 can be issued (Town and Country Planning Act 1990). Section 33 of the Clean Neighbourhoods and Environment Act 2005 has also strengthened the law to make it much more difficult for the beneficiaries of fly posting to claim that they had never consented to it.
- Defacement Removal Notices. Sections 48-52 of the Anti-social Behaviour Act 2003 (as amended by the Clean Neighbourhoods and Environment Act 2005) gives local authorities the power to serve defacement removal notices on certain companies responsible for the surface where graffiti has appeared or fly-posting.
- Ban on the sale of aerosol paints to under-16s. Section 54 of the Anti-social Behaviour Act 2003 makes it an offence to sell aerosol paint to anyone under 16 years old. Those convicted of this offence can face a fine of up to £2,500.
- Graffiti Database. The British Transport Police operate an information-sharing database of graffiti taggers, which can also be accessed by local authorities. Using this intelligence will enable the full extent of damage to be taken into consideration by the courts. Visit www.together.gov.uk for further details.

ABANDONED CARS

The proliferation of vehicles that are untaxed, abandoned or causing a nuisance, increase the sense that an area is run down and local services are not fulfilling their removal duties. Often these vehicles can become targets for vandalism and frequently end up torched if not removed promptly. The immediate area may also become susceptible to further incidents of crime.

Removing abandoned vehicles quickly, (i.e. those vehicles without valid tax discs or number plates and those in a general state of disrepair with flat tyres, etc) will help to remove the opportunity for vandalism and arson to proliferate.
Principal approaches to tackle the problem:

- Swift removal needs to be backed up by enforcement with a fixed penalty notice or prosecution. The deliberate abandonment of any vehicle is an offence, punishable by a fine of up to £2,500 and/or three months’ imprisonment (Refuse Disposal (Amenity) Act 1978, s.2), and the Clean Neighbourhoods and Environment Act 2005, introduced a £200 fixed penalty notice.
- Local authorities, the DVLA and the police all have different powers with regard to removing these types of vehicles, depending on the nature of the nuisance caused. Examples of good practice have been identified through the Scrap-It project, which ran in London and Liverpool, and the Government’s Nuisance Vehicle strategy. Further details are available at www.together.gov.uk

DOMESTIC NOISE NUISANCE

The majority of us tend to live in homes that are located close together, particularly in towns and cities. This close proximity to our neighbours means that sometimes we can hear their activities. However, some families suffer day after day with noise from inconsiderate neighbours who have no regard for the nuisance that they cause. This noise contributes to stress, illness and can impair the quality of life for the whole street.

To effectively tackle noise nuisance, a number of approaches are available. The approaches for noise are set out in more detail on the TOGETHER website and “Tackling Neighbour Nuisance” the step-by-step guide available at www.together.gov.uk

- **Informal action.** Individuals concerned about noise or other nuisance should at first be encouraged to talk to the person responsible and explain the problem. They may find that they can resolve the problem amicably. If the direct approach does not succeed mediation, where an independent third party will listen to the views of both parties and help them reach an agreement, can be effective.

- **Formal investigation.** Local authorities have a duty to deal with any noise which they consider to be a ‘statutory nuisance’. The definition of statutory nuisance is defined by the Environmental Protection Act 1990, and this can only be confirmed by local authorities, in particular Environmental Health Officers.

Upon confirmation that the noise is a statutory nuisance the following actions can be used:

- **Fixed penalty notices**
  - Domestic night noise nuisance can be tackled with a £100 fixed penalty notice.

Where noise does not stop, the local authority may itself put a stop to the nuisance and recover the costs. This includes the power to seize and remove any equipment, which is being or has been used in the emission of the noise in question.

DOG FOULING

Like litter, the presence of dog fouling in public areas indicates that particular individuals are not meeting their responsibilities to keep their public spaces clear of dog mess, and that local authorities are not meeting their responsibilities to take enforcement action against perpetrators.

The Clean Neighbourhoods and Environment Act 2005 has revised the legislation for dealing with dog fouling and introduced dog control orders. These orders operate in much the same way as old dog byelaws and enable a local authority to introduce an order making it an offence to fail to clear up after a dog.

A person committing an offence can be issued with a £75 fixed penalty notice, or prosecuted in a magistrates’ court to a maximum of £1000. Fixed penalty notices can be issued by officers from local authorities, parish, town and community councils, and accredited officers.

OTHER INTERVENTIONS

Remember there are many other measures available to you and your partner agencies that can be used to tackle environmental anti-social behaviour. Often a combination of tools and powers is the best approach.

- **Acceptable behaviour agreements or contracts** can be effective in setting out the standards of behaviour that an individual causing nuisance should maintain. These are voluntary agreements and can be initiated by any agency.

- **Social landlords** have powers to take action against tenants and household members, including ASB injunctions, possession proceedings and demolition orders.
• Local authorities have used civil injunctions under section 222 of the Local Government Act 1972 to stop anti-social behaviour.
• Anti-Social Behaviour Orders (and associated Individual Support Orders for 10-17 year olds) protect the public from behaviour that causes or is likely to cause harassment, alarm or distress.

Running a campaign

Tackling enviro-crime should not be seen as just enforcing the laws available to local authorities and their partners. Educating and raising awareness amongst all sections of the community should run alongside a robust environmental enforcement strategy.

In addition, environmental clean up days can be a useful tool to focus all relevant partners to blitz the area and galvanise community ownership. Further details on Environmental Clean Up Days can be found at www.together.gov.uk

Key elements of a campaign could involve:

• a strong publicity drive, including publicising successful prosecutions.
• improving the service delivery – for example through an integrated street cleansing contract.
• encouraging community involvement and working with schools and youth groups to improve pride and ownership of an area.
• using creative approaches to get your message across, eg rewards for children using bins and community clean ups.
• utilising enforcement powers relating to the environment.

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For further information and advice about anti-social behaviour, phone the TOGETHER ActionLine – 0870 220 2000
or visit www.together.gov.uk