

Housing Services

*Legal action we can take against
people who are not our tenants
for anti-social behaviour*



CHESTERFIELD
BOROUGH COUNCIL

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Introduction

This guidance gives brief details of the main sorts of legal action that the housing service can take to stop people who are not our tenants from engaging in anti-social behaviour that affects our tenants in or near their homes.

Do you need help?

If we are considering taking legal action against you for anti-social behaviour, you *must* contact us. You have the right to be given a fair chance to respond to any allegation. If you need support to help you to respond or to stop you engaging in anti-social behaviour, we may be able to get that support for you.

Remember - we don't want to take legal action. We just want the problem to stop.

Acceptable Behaviour Contract (ABC)

An ABC is a voluntary written agreement between someone who has engaged in anti-social behaviour and one or more agencies whose role it is to prevent that behaviour.

Normally, the need for an ABC is agreed after discussion between any agencies concerned with the person - for instance, the council, the school, the police or social services.

The ABC will include conditions that will state:

- What the person must not do.
- What the person must do.
- What the agencies involved will do.
- The consequences of breaking the agreement.

The ABC is signed by the person and, if the person is aged under 16, by the person's parent or guardian.

If the ABC broken and we need to take legal action stop the anti-social behaviour, the court can take into account that we have made informal attempts to sort out the problem and it has not worked. This makes it more likely that the legal action will be agreed by the court.

Action under environmental protection law

Where someone's use or enjoyment of their home or health is unreasonably or substantially interfered with, this may be a statutory nuisance. The council's environmental health team can take action to stop statutory nuisance under environmental protection law.

This will involve issuing a notice to prohibit the activity that is causing the nuisance (known as an abatement notice). If the nuisance continues, the court can fine those responsible. The council has powers to confiscate items such as stereo systems.

Community Protection Notice (CPN)

A CPN is intended to stop someone from continuing with persistent or continuing unreasonable behaviour which affects the surrounding community.

Before a CPN is issued, we must give the person a written warning telling them that a CPN will be issued if the behaviour does not stop.

The CPN gives instructions to the person about what they must and must not do to stop the problem. If the person does not comply with the CPN without a reasonable excuse, the following may happen:

- We may carry out work to make sure that the problem is sorted out (e.g., clearing rotting rubbish or dog fouling from a garden). The tenant will be charged for the cost of the work.
- We may issue a fixed penalty notice for a maximum of £100. If this is not paid within 14 days, we can prosecute.
- We may prosecute the person for a criminal offence, which carries a Level 4 fine.

- After a court warrant, we may seize any items involved in causing the criminal offence, or the person may be ordered to hand them over for destruction or disposal in some other way.

There is a right of appeal to the Magistrates Court against a CPN within 21 days of it being issued.

Anti-social behaviour injunction (ASBI)

This is an order made by a court. It normally instructs a person (normally aged 18 or over) not to do something (for instance, not to behave in a certain way or not to enter a certain area). The ASBI lasts for a period that is specified in the injunction.

If we have evidence that the behaviour is serious enough, we can apply for an interim (temporary) ASBI at very short notice. The person responsible does not need to be in court. The interim ASBI lasts for a short period to allow a full hearing to be arranged. We would only apply for an interim ASBI for the most serious cases, such as stopping violence, threats, intimidation or domestic abuse.

If someone breaks the terms of an ASBI, we can go back to the court. If the judge is satisfied that a term has been broken, this can be treated as “contempt of court”, which is a serious offence. The judge can fine the person or give a prison sentence of up to six months or more in very serious cases.

If someone’s behaviour is violent, threatening or intimidating, the ASBI can have a power of arrest. This means that if a condition in the ASBI is broken, the police can arrest the person, who may then be kept in prison until another court hearing is arranged.

Closure notice and closure order

Where premises (e.g., a house or a flat) are being used, or are soon likely to be used to cause nuisance or disorder and closure of the premises is necessary to prevent the problem, we can issue a closure notice. This closes the premises for up to 48 hours to everyone

except the owner and anyone who normally lives there. Breaking the requirements of the closure notice is a criminal offence.

A closure order can then be made by the court if it considers this is necessary. This closes the premises completely for up to three months, which can be extended by a further three months.

Independent expert advice

If the council is taking legal action against you, you can seek independent expert advice from several sources, including:

- A solicitor
- The Derbyshire Law Centre
1 Rose Hill East
Chesterfield S40 1NU
Phone: 01246 550674
Text phone: 18001 01246 550674
Text message: 07781 482826
- Citizens' Advice Bureau
6 - 8 Broad Pavement
Chesterfield S40 1RP
Phone advice: 0300 456 8437
Reception: 01246 209164

ARE WE ACCESSIBLE TO YOU?

IF NOT - ASK US!

- **We want everyone to be able to understand us.**
- **We want everyone to be able to read our written materials.**
- **We aim to provide what you need for you to read, talk, and write to us.**

On request we will provide free -

- **Language interpreters, including for sign language.**
- **Translations of written materials into other languages.**
- **Materials in Braille, large print, on tape or Easy Read.**

Please contact us:

Voice telephone - 01246 345345 Fax - 01246 345252

Mobile text phone SMS - 079609 10264

E-mail - eoinfo@chesterfield.gov.uk