



Report of the Cabinet Member for Service Transformation

Scrutiny Panel – 9th March 2023

Anti-social Behaviour Scrutiny Inquiry Panel Housing and Public Health Response

Purpose:	To provide responses to key questions in respect of the Anti-social Behaviour Inquiry.
Content:	This briefing provides detail and the responses of Housing and Public Health in respect of the 11 questions laid out by the Anti-social Behaviour Inquiry to assist its evidence gathering.
Councillors are being asked to:	Consider the information provided and give views on the responses given by Housing and Public Health.
Lead Councillor:	Cabinet Member for Service Transformation
Lead Officer & Report Author:	Carol Morgan, Head of Housing Judith Williams Tel: 07976 201445 E-mail: judith.williams3@swansea.gov.uk

1. Background

- 1.1 Where Anti-social Behaviour (ASB) is experienced across housing estates, officers, predominantly from Landlord & Community Housing Services (L&CHS), work with key internal and external partners to help tackle and modify such behaviour plus support those affected by it. L&CHS is a key member of the Safer Swansea Partnership (SSP) and our priorities align with those of the partnership.
- 1.2 Officers in Pollution Control and Private Sector Housing respond to a range of neighbour issues, which although not necessarily strictly ASB, can cause problems. These issues include noise and waste on private land. Not all noise problems we deal with are from domestic premises, but it is domestic noise issues that are covered in this report.

2. Briefing – responses to agreed evidence gathering questions

- 2.1 **Question 1. What is the role of your service/organisation in relation to tackling and reducing ASB?**

2.1.1 The Council through L&CHS manages 13,709 tenancies. Day-to-day tenancy and estate management is predominantly delivered via 4 Area Housing Offices (AHOs). Officers from the AHOs work in partnership with a number of sections within L&CHS, including:

- The ASB Support Team (ASBST)
- The Neighbourhood Support Unit (NSU) which operates a 24/7 service
- The Tenancy Support Unit (TSU)
- Homelessness service

We also work with internal and external partners, including but not limited to:

- Pollution Control & Private Sector Housing
- Social Services
- South Wales Police (SWP)
- Probation
- Mental Health Services
- Third sector support providers
- Other social landlords
- Safer Swansea Partnership (SSP)

The role of the Housing Service in relation to tackling and reducing ASB involves:

- Supporting tenants to sustain satisfactory tenancies
- Responding to instances of reported ASB on 24/7 basis
- Mediating between parties to seek resolutions as appropriate
- Working with partners in respect of statutory nuisance, criminal activity, safeguarding concerns etc.
- Sharing information with partners to identify areas / individuals of concern
- Supporting tenants who have been subject to ASB etc.
- Pursue legal action

2.1.2 As a social landlord it is our objective to support people to sustain their tenancies and to help create communities which are safe and secure. We recognise that some tenants have complex needs and present challenging behaviour and we work closely with those tenants, and with other services as appropriate, in an effort to modify that behaviour.

2.1.3 In some instances, and despite everyone's best efforts, where behaviour continues to have a detrimental impact on neighbours and / or the wider community we would look to take action through the court. This would be a last resort; it is also very difficult to achieve.

2.1.4 **Pollution Control and Private Sector Housing**

There is a regulatory function for statutory nuisance which is dealt with by enforcement tools including abatement notices requiring the person responsible for the nuisance to abate or prevent the nuisance within a given timescale.

2.1.5 Not all noise problems are a statutory nuisance. There is no specific measurement to define when noise becomes a statutory nuisance and each instance is assessed according to individual circumstances. For instances where there is no statutory nuisance, informal steps may be taken to try to deal with the

problem, trying to persuade the person making the noise to reduce or stop and sometimes attempting to mitigate between them and the complainant.

- 2.1.6 This can also be the same approach to problems of waste on private land, although there is also legislation to deal with waste that is prejudicial to health or a statutory nuisance and where food or harbourage is being provided for rats or mice. Enforcement notices can then be served, which may result in the local authority arranging work in default of a person who does not comply with the notice requirements. The cost of that work, along with an administrative charge, is re-charged to the notice recipient and steps taken to recover unpaid debt.
- 2.1.7 Failure to comply with abatement or other statutory notices may result in prosecution in the Magistrates Court. Equipment, such as televisions and music devices may be seized.

2.2 **Question 2. How are you addressing the five key principles in your organisation?**

- 2.2.1 The 5 key principles which include: encouraging victims to report ASB, having clear and transparent processes, clear referral pathways, shared strategic priorities with the police and restorative justice are reflected in our practices and links with the SSP.

The principles are:

- i. Encourages the reporting of ASB, takes it seriously and adopts a restorative approach when dealing with.
 - ii. Has clear and transparent processes to ensure that individuals affected by ASB can easily report concerns, we investigate complaints thoroughly and ensure complainants are well informed.
 - iii. Has clear referral processes in place to link in with partners, including the SSP to have a joined up approach to dealing with ASB.
 - iv. Links in with the SSP its partners and shares and adopts examples of best practice.
 - v. Supports individuals who cause ASB to modify their behaviour, adopting a restorative approach and taking vulnerabilities into account
- 2.2.2 As a set of principles they reflect the approach which the Housing Service takes when dealing with ASB, the aim of which is:

To support people to maintain their tenancies to help provide stability and security for families and communities. The Housing Service will aim to help reduce anti-social behaviour to help support community cohesion across estates.

The Housing Service has clear and varied means to report ASB which are publicised in various ways.

- 2.2.3 ASB is taken seriously, all incidents are recorded on a tailored database, triaged and investigated at the AHO, and there is a dedicated ASBST which assists the AHO team. Complainants are provided with updates in respect of their

complaints and are given advice and support which includes managing expectation in respect of what can be achieved and likely outcomes.

- 2.2.4 There are strong partnership links in place within the Council, e.g. Social Services and the SSP, and external partners such as the SWP, Mid & West Wales Fire & Rescue Service (MAWWFRS), Mental Health Services plus many others.
- 2.2.5 Working with individuals to modify behaviours is integral when dealing with ASB help achieve better outcomes. It is essential that a holistic person-centred approach is taken when dealing with each ASB case.
- 2.2.6 A similar approach is taken in Pollution Control and Private Sector Housing with service standards being included in the corporate standards. Information on how to report concerns are available on our web pages. The Environment Call Centre, e-mail and online forms are used. Complaints are recorded on a database, which also records officers' actions.

Where issues are reported regarding council tenants, officers liaise with the AHOs to try to bring about a resolution.

- 2.2.7 Officers also have a strong working partnership with Swansea University, the University of Wales Trinity St David (UWTSD) and South Wales Police. This partnership funds a Community Liaison Officer (CLO) employed by Swansea University whose role includes working with students living in residential communities to ensure there is greater community cohesion. This can often involve responding to noise and waste complaints and invoking the universities' disciplinary procedures where appropriate.
- 2.3 **Question 3. What are the key challenges you are facing and how are you addressing these (what more can be done to help you to address them)? There are a significant number of challenges in respect of dealing with ASB.**

2.3.1 The key challenges faced by our teams include:

- Expectations
- Non-engagement
- Complex needs
- Clash of lifestyles / low -level nuisance
- Substance use
- Environment

How we are addressing these challenges:

2.3.2 **Expectations**

Expectations across the board are a challenge, not just from complainants but also from partners.

Complainant's expectations are managed from the outset. Officers are open and honest in respect of any likely outcomes from a complaint. Serious personal threats can be dealt with through injunctions, in terms of possession however the bar for eviction is very high and based on corroborated evidence.

The expectations of partners, particularly within the context of moving tenants quickly, is managed through conversations that clearly define what can and cannot be achieved. It is however common for other agencies to assume an urgent transfer can be easily achieved which is not always possible.

In addition, there can be an expectation that the NSU have enforcement powers. Whilst the NSU plays a key role in witnessing ASB, offering advice and support and diffusing situations, they are not the police and should not be used as an alternative to calling the police where ASB is of a criminal nature.

2.3.3 **Non-engagement**

Individuals who will not engage with officers are a challenge. To try and counter this the service works closely with Support Workers, Social Services (in respect of safeguarding concerns), family and friends and a range of partners.

In respect of Pollution Control and Private Sector Housing prosecution would never be the first choice to deal with anyone failing to comply with an enforcement notice, but individuals who repeatedly cause noise or waste problems and consistently fail to comply with enforcement notices may be subject to legal proceedings. However, this is not necessarily the best option depending on the specifics of each case and would not necessarily mean that the problem stops.

2.3.4 **Substance use**

The use of substances whether legal (alcohol) or illegal (drugs) is prolific across the country and across all tenure types. The ASB often associated with excessive substance use, both taking and supplying, presents challenges. Dealing with any illegality linked to both is a matter for SWP, the Housing Services will however look to address any ASB within the context of tenancy support, working with partners and trying to engage with individuals to effect behaviour modification.

2.3.5 **Complex needs**

Some individuals may have experienced adverse childhood experiences which can lead to substance dependency, mental health issues, chaotic lifestyles etc. Individuals with complex needs can be vulnerable to coercion, cuckooing and exploitation. We work both locally and at a strategic level to ensure the right support and advice is available to such individuals whilst also trying to minimise the impact of their behaviour on the wider community.

2.3.6 **Clash of lifestyles / low -level nuisance**

Often there are high expectations and an over-dependency from tenants in expecting the AHO to deal with issues such as clash of lifestyles / low-level nuisance e.g. one off incidents such as noise/parties, dislike of each other, and play (e.g. ball games). Broadly what is and is not ASB can be found at Appendix A. Particularly with low level ASB, there will be times when the only assistance the AHO can offer is advice and possibly mediation. All instances of reported ASB are however recorded.

2.3.7 **Environment**

Some locations, particularly open large spaces lend themselves to gatherings which can lead to ASB, such as bike scrambling.

The Housing Estate Management Strategy sets out what the Housing Service can do to address this:

- Support the development of areas for play on our land
- Carry out environmental works to improve areas, such as boulders to restrict access to areas (not effective for scrambling)
- Carry out a responsive and effective caretaking across estates
- Monitor high rise blocks through the remote concierge system
- Use CCTV, area based and within high rise and some low rise flats.
- Arrange and attend engagements events to gather the views of residents in communities.
- Through capital works we undertake, including new build, looks to design out crime.

2.3.8 Public Health

The transient nature of the population in areas with high student numbers can be problematic. Work is done to educate and inform students, linking various council services with the universities and student unions and this has to be done on an annual basis due to the regular churn of tenants.

There can be problems with investigation and evidence gathering, particularly when complainants wish to remain anonymous or access is not available to witness a nuisance. Although in Public Health there is an on-call service for responding to noise and other pollution-related complaints, access to this service has to be filtered due to staffing resources and noise that is of limited or sporadic duration cannot always be witnessed.

2.4 Question 4. How are you engaging with the public i.e., events etc, examples? How do you use the information gained to improve the services provided?

2.4.1 Engagement is integral to the work of the Housing Service, examples include:

- Day to day estate based presence
- Surgeries and area based offices
- Engagement events – housing led / multi-agency
- Tenant Consultative Panel (TCP)
- Targeted door knocking exercises
- Satisfaction questionnaires
- AHOs through community based surgeries
- Ward Member walkabouts
- Attending community hubs

Information is used for planning purposes, targeted improvements to help design out crime and putting in measures to restrict access to some areas.

Information also helps in respects of deploying resources within the service such as at the AHOs and within the ASBST, NSU and Caretaking Services.

2.4.2 There is a corporate approach to informing and educating students and landlords in the private sector every year. This pulls together on waste (including household waste and recycling collections), noise and licence conditions for licensed houses in multiple occupation (HMOs). Information is provided by direct e-mail, door-knocking by the Waste and Cleansing teams, events at the universities and in Singleton Park and working with the CLO and student unions. Ward Members are also central to this approach.

Reviews of previous years' activities, reported complaints and activities can help inform both our pro-active approach and how we respond to subsequent complaints.

2.5 Question 5. What information is available that the public can access about ASB relating to your service?

2.5.1 Information regarding ASB is available at the AHOs and on the Council's webpages* <https://www.swansea.gov.uk/reportantisocialhousing> ASB can be reported through both of these routes. Information is routinely shared on social media. Most ASB is reported directly to the AHOs during office hours and to the NSU out of hours.

New tenants are provided with a handbook containing information on how to report ASB.

2.5.2 Information, including online reporting forms are available regarding noise problems [Noise problems - Swansea](#)

**To ensure web pages accurately reflect the new Renting Homes (Wales) Act 2016 (RHWA) legislation they are currently being updated, however how and what to report, including contact details, is still available including a reporting link.*

2.6 Question 6. Do you feedback to the victims/reporters of anti-social behaviour about what is being done to address ASB, either in terms of the specific incident they were involved in or reported, or more generally? Do you use this feedback to improve inform and improve your services?

2.6.1 ASB cases are recorded on a case management data case, a primary case officer is allocated either from the AHO or the ASBST and the officer is the first point of contact and whilst a case is live will provide an ongoing dialogue in respect of case progression.

Following case closure the ASBST will conduct a telephone interview to explore the individual's experience, this information feeds in to service improvement, including direct feedback to individual officers and for shared learning and informing best practice.

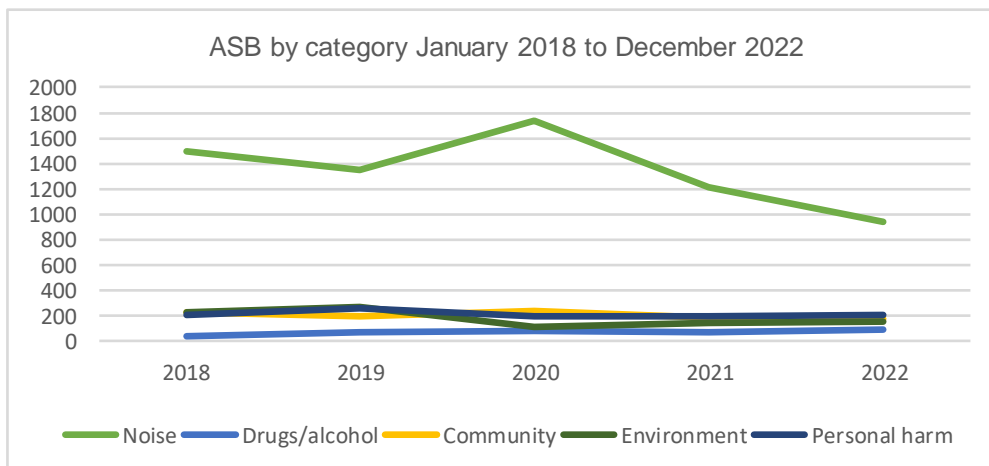
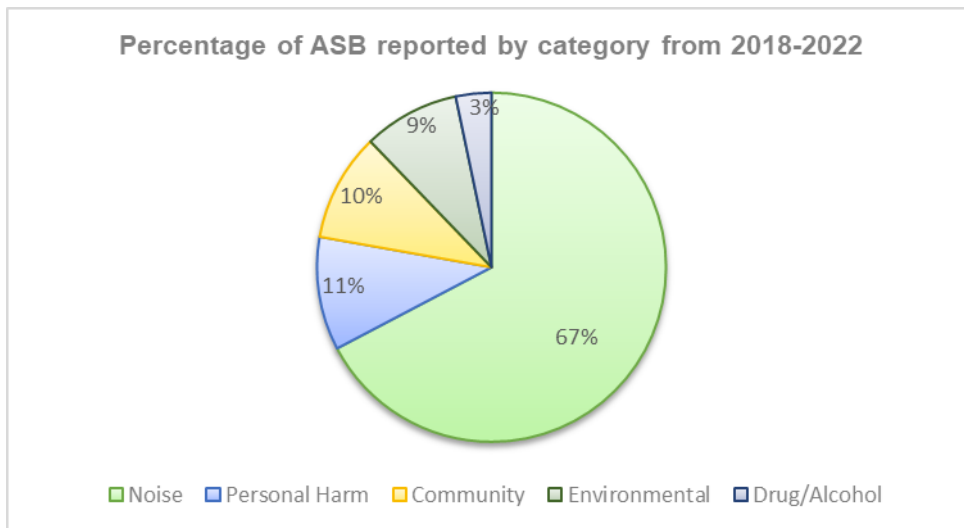
2.6.2 In respect of Public Health, people who complain about noise problems are contacted and kept informed throughout an investigation. Where any legal proceedings are considered, their evidence may be called on as part of the council's case. Officers are currently reviewing how we feedback to people who

complain about waste: we do not have powers to remove waste on private land without first serving notice on the owner or occupier and so it may be some time before the complainant sees an improvement. There are also instances where no action can be taken and we need to be clear on explaining that to complainants.

2.7 Question 7. Data – any appropriate data relating to ASB and your service area/organisation?

2.7.1 ASB cases reported and case created by year 2018 – 2022

January 1 st to December 31 st	2018	2019	2020	2021	2022
How many properties are covered by your ASB service?	13528	13525	13530	13579	13709
Number of new ASB cases created	711	760	862	671	633
Total incidents recorded <i>A single case may have multiple incidents recorded within it.</i>	2175	2129	2389	1762	1558
Noise incidents	68.9	63.4	72.8	68.9	60.3
Drug & alcohol related incidents	1.5	3.1	3.3	3.5	5.8
Community	10.3	9.0	10.0	10.3	10.8
Environmental	10.2	12.6	5.8	6.2	9.6
Personal harm	9.2	11.9	8.1	11.0	13.4



2.7.2 ASB actions for cases between January 2018 and December 2022

	2018	2019	2020	2021	2022
Mediation cases undertaken	1	3	8	8	5
Notices of seeking possession served	6	1	3	0	11***
Anti-Social Behaviour Injunctions served	6	0	0	7	4
Evictions carried out	4	1	0	0	0

*** One NSP was served for ASB and rent arrears, tenant was evicted for rent arrears

2.7.3 Service requests relating to noise and waste reported to Pollution Control and Private Sector Housing by year 2018 – 2022

January 1 st to December 31 st	2018	2019	2020	2021	2022
Rubbish in council properties	53	14	24	59	75
Rubbish on private land	706	807	775	842	598
Amplified music	1,174	1166	1942	1723	1033
Barking dog	756	988	823	968	1160
DIY	46	90	108	341	409
Audible alarm ¹	179	210	72	68	49

2.8 Question 8. Does the council or partner organisation meet its regulatory obligations in relation to the services represented today? If not, why is that and what can be done to help you to do this?

2.8.1 Whilst there is national legislation, notably the Anti-Social Behaviour, Crime and Policing Act 2014, this is primarily used by SWP and Community Safety in respect of criminality. One aspect more relevant to us, is the use of Anti-social Behaviour Injunctions.

2.8.2 When taking action against a council tenant for ASB, we rely on housing legislation through the tenancy conditions the Renting Homes (Wales) Act 2016 and with due regard to other legislation including, but not limited to, the Mental Capacity Act and Equality Act.

2.8.3 Complaints of potential statutory nuisance are investigated, and appropriate action taken as required by the Environmental Protection Act 1990 when a statutory nuisance is confirmed.

2.9 Question 9. How well do you feel the Council and its partners are working together to tackle and reduce anti-social behaviour in Swansea from the perspective of your service/organisation. How could it be improved further?

¹ Some of these alarms may have been on non-residential premises

2.9.1 Teams across the Housing and Public Health Service work well with internal and external partners and have robust partnership arrangements in place to tackle ASB covering an extensive range of services.

2.9.2 At a local operational level, links with SWP are strong including links with Police Community Support Officers, joint visits, information sharing, good relations with Sector inspectors and their teams.

There is representation at the monthly Problem Solving Group's (PSG) run by SWP, we contribute significantly to these meetings where individuals are discussed and intelligence shared. The agendas are agency led and allow for information sharing across all agencies.

2.9.3 The Service is represented at both Strategic and Operational CMET and also at the Corporate Safeguarding Group.

2.9.4 The Housing Service also participates in events arranged by Community Safety and the partners of the Safer Swansea Partnership, including the SWP and MAWWFRS and other sections of the Council including Trading Standards and Social Services (through CMET).

2.10 Question 10. What are the key objectives in your service/organisation in relation to ASB? How do you monitor and manage performance in your service area/organisation to measure and meet these objectives?

2.10.1 The Housing Service's primary aim in relation to ASB is to support individuals to maintain their tenancies to help provide stability and security or families and communities. The Housing Service will aim to help reduce anti-social behaviour to help support community cohesion across estates.

2.10.2 In order to help achieve the service aim, the Housing Service's key objectives to effectively deal with anti-social behaviour, are to:

- Put those affected by ASB first
- Carry out careful and thorough investigations
- Deal appropriately and proportionately with tenants or their families/friends who are causing anti-social behaviour within the community or targeted against individuals
- Provide updates within specified time scales
- Ensure tenants, leaseholders and residents know what behaviour is expected of them
- Make it is easy to report anti-social behaviour
- Treat reports of anti-social behaviour seriously and professionally
- Provide realistic expectations at what outcomes can be achieved within the context of current legislation
- Support people carrying out ASB to change their behaviour
- Recognise that the people carrying our ASB can themselves be targeted
- Work with partners to prevent and tackle anti-social behaviour
- Support vulnerable individuals within communities.

2.10.2 The aims of the Pollution Control and Private Sector Housing Division are to protect human health and the environment from any form of pollution and to improve housing and public health standards through regulation and enforcement. There are no specific ASB-related aims, but ASB-type issues are often dealt with as part of our wider public protection response.

Performance

2.10.3 ASB cases are managed locally at the AHO, each area is supported by the ASBST to assist with the joint case management of the most serious, complex and persistent ASB cases. Case numbers and the actions within each case are monitored at the AHO.

Formal case reviews take place within each AHO 4-6 weekly, undertaken by the Area Housing Manager (or Deputy) and a representative from the Anti-Social Behaviour Support Team. Following the closure of an ASB investigation, the Council will notify the complainant of the outcome and 3 attempts to undertake a satisfaction survey with all complainants will be made. The information collated from the case reviews and satisfaction surveys is used as part of officers' 1-2-1s and good practice shared between teams. Learning through feedback is used as an effective training/mentoring tool.

2.10.4 In Pollution Control and Private Sector Housing there are a series of targets for a wide range of service delivery areas. These again are monitored using our departmental database and discussed at 1-2-1s. Environmental Health Officers (EHOs) are required to complete a specific amount of continuing professional development to maintain their contractual membership of the Chartered Institute of Environmental Health in order to maintain professional competency. Paid-for training for EHOs and other technical officers in the Division is considered within budget restrictions. Team meetings and peer review exercises can assist in ensuring consistency of response, interpretation and application of legislation.

2.11 **Question 11. How is your organisation, the Council and other partners working together to address the causes of anti-social behaviour. Strategies, tools, interventions and work happening in communities, include examples? How could this be improved further?**

2.11.1 ASB covers a wide spectrum of behaviours from relatively low-level noise nuisance complaints through to criminal activity.

Just as the nature of ASB is varied, so too are the causes. Indeed, one of the aims of the Safer Swansea Partnership is to improve our collective understanding of ASB to deliver a more informed approach to tackling the underlying drivers of demand.

2.11.2 We know that often someone who displays ASB will have some vulnerabilities (e.g. mental health issues, substance use issues). It is important that we safeguard any vulnerable individuals and ensure they have access to statutory services, whilst addressing their behaviour and its impact on others. We do this via multi-agency PSGs, CMET and the SSP. We are also represented on

corporate groups to identify and support individuals at risk of radicalisation and exploitation.

Information shared at these strategic meetings is fed to officers on the ground. Similarly, intelligence gathered on the ground is fed into these strategic meetings. This flow of information works well.

- 2.11.3 Within the Housing service we are always looking for opportunities to strengthen partnership working and have recently undertaken some meetings with Probation to explore how we can work more closely. In respect of one-on-one complaints of ASB, mediation is an option used to help resolve issues, this is particularly useful in respect of life style clashes. More broadly tenancy support is available to all tenants, with referrals primarily made through the AHO and the Rents Team.
- 2.11.4 As mentioned in 2.4 above, there is a corporate, multi-disciplinary approach to informing and educating students and landlords in the private sector every year. Partnership meetings with the two universities, council officers and South Wales Police are held every two months to review cases, discuss priorities, and a work programme for the coming year.

3. Conclusions/Key Points Summary

- 3.1 As a landlord the Housing and Public Health's approach and response to dealing with reports of ASB will be to take firm, appropriate and proportionate action after considering the circumstances and facts of each case. It will support complainants, ensure they are kept informed and their expectations in respect of probable outcomes are realistic.
- 3.2 The Housing Service will ensure that tenants (or members of their households) who cause ASB receive support to assist them to modify their behaviour. It will take enforcement action against tenants who continue to cause ASB, when there is supporting evidence available.
- 3.3 The Housing Service will work with partners across all sectors to deliver on its aims and objectives to deal effectively with ASB on Council estates where tenants are the cause of ASB.

4. Legal implications

- 4.1 There are no legal implications associated with this report.

5. Finance Implications

- 5.1 There are no financial implications associated with this report.

6. Equality & Engagement Implications

- 6.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

6.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.

Glossary of terms:

Acronym	Expanded version	Acronym	Expanded version
ASB	Anti-social Behaviour	L&CHS	Landlord & Community Housing Services
SSP	Safer Swansea Partnership	AHO	Area Housing Office
ASBST	Anti-social Behaviour Support Team	NSU	Neighbourhood Support Unit
TSU	Tenancy Support Unit	SWP	South Wales Police
MAWWFRS	Mid & West Wales Fire & Rescue Service	UWTSD	University of Wales Trinity St David
TCP	Tenant Consultative Panel	OCG	Organised Crime Gang
CSE	Child Sexual Exploitation	CCE	Child Criminal Exploitation
HMO	Houses in multiple occupation	CLO	Community Liaison Officer
PSG	Problem Solving Groups	CMET	Contextual Missing Exploited Trafficked
EHO	Environmental Health Officers	EHO	Environmental Health Officers
MARAC	Multi-Agency Risk Assessment Conference		

Background papers: None

Appendices:

Appendix A – List of what is and what is not ASB

Appendix B – Scrutiny Report from November 2022 on Fly-tipping

What is and what is not Anti-social behaviour

Commonly recognised types of anti-social behaviour include but is not limited to:

- Violence or threats of violence and actual assault
- Intimidation and harassment
- Hate crime and associated actions or any form of harassment against members of identified groups because of perceived differences e.g., race, ethnicity, religion, sexual orientation or disability
- Harassment including persistent verbal or physical abuse
- Drug related offences
- Noise and other neighbour nuisance unacceptable levels of noise including loud parties, music, televisions, shouting, banging (this list is not exhaustive)
- Local environmental quality issues such as fly-tipping, vandalism and graffiti
- Illegal or immoral use of residential premises
- Aggressive and threatening language and behaviour

Anti-social behaviour is not:

Examples of what is NOT classified as anti-social behaviour include but is not limited to:

- Children playing in the street
- General day to day living noise e.g., vacuuming, using a washing machine
- Young people gathering socially
- Being unable to park outside your home
- DIY and car repairs unless at unsociable hours
- Annoying or occasional behaviour e.g., one-off parties
- General disagreements between neighbours based on the dislike of one



Report of the Cabinet Member for Community
Scrutiny Programme Committee – 15th November 2022

Fly Tipping

Purpose	To brief/update the Scrutiny Committee on action on Fly Tipping
Content	This document is a summary of the current procedures in place to deal with fly tipping.
Councillors are being asked to	Consider the information provided and give views
Lead Councillor	Councillor Cyril Anderson, Cabinet Member for Community
Lead Officer	Chris Howell, Head of Service Waste Management Parks and Cleansing
Report Author	Frances Williams, Waste Enforcement Team Leader, Jeremy Davies, Group Leader Parks and Cleansing. Tel: 01792 635600
Legal Officer	Tracey Meredith
Finance Officer	Paul Roach
Access to Services Officer	Rhian Millar

1. Background

- 1.1 'Local authorities and Natural Resources Wales both have a responsibility in respect of illegally deposited waste. Local authorities have a duty to clear fly-tipping from public land in their areas and consequently they deal with the vast majority of fly-tipping on public land, investigating these and carrying out a range of enforcement actions. Natural Resources Wales is responsible for dealing with large-scale, serious and organised illegal dumping incidents which pose an immediate threat to human health or the environment'.
<https://gov.wales/local-authority-recorded-fly-tipping-quality-report-html>
- 1.2 In relation to preventing fly tipping, prevention is regarded as better than cure. It offers information and advice to those it regulates and seeks to secure co-operation avoiding bureaucracy and excessive cost. The **3 E's**, Education, Engagement and Enforcement.

- 1.3 The purpose of this protocol and procedure document is to provide information to Councillors and to promote the enforcement message and to secure efficient compliance with legislation whilst minimising the burden to Parks & Cleansing, individuals, organisations and businesses. The information within this document is intended to be applied in a wide range of situations and it explains in general terms the approach adopted by the Enforcement Team when carrying out Swansea Council's enforcement duties in relation to fly tipping.
- 1.4 Swansea Council's waste enforcement team aims to encourage citizens to play their part and recognise their contribution to protecting finite resources.
- 1.5 Swansea Council has worked hard to improve performance reducing fly tipping, including:
- blocking access to areas known to be used by fly tippers with stone boulders and barriers on both public and private land;
 - taking enforcement action where people persistently disregard kerbside collection arrangements;
 - Supporting Keep Recycling Out campaign by taking enforcement action where people persistently disregard collection arrangements
 - undertaking education and engagement activities, including an advice day at local building suppliers;
 - working with the Police to stop vehicles carrying waste in order to ascertain that the businesses are in compliance with their Duty of Care responsibilities and are registered waste carriers.
 - Clearing fly tipping incidents on council land/highway promptly within five working days.
 - Working with private land owners to facilitate removal waste and subsequent enforcement action with a view to conviction and reimbursement of costs to the landowner.
 - Working with landlords of properties to ensure Duty of Care arrangements are in place to reduce opportunistic tradespeople from fly tipping waste.
 - Working with householders to ensure legal disposal of waste to waste carriers.
 - Using surveillance in areas known as fly tipping 'hotspots'

Some examples of the above are detailed in **Appendix A**.

- 1.6 Fly tipping sits in Waste Management, Parks and Cleansing Service Area, with operational clearance and control under the Group Leader of Parks and Cleansing and Waste Enforcement being under the Team Leader Enforcement.
- 1.7 Fly tipping is part of the enforcement officers role, other duties include, but are not limited to, investigating and actioning issues relating to domestic waste, commercial waste, dog fouling, littering, dog ban on beaches,

2. Monitoring, Clearance, Prevention, and Enforcement

- 2.1 Fly tipping and littering costs us, approximately £2.7 million per year to clear. However, due to the amalgamation with street cleansing it is not possible to provide separate tonnages of fly tipped waste and subsequent costs.
- 2.2 Our Housing department carries out its own removal and disposal of fly tipping. Waste enforcement assists when required in relation to investigations being carried out.
- 2.3 Under the Environmental Protection Act 1990 Section 33, fly tipping is a criminal offence. The removal of fly tipped waste from public land is a statutory duty. The investigation and prevention of fly tipping is not currently a statutory duty.
- 2.4 Fly tipping is a criminal offence and is punishable in a court of law. On conviction sentencing can include an unlimited fine and a prison sentence. The introduction of Fixed Penalty Notices (FPNs) provided a useful and proportionate alternative to prosecution in small-scale fly tipping incidents. These FPNs provide a quick, visible and effective way of dealing with certain fly tipping cases, avoids taking “smaller” scale offences to the courts, and reduces demands on officers preparing prosecution files. However, each FPN file has to be of such detail initially that should the defendant fail to pay the FPN the case would be prepared for consideration, for prosecution of the original offence. The level set for FPNs is set at £400 with £250 early repayment option.
- 2.5 Keeping our Streets and Public Open Spaces Clear of Fly Tipping
 - 2.5.1 **Reactive cleansing** – Cleansing currently has two dedicated fly tipping teams consisting of two Cleansing Operatives per team. The teams receive daily reports of fly tipping incidents via the Contact Centre. Reports are actioned, the waste searched for evidence and then removed from site. The waste is separated and recycled wherever possible. Any evidence retrieved is photographed and forwarded electronically to the Enforcement Team for further action as they see fit. Other Cleansing Operatives are actively encouraged to remove any fly tipping that they encounter during their routine duties. Fly tipping can be reported directly to the Contact Centre on 01792 635600 or by completing the online Fly Tipping reporting form at <https://www.swansea.gov.uk/reportflytipping> Fly tipping located on private land is often referred to Pollution and Private Sector Housing to consider formal intervention against the owner(s)/occupier(s) depending on the nature and extent of the waste.
 - 2.5.2 **Proactive monitoring and clearing of hotspots** – Cleansing has a list of known fly tipping hotspots. This list is a ‘live’ document in which sites are removed and new ones added as may be appropriate depending on what the proactive monitoring determines. Any evidence found is actioned as above. Fly tipping hotspots will normally be visited at least once a week as a minimum depending on the individual circumstances presented at any given time.
 - 2.5.3 **Proactively discouraging fly tipping** - Cleansing has worked closely in partnership with Keep Wales Tidy (Caru Cymru Project) over the last couple of

years. Five fly tipping hotspots were identified and physical measures installed to help discourage fly tipping. Physical measures include permanent signage, mesh signage, boulders, vegetation clearance etc. Early indications are positive and further monitoring is required to compare the fly tipping incident rates before and after the works were completed. It is anticipated that further sites will be rolled out over the coming years.

- 2.6 Swansea Council's Waste Management web site provides information on how to dispose of all waste in the proper manner. It also advises residents on their duty of care in regard to employing 'a person in a van'.

We publicise, where appropriate, details of successful prosecutions in the press and on our and Natural Resource Wales websites.

We carry out campaigns and initiatives to inform the public on the problems created by fly tipping, for example: - officers attending schools to talk to pupils, fly tipping being included on agendas at meetings of community groups and regular distribution of leaflets on fly tipping. Officers believe this will assist to bring about a change of culture in the long term.

- 2.7 We continue to support the removal of fly tipped waste from private land that is in sight of a public highway and continue to work with private landowners to discourage fly tipping on their land. This could include initiatives such as the installation of a barrier or fencing. There may be a short term cost implication to both us and the landowners. Costs, may be reclaimed by landowners on conviction of fly tipper.

- 2.8 The use of covert CCTV requires Magistrates' court authorisation with definitive criteria to be met. The use of cameras has proved unsustainable in certain areas as cameras are located and stolen or destroyed. Staff availability to view hours of recorded footage is often prohibitive. However, enforcement officers work with Community Safety and where and when cameras are available and fit for purpose, we aim to deploy using current overt CCTV legislation in place.

- 2.9 Swansea Council has the Public Protection and Waste Enforcement Policy and looks to promote good standards of enforcement, and all officers will consider and follow the Code of Practice for Crown Prosecutors, issued by the Crown Prosecution Service, when taking decisions on whether to prosecute. Environmental enforcement activities are essential to protect the environment from those, despite extensive promotional and educational activities, still cause harm to the environment through fly tipping.

- 2.10 Legislation used for dealing with waste:

Environmental Protection Act 1990 (EPA 1990)

- **Section 33** – Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste – Flytipping

FPNs for flytipping up to £400.

- **Section 34** – Duty of Care etc. as respects to waste.

Anyone who collects, keeps, transports waste has to have a duty of care.

FPNs can be issued for no duty of care £300 reduced to £180 for early repayment.

- **Section 59 – Powers to require removal of waste unlawfully deposited.**

Refers back to section 33 – does not have a licence/exemption to accept or store waste

- **Section 46 – Domestic Waste**

Householders have a duty of care to ensure domestic waste is placed, in the right place, at the right time, on the right day, in the right receptacles for collection.

Statutory notice can be served with 21 days appeal time. Only done after initial education letters sent. Dealt with on individual basis.

After 21 days continuous problems can be dealt with by way of a Fixed penalty Notice (FPN) £100 reduction to £60 under section 47ZA/B

- **Section 47 – Receptacles for commercial or industrial waste (Trade Waste)**

Businesses have a duty of care to ensure their waste does not escape or is interfered with until such day of collection.

Statutory notice can be served with 21 days appeal time. Only done after initial education letters sent. Dealt with on individual basis.

After 21 days continuous problems can be dealt with by way of a Fixed penalty Notice (FPN) £180 reduction to £90 under section 47ZA/B

- **Section 87/88 – Fixed penalty notices for dropping litter**

Fixed penalty Notice (FPN) £100 reduced to £75 if paid within 7 days

- **The Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017**

The provision of issuing FPNs for flytipping for commercial and domestic waste. Duty of Care. Householder Duty of Care yet to be forwarded for adoption Commercial DoC already in place. £300 maximum with reduction to £150 for early repayment.

3. Conclusions

- 3.1 In the year from April 2021 and March 2022 there were 1628 reported instances of fly tipping, with the vast majority of these being very small scale in nature, such as 2 or 3 bags or an item of furniture.

3.2 The table below shows the Enforcement actions taken in regard to waste issues over the same period

	Statutory Notices issued	FPN issued	Paid	Unpaid/withdrawn
Flytipping EPA 1990 S33	N/A	5	5	0
Duty of Care EPA 1990 S34	N/A	34	33	1
Domestic EPA 1990 S46	154	2	1	1
Commercial EPA 1990 S47	65	5	4	1
Littering EPA 1990 S87/88	N/A	24	19	5
Dog Fouling	N/A	1	1	0
Dog Ban on Beaches	N/A	17	16	1

3.2 As much as possible of fly tipped waste is segregated for recycling, with the remainder being disposed as residual waste.

3.3 The Council is working hard to proactively reduce fly tipping through regular checking of hotspots and the introduction of physical measures such as permanent signage, mesh signage, boulders, and vegetation clearance. Early indications of reductions in fly tipping are very positive.

3.4 Expanding the use of current legislation EPA 1990 section 33ZB to deal with fly tipping via Householder Duty of Care would discourage householders from giving waste to a 'person in a van' without carrying out due diligence, which can result in fly tipping.

3.5 We are also seeking to increase presence in areas of Houses of Multiple Occupancy (HMO) to ensure tradespeople and landlords comply with Duty of Care requirements with a view to reducing flytipping in rear lanes and on the highway.

4. Integrated Assessment Implications

4.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.

- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

4.1.1 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.

4.1.2 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

4.2 A copy of the IIA screening confirms that a full IIA is not required and can be found as an **appendix** to this report. Summary of Screening:

- **Summary of impacts identified and mitigation needed (Q2)** – Positive outcomes with no mitigation required
- **Summary of involvement (Q3)** - This report covers business as usual activities, so does not require any engagement/consultation
- **WFG considerations (Q4)** - Covered
- **Any risks identified (Q5)** – None
- **Cumulative impact (Q7)** - This report covers business as usual activities, and generally results in a positive outcome for all.

5. Legal implications

5.1 There are no legal implications associated with this report other than those set out in the body of the report.

6. Finance Implications

6.1 There are no financial implications associated with this report other than those set out in the body of the report.

Background papers: None

Appendices:

Appendix A – Examples of Fly Tipping Prevention/Reduction Initiatives

- a) Banners as a Deterrent
- b) Joint Police and Waste Enforcement Operations
- c) Liaison with Waste Collection Crews and residents
- d) Commercial Waste Enforcement

Appendix B – Integrated Impact Assessment Screening