



the **Southampton Test** **anti-social behaviour** **handbook**

your **guide to the law**

by **Alan Whitehead MP**

Introduction

This handbook is designed to help you deal with problems you may face in your street or in your community.

There are lots of different types of anti-social behaviour, including vandalism, abuse, noisy neighbours and fireworks.

Many of the problems featured in this handbook are criminal offences and can be dealt with by the police.

Local councils also have powers to deal with some of the problems and nuisance behaviour.

This handbook describes many of the problems and lists the relevant law - so you have the information to request action from the police and/or your local council.

This handbook will help you use the law to keep you, your family and your community safe.

However, **never put yourself in danger**. This handbook is not about encouraging you to be a have-a-go-hero: **when in danger you should always contact the police**.

If you have any suggestions for future editions of this handbook, or if you have any questions or issues to raise please contact me.

Alan Whitehead MP



Contents

Fireworks	2
Graffiti	4
Rubbish	6
Vehicles	8
Loitering youths	11
Alcohol	14
Neighbours from hell	16
Noisy neighbours	20
Travellers	21
Harassment	22
Useful numbers & websites	inside back cover

Fireworks

The anti-social use of fireworks has become a year-long problem. Not only are they noisy and cause alarm amongst residents and domestic animals, but they can also be very dangerous.

There are a range of measures to deal with the problems caused by the irresponsible use of fireworks but if you feel that you are in any danger call the police immediately.

People throwing fireworks in the street

This is illegal and you should contact the police immediately. It is also an offence for anyone under the age of 18 to be in possession of a firework in a public place. Anyone found guilty can be issued with an on-the-spot fine by the police, or a court fine of up to £5,000.

The Law

Throwing fireworks in the street is an offence under **Section 80** of the **Explosives Act 1875** which prohibits the setting off of fireworks in any highway, street, thoroughfare or public place. In addition, under the **Fireworks Regulations 2004**, it is an offence for anyone under the age of 18 to possess fireworks in a public place.

“The Government have imposed a curfew on the use of fireworks between 11pm to 7am”

Noise caused by fireworks

The Government have imposed a curfew on the use of fireworks between 11pm to 7am so if a display is taking place between these hours you are within your rights to call the police. If the problem is happening every night, then you can call the Environmental Health Officers at the council and ask them to intervene.

The Law

The Government have imposed a curfew on the use of fireworks during the night (11pm-7am - except on Bonfire Night when the curfew starts at midnight, and New Year when it starts at 1am).

Excessive noise from fireworks could be deemed a nuisance under Part III of the **Environmental Protection Act 1990**.

Distress caused to animals

It is an offence to cause any unnecessary suffering to domestic or captive animals, and the fines are heavy: up to six months imprisonment, a fine of up to £5,000 or both. Depending on the severity of the noise, contact the police, Trading Standards, or the RSPCA.

The Law

Under **Section 1** of the **Protection of Animals Act 1911** it is an offence to cause any unnecessary suffering to any domestic or captive animals.

Graffiti

Graffiti and flyposting are against the law. There are a number of actions you can take against the vandal as well as getting the damage repaired.

Vandals

According to the law, anybody who destroys or damages property is guilty of a criminal offence, punishable by a prison sentence of up to 10 years. If someone is found to be carrying anything that they intend to use to vandalise property they are liable for the same sentence.

If the vandal uses racist language - for example in graffiti or towards the victim - they are guilty of a 'racially aggravated criminal offence', which carries a sentence of up to 14 years.

If you see someone vandalising or you believe that they might be planning to, call the police immediately.

The Law

Under **Section 1** of the **Criminal Justice Act 1971** any person who unlawfully destroys or damages property is guilty of a criminal offence;

The **Crime and Disorder Act 1998** introduced the 'racially aggravated criminal offence' which is committed when the offender uses aggressive or threatening language either before or after the offence.

“According to the law, anybody who destroys or damages property is guilty of a criminal offence”

Getting graffiti or flyposting removed

The Council can force the owners of the property that has been vandalised to clean it up, and you should contact the Environmental Health Officers to make this happen.

The Law

A local authority (County or District Council) can serve a ‘defacement removal notice’ on the owners of the property under **Sections 48, 49, 50, 51, and 52** of the **Anti-Social Behaviour Act 2003** to make them clean the graffiti or fly posts off their property.

Rubbish

It is a criminal offence for anyone to drop litter in the open air or to dump waste in a public or private space not reserved for the purpose (like a council rubbish tip). If you see anyone fly tipping, call the police. Whilst littering is punishable by a fine imposed by a magistrates court, it is not always possible for the police to arrest everyone who drops a small amount of litter, but fixed penalty notices of £75 can be issued instead.

There are unlimited penalties for anyone caught fly tipping and it is no longer a defence for the person caught to claim they were doing so on the instructions of their employer.

The law requires local authorities and organisations to clear waste off their land, and also gives them powers to force other landowners to clear any litter on their land.

“It is a criminal offence for anyone to drop litter”

The Law

Section 33(1) of the **Environmental Protection Act 1990** makes it an offence to dump waste in a public or private space not reserved for the purpose.

The Clean Neighbourhoods and Environment Act 2005 makes it an offence to drop litter anywhere in the open air.

Section 89 of the **Environmental Protection Act 1990** requires local authorities and certain other organisations such as Network Rail and the Highways Agency to clear litter from land and highways.

The Clean Neighbourhood and Environment Act 2005 gives local authorities powers to require businesses and individuals to clear any litter they create and any litter on the land they own.

Shopping trolleys

Abandoned shopping trolleys can be dealt with by informing the Environmental Health Officer at the local council and asking them to remove them.

The Law

The Clean Neighbourhoods and Environment Act 2005 allows local authorities to remove shopping trolleys and recover the cost of doing so from their owners.

Vehicles

Abandoned cars, or individuals who use the streets as an unofficial car-showroom for the vehicles they are trying to sell, can be dealt with by contacting the council.

The Council has the power to remove abandoned vehicles from the streets and can also deal with vehicles that are either being sold or mended on the side of the road as part of a business.

The Law

The Clean Neighbourhoods and Environment Act 2005 gives local authorities powers to remove abandoned cars from the streets immediately. It also creates two new offences to help local authorities deal with the problem:

Offering for sale two or more vehicles as part of a business;

Repairing a vehicle on the road as part of a business.

Joy riding

There are a number of measures that the police can use to stop joyriders, including seizing cars they believe have been stolen, or simply arresting them for theft.

“If you suspect that a vehicle has been stolen, call the police”

Some areas, such as car parks or residential areas where there are a lot of cars, suffer from continued problems with gangs of youths stealing cars in order to joyride. There are a range of powers, including ASBOs and dispersal orders that can be used but prosecution will be sought where possible.

If you suspect that a vehicle has been stolen, call the police. If you are worried that a gang or a certain individual is becoming a problem, contact your ASBO officer at the council.

The Law

Joyriding is not currently a specific offence in England and Wales but other more general offences are often relevant. These include ‘taking and driving away’ and ‘aggravated vehicle taking’ - where ‘taking and driving away’ results in injury or damage under **Sections 12 and 12A of the Theft Act 1968**.

The Police and Criminal Evidence Act 1984 allows the police to seize property they believe to be stolen if they think it is in danger of being lost or damaged.

Sections 59 and 60 of the Police Reform Act 2002 allows the police to seize vehicles after a warning from joyriders and nuisance drivers both on and off the road.

“The Police have the power to confiscate motorised vehicles that are being driven without due care and attention”

Mini-motos

Mini-motos can be ridden on private land so long as it does not cause a statutory nuisance. Private land does not include housing estates or parks. In virtually all cases it is illegal to ride mini-motos on the road.

Officially mini-motos are classed as motor vehicles under the Road Traffic Act 1988, and therefore they need to be road worthy. Most mini-motos do not meet these requirements. Even if they did, to ride a mini-moto on the road it would need to be taxed, insured and registered with the DVLA.

The Law

If a mini-moto is ridden on the road without due care and attention, or off-road including on footpaths and common land in a manner which causes alarm, distress or annoyance then under **Sections 3 and 34** of the **Road Traffic Act 1988** the Police can seize it after a warning (under **Section 59** of the **Police Reform Act 2002**).

When a mini-moto has been seized it will be crushed after the minimum storage period if the owner does not pay the appropriate fees or produce the correct legal documents.

The **Noise Act 1996** and the **Environmental Protection Act 1990** can be used to take action where mini-motos and other vehicles are creating a noise nuisance.

Loitering youths

Youths loitering in areas can cause some vulnerable residents to feel threatened and anxious. There are a range of measures available to deal with this problem, depending on what the situation is.

Unsupervised youths on the street at night are a concern, particularly if the area has a problem with anti-social behaviour. If it does, the police have powers to move the groups away and between the hours of 9pm and 6am they can take home unsupervised children under the age of ten if they designate the area as problematic.

Truancing children can be a source of anti-social behaviour, but the Young Offending Team at the police station has powers to force parents to take responsibility for their offspring. You should contact them with the details of the truancing child.

Because the law does not recognise criminal responsibility in children under the age of ten, they cannot be arrested or charged by the police.

“the police have powers to move the groups away”

However, the council has powers to force the parents to enter into a ‘parenting contract’ whereby they are responsible for their child's behaviour.

If none of the measures fully suit, there is always the option of imposing an ASBO if the problem is recurring and it's the same individuals causing the distress.

The Law

Under the Anti-Social Behaviour Act 2003 the police can designate an area where there is a large and persistent problem of anti-social behaviour. Once the area has been designated, the police have powers to disperse groups and take unsupervised children under the age of ten home between the hours of 9pm and 6am.

Section 19 of the Anti-Social Behaviour Act 2003 gives schools and Local Education Authorities the power to enter into Parenting Contracts with the parents of a child who has tranted or been excluded from school;

Under Section 25, Youth Offending Teams can enter into Parenting Contracts with the parents of a child who has committed or is likely to commit crime or anti-social behaviour.

“the council has powers to force the parents to enter into a "parenting contract”

Children under the age of ten are under the legal age of criminal responsibility so **Sections 11 and 12 of the Crime and Disorder Act 1998** allow magistrates to impose a parenting order to force the parents to stop the child's behaviour, working alongside a "responsible officer" which could be a social worker or a member of the youth offending team.

Alcohol

Antisocial behaviour in pubs, clubs, and other licensed premises

If there are problems with noise, loutish behaviour, or underage drinking in a particular pub or club, then a senior police officer can make a "closure order". A closure order stays in place initially for a maximum of 24 hours with a possible extension of a further 24 hours if certain conditions are met.

To get a closure order imposed, you must contact the police.

The Law

The **Licensing Act 2003** allows the closure of pubs and clubs at short notice. The measures include:

The power to close all licensed premises within a specific area for up to 24 hours where disorder is occurring or is anticipated.

The power for a senior police officer to make a closure order on any licensed premises if he reasonably believes that there is or is likely to be disorder in or around the premises and the closure is necessary to protect public safety.

The power for a senior police officer to make a closure order if he believes that a public nuisance is being caused by noise coming from the premises and closure is necessary to prevent that nuisance.

“the police and community support officers have powers to confiscate alcohol”

Alcohol and young people

Young people under the age of eighteen are not allowed to consume alcohol in a public place and the police and community support officers have powers to confiscate alcohol from young people who are drinking or intend to drink alcohol. If the person refuses to cooperate, this is an offence, and if they refuse to hand over their alcohol, they can be prosecuted or the officer can issue a "penalty notice for disorder" for £50. You should call the police to report this kind of antisocial behaviour.

The Law

Police officers and police community support officers (PCSOs) have the power to confiscate alcohol from young persons under the age of 18. **Section 12 (2) (b) of the Criminal Justice and Police Act 2001** gives the police and PCSOs the power to confiscate alcohol from people who are consuming or intend to consume alcohol in a public place.

Neighbours from Hell

There are a number of ways you can take action against nuisance neighbours, but it depends on what kind of housing you or the nuisance lives in.

Problem neighbours in social housing

The courts have the power to grant injunctions against anti-social behaviour with the possibility of attaching a power of arrest. Injunctions are a swift, inexpensive and effective means of stopping anti-social behaviour. Local authority landlords and registered social landlords may currently apply to the court for such injunctions.

Local authority landlords may apply for these orders against anyone who has used or threatened violence against someone else going about their lawful business in the locality of the local authority housing stock, but landlords of other types of social housing can apply for orders only against their own tenants. You have to provide evidence of the activity complained of and the court must conclude that there will be a continued threat of harm if the order is not granted.

“there are a number of ways you can take action against nuisance neighbours”

In this instance you should contact your landlord to discuss the possibility of an injunction but if you feel in immediate danger, you should call the police.

The Law

Clause 13 of the **Antisocial Behaviour Act 2003** introduced new provisions allowing certain social landlords to apply for injunctions to prohibit antisocial behaviour that affects the management of their housing stock:

Giving all social landlords the same powers as local authorities to obtain county court injunctions to exclude perpetrators of anti-social behaviour from a specified area and, if necessary, their home. Landlords of charitable housing trusts will have to establish that the behaviour in question constitutes a breach of the respondent's tenancy agreement;

Injunctions will be available where the behaviour in question is capable of causing nuisance or annoyance to residents of the landlord, visitors to the premises or locality, or staff employed by the landlord in connection with stock management. This is aimed at widening the range of people who can be protected from the perpetrators of anti-social behaviour;

It will not be necessary for the anti-social behaviour to have occurred in the vicinity of the landlord's housing but there will still need to be a connection with the landlord's management of its accommodation;

A power of arrest will be available in cases where there is a significant risk of harm to residents of the landlord, visitors to the premises or locality, or staff employed by the landlord, even if there has been no actual or threatened violence. Significant risk of harm could include emotional or psychological harm.

“a landlord has the power to evict a shorthold tenant”

Anti-social neighbours in privately rented housing

Private landlords are not responsible for the actions of their tenants, but as long as they have not "authorised" the anti-social behaviour, there are a number of remedies available to them.

A landlord has the power to evict a shorthold tenant under the Housing Act 1998, and if the tenant living in the house is guilty of behaviour that has caused or is likely to cause nuisance or annoyance to a person residing or going about their business in the area then the landlord can seek a court order for eviction. This applies if the tenant or a person living in the property is using the house to deal drugs or for prostitution.

As a first step, you should advise the landlord or the managing agent of the property concerned that the tenant is causing a nuisance. The remedies available to you will depend on the nature of the nuisance. For example, if the nuisance is mainly to do with noise, the environmental health department of the council may be able to assist, but if the nuisance is harassment or intimidation then you should contact the police.

“new powers for tenants to tackle anti-social behaviour becomes law from summer 2007”

The Law

Schedule 2 of the **Housing Act 1988** sets out the grounds on which a landlord may seek to evict a shorthold tenant. Ground 14 allows a landlord to seek a court order for eviction under the **Housing Act 1996**.

Local authorities have the power under the **Environment and Protection Act 1990** to act against private tenants and others who cause a nuisance to neighbours. Under **Section 222** of the **Local Government Act 1972** a local authority can obtain orders to promote or protect the interests of the inhabitants of the area.

New powers for tenants to tackle anti-social behaviour becomes law from summer 2007. For the first time where the local council chooses to grant this power, Tenant Management Organisations will have the power to apply for ASBOs on their estates.

Anti-social neighbours in privately owned homes

As eviction is not an option in this situation, you could ask for an ASBO to be put on the occupier, and there are provisions to enable the police or local authority to place an Order on the individual stopping them from behaving in a way that "causes innocent people distress or fear".

Noisy neighbours

If you are suffering as a result of a noisy neighbour, the first solution may be to speak directly to the neighbour about your concerns. The neighbour could be unaware that they are causing a problem and an amicable conclusion may be reached.

Failing this, the next step would be to complain to the local environmental health office at the local authority. They have a duty to investigate noise complaints where reasonable and they will determine whether the noise is indeed a nuisance in statutory terms. It may be that the noise is intermittent and therefore a diary of the noise may have to be kept to create a record of the nuisance. It may also be necessary to use noise monitoring equipment. This process may take some time before further steps can be taken.

Once it is accepted that noise is causing a nuisance, the local authority may serve an abatement notice requiring the nuisance to be stopped. Fines may be issued if the nuisance continues.

“the local authority may serve an abatement notice requiring the nuisance to be stopped”

The Law

The Environmental Protection Act 1990 makes it possible for an environmental health officer to declare a situation concerning noise a statutory nuisance and serve an abatement notice to the responsible person or attach an abatement notice to a premises.

The Noise Act 1996 introduced a range of other powers relating to night time noise between the hours of 11pm to 7am which enables to police to issue a £100 fixed penalty notice and seize any noise making equipment.

Travellers

The police have powers to remove any gypsies or travellers, and have powers to direct people to leave the land and remove any vehicles or property they have with them if they believe:

1. That trespassing is occurring;
2. The trespassers have between them at least one vehicle on the land;
3. The trespassers are living on the land;
4. There is more than one caravan and there are suitable caravan sites available.

The legal occupier of the land does not have to prove that he has taken reasonable steps to ask them to leave, and there is no need for a written notice to be served. It is an offence for the travellers to fail to leave the land or enter any land in the local authority area as a trespasser within three months and with the intention of residing there. If they do, the penalties are imprisonment of up to three months, a fine or both.

“The Police have powers to remove any gypsies or travellers”

The Law

The Anti-Social Behaviour Act 2003 empowers the police to move on travellers without a warning being issued by the landowner as long as they have reasonable belief that trespassing is taking place.

Harassment

In 1997 laws were introduced to help assist those who are victims of stalking and harassment. This can include problems with abusive neighbours or the intimidation of individuals. For example, there has been growing concern about women being harassed by former partners although victims are not necessarily exclusively female.

Examples include verbal abuse, physical abuse or threat of physical abuse, or intimidation. This could take the form of loitering outside your house or following you, nuisance phonecalls, text messages or emails.

“Keep a diary of the incidents and keep it in a safe place”

As this kind of behaviour is a criminal offence you are advised to take the following action:

Report to the police **IMMEDIATELY** after an incident occurs and make sure you get issued a crime or incident number

Keep a diary of the incidents and keep it in a safe place

Discreetly make family and friends aware of your situation but do not get a friend to ‘warn off’ the perpetrator as this may count against you when you get to court. It is not unknown for such people to claim that you’ve been stalking them rather than the other way around

If the harassment is occurring in your place of work, confidentially inform your manager or trade union if this is possible and keep a note of all incidents. If the problem is arising from a neighbour, please see the section on **Neighbours from Hell** for additional information.

“victims are not necessarily exclusively female”

The Law

Under the **Protection from Harassment Act 1997**, harassment is defined as causing alarm or distress.

Criminal harassment is an offence dealt with by the magistrates' court and carries a maximum sentence of six months imprisonment and/or a £1,000 fine. The court can make a restraining order which if breached carries a maximum sentence of five years imprisonment.

In addition to the criminal sanction, a civil court can also impose civil injunctions in harassment cases as well as awarding damages to the victim for the harassment. Breach of such an injunction is a criminal offence.

Notes

If you are unfortunate enough to experience anti-social behaviour, or if you witness anti-social behaviour, you should keep a written record. This is helpful when reporting incidents to the police.

Use these pages to keep notes; remembering to write down when (date and time) and where (exact locations) any incidents happen.

When you report incidents to the police or council you should note down who you speak to, when you spoke to them, what they said they would do and ask for an incident number.

Useful numbers

Southampton City Council	023 80223855
Hampshire & Isle of Wight 101 Service.....	101 (or text a message to 66101 if you are deaf or speech impaired)
Hampshire Constabulary	0845 045 45 45
Anti-Social Behaviour Team (City Council).....	8083 2013
Citizens Advice Bureau	8022 1406
Connexions Southampton.....	8022 8557
Age Concern	8036 8636

Websites

Southampton City Council	www.southampton.gov.uk
Homesinhants	www.homesinhants.co.uk
Warm Front	www.warmfrontgrants.co.uk
Hampshire Constabulary	www.hampshire.police.uk
Unimoney (information on student loans & grants)	http://unimoney.direct.gov.uk
Directgov (guide to public services)	www.direct.gov.uk
Writetothem (find your local councillor)	www.writetothem.com

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Feedback and further copies

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Please contact Alan Whitehead MP **023 8023 1942** or alan@alan-whitehead.org.uk

Please contact Alan Whitehead if you require further copies for your neighbours, friends, family, club, group or community organisation.

the Southampton Test anti-social behaviour handbook

by Alan Whitehead MP
your guide to the law



This handbook is designed to help you deal with anti-social behaviour in your community: it is about making the law work for you.

It provides an easy-to-use overview of the key laws for nuisances and anti-social behaviour problems.

www.alan-whitehead.org.uk



Alan Whitehead MP accepts no liability for action you may decide to take against anti-social behaviour in your community. This handbook is a guide to the law and relevant legislation. You should always refer incidents to the Police and take appropriate legal advice when required. You should never take the law into your own hands.

For more detail on the legislation and law featured in this handbook see www.alan-whitehead.org.uk

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