

To: Audit, Risk and Scrutiny Board

On: 18 March 2024

Report by: Lead Officer

Heading: Neighbour Disputes

1. Summary

- 1.1 At the meeting on 22nd August 2022, members of the Audit, Risk and Scrutiny Board agreed an annual programme of activity for the Board for 2022/23. This included an investigation into neighbour disputes in Renfrewshire.
- 1.2 This report reviews the current disposals/actions that are available to the Council and others to resolve neighbour disputes and antisocial behaviour, including legislation and regulatory powers.
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2. Recommendations

The Board is asked to:

- note the progress contained within the report.
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3. Background

- 3.1 At the Audit, Risk and Scrutiny Board in August 2022 it was agreed that the review of Neighbour Disputes be looked at in the widest sense and should also include antisocial behaviour. It was agreed that the purpose of the investigation into neighbour disputes would be fourfold:
1. Try to establish the scale and nature of neighbour disputes in Renfrewshire,
 2. Set out the current arrangements and approach the Council and other stakeholders have for responding to neighbour disputes,
 3. Review the current disposals/actions that are available to the Council and others to resolve neighbour disputes, and
 4. Identify any other approaches, policy changes or mitigating actions that could be available to the Council within existing resources.

- 3.2 Research has progressed, with Stages 1 and 2 being completed. At the Audit, Risk and Scrutiny Board on 22nd January 2024 it was agreed to move to Stage 3 of the investigation, to review the current disposals/actions that are available to the Council and others to resolve neighbour disputes, including legislation and regulatory powers.
- 3.3 The table below provides an outline of the proposed timetable, with a conclusive report being submitted to the Audit, Risk and Scrutiny Board on 20th May 2024, and a final report to Council on 27th June 2024:

Date of Board Meeting	Stage of Investigation
23 rd January 2023 - Complete	Scoping paper to initiate investigation
13 th March 2023 - Complete	Continuation of investigation
22 nd January 2024 - Complete	Continuation of investigation
18 th March 2024 - Current	Continuation of investigation – Point 3
20 th May 2024	Final Report to Board
27 th June 2024	Final Report to Full Council

4. Progress Update

- 4.1 The investigation has been progressing well and research has now been completed across the 3 main areas within the scope of the review, which will then form the identification of any other approaches, policy changes or mitigating actions that could be available to the Council within existing resources. Research to date has involved communications with a number of other Scottish Local Authorities, Local Housing Associations, Police Scotland and key internal stakeholders.
- 4.2 This report provides a summary and highlights findings from the research with a particular focus on point 3 of the original aims - to review the current disposals/actions that are available to the Council and others to resolve neighbour disputes.
- 4.3 This research focuses on legislation and regulatory powers and also the processes within the Council at different stages of a complaint, and for complaints of differing severity. Process maps outlining current disposals and actions and the links across services within the Council and partner organisations can be found in Appendix 1 (Housing), 2 (Environmental Health) and 3 (Antisocial Behaviour).
- 4.4 In addition, there were some outstanding answers from the January Board, whereby there was a requirement to clarify with the relevant Services in order to respond to the questions. These responses are confirmed as follows:
- 4.4.1 **Number of Antisocial Behaviour Orders in Renfrewshire:** 7 issued in the last 3 years: 2 in 2021, 4 in 2022 and 1 in 2023.

- 4.4.2 **Number of mediation referrals:** In 2022-23, there were 164 referrals for mediation. Of the 164 referrals, in 88 instances either Party 1 (the complainant) or Party 2 refused mediation – 53.7%.
- 4.4.3 **Confirmation relating to the MATRON formal noise recording equipment:** Renfrewshire Council has access to 3 MATRON systems. There is currently no waiting time for the MATRON system.
- 4.4.4 **Noise app evidence:** general noise recordings (e.g. of loud music) from a noise app have been used in court to demonstrate the nature of a disturbance as supplementary evidence but are not admissible in court in isolation as standalone evidence as it is not possible to confirm beyond doubt where the noise is coming from. Therefore, this can be likened to hearsay evidence and is likely to be objected to by the defence for this reason. In cases of verbal threats, a noise recording may be admissible to determine the content of the threat but would require a complainer to speak to the identification of the perpetrator, and in the case of behaviour apps which include video recording capabilities, these may be admissible in court as, in certain circumstances, this can be the same as witnessing the offence itself.

5. Categories of Neighbour Disputes and Antisocial Behaviour

- 5.1 As reported in January 2024, internally within local authorities there are often different teams that deal with different aspects of neighbour disputes and antisocial behaviour, dependent on the legislation it falls under and/or potential actions – between Housing, Community Safety and/or Environmental Health teams.
- 5.2 This is true within Renfrewshire Council, whereby specific teams would deal with different aspects of neighbour disputes and antisocial behaviour and have different levers due to different legislation that would be applied. There is a close working relationship between the teams, as well as with the Multi Agency Community Safety Partnership Hub to ensure patterns are picked up and responses can be targeted where needed.
- 5.3 The action taken in all cases must be proportionate to the incident and complaints are classified using 4 key categories. The category that the incident falls under will determine the process followed, the legislation that is applicable and the actions that are taken. The same categories are used by all internal services within the Council as well as all members of the Multi Agency Community Safety Hub:

Category	Definition	Example
A	Serious antisocial behaviour	Drug dealing, hate crime, violence
B	Antisocial behaviour	Frequent disturbances, excessive noise
C	Nuisance Cases	Vandalism, infrequent disturbances and private ownership
D	Estate management as a result of either complaints or observations	Dispute over communal areas, including cleaning close; use of drying green; dog fouling; misuse of bins or storage of waste

5.4 The majority of complaints received by staff are resolved at an early stage and do not escalate to formal stages.

6. Housing: Key Processes and Legislation

6.1 Renfrewshire Council's Housing Service follows a set of procedural steps when dealing with neighbour disputes and antisocial behaviour in proportion to the incident in question. This ranges from visits to both parties; mediation referrals; support agency referrals; and verbal and written warnings, up to reducing tenancy rights and eviction in the most serious cases. The full process map for Renfrewshire Council Housing Service which is followed for neighbour disputes and antisocial behaviour (Category B & C complaints) is set out in Appendix 1.

6.2 Most cases are resolved in the early steps of the process, through the early intervention measures of visits and warnings. Renfrewshire Council's locally agreed target to resolve antisocial behaviour complaints is 21 days. The definitions of resolved are:

- appropriate measures taken to address the cause of the antisocial behaviour complaint; or
- do not have the powers or authority to resolve but has provided a full explanation of the position.

6.3 For more persistent or serious cases of nuisance and antisocial behaviour, social landlords, including Renfrewshire Council, have two main levers that can be used:

1. The Housing (Scotland) Act 2001: the key piece of statutory guidance aimed at social landlords. Changes to the Housing (Scotland) Act in 2014, which came into effect in 2019, included allowing landlords to issue Short Scottish Secure Tenancies (SSSTs) to address antisocial behaviour and introduced Streamlined Evictions where there has been a recent criminal conviction punishable by imprisonment for tenancy related antisocial or criminal behaviour within the previous 12 months

2. Tenancy Agreements: as set out below

6.4 A tenancy agreement sets out the legal rights and responsibilities of both the tenant and the landlord. This includes levels of behaviour expected from tenants, members of their household and visitors to their home.

6.5 Renfrewshire Council's Tenancy Agreements include a section on 'Respect for Others' (Section 3) which specifically references antisocial behaviour and examples of what this includes, such as excessive noise, storage of waste, controlling pets, behaviour of visitors, vandalism and harassment.

6.6 The tenancy agreement makes it clear to tenants that breaking their tenancy agreement as a result of antisocial behaviour may result in legal action to evict, or a reduction in their tenancy rights. A reduction in tenant's rights is a result of converting a tenancy from a Scottish Secure Tenancy (whereby tenants have the right to stay in the home for as long as they wish provided they do not breach the terms of the tenancy) to a Short Scottish Secure Tenancy (SSST), where tenants only have security for the specified period of

the tenancy (a minimum of 6 months, up to 12 months) because of particular circumstances, including antisocial behaviour. Tenants must then comply with specified conditions in order to retain the tenancy.

- 6.7 At the end of the specified term of a SSST conversion due to antisocial behaviour, if issues have been resolved and no further action is required/taken the tenancy converts automatically back to a Scottish Secure Tenancy again.
- 6.8 During the term of the SSST there may be monitored improvements in behaviour, but still with further small or low level issues. This enables an extension of an additional 6 months to the SSST. If there are no improvements in behaviour, the tenancy can be brought to an end at the conclusion of the SSST.
- 6.9 Following a request, an order for eviction may be granted by the Sheriff Court under Section 14 of the Housing (Scotland) Act 2001 on any of the grounds contained within Section 2 of the Act. Section 2 includes antisocial behaviour in relation to an action or course of conduct that causes or is likely to cause alarm, distress, nuisance or annoyance.
- 6.10 Local authorities have a statutory duty to rehouse and eviction is used as a last resort. There are often more complex needs and cross-agency working is pivotal in ensuring access to services and support, and to prevent people from falling through the gaps in services. This ensures a robust approach to target anti-social behaviour, its causes and effects in order to take preventative action and resolve issues for the long-term when tackling public protection issues affecting residents in Renfrewshire.

7. Environmental Health Officers: Key Processes and Legislation

- 7.1 Environmental Health Officers deal with statutory nuisance. A statutory nuisance occurs when the activity of an individual or business on their own premises unreasonably detracts from another's enjoyment of their property or causes a risk to public health.
- 7.2 In the case of statutory nuisance processes, a set of procedural steps are followed which range from visits to the source of the issue; mediation referrals; and verbal and written warnings, up to issuing of abatement notices and Fixed Penalty Notices. A full process map for Renfrewshire Council's Environmental Health response to statutory nuisance is set out in Appendix 2.
- 7.3 Most cases are resolved in the early steps of the process without the need for further escalation. This can include liaising with Renfrewshire Council Housing Service, Registered Social Landlords, social services, Community Safety and organisations within the Community Safety Hub, including Police Scotland. For the more persistent or serious cases of statutory nuisance the main levers that can be used are:
 - 1. The Environmental Protection Act 1990:** provisions within Section 79 of the Environmental Protection Act 1990 under Section 79 set out what can and can't be dealt with as statutory nuisance. This includes nuisance due to noise, artificial light, smoke, odour, state or condition

of premises, keeping of animals and accumulations of waste. There are a number of exemptions to some of these matters, e.g. noise from aircraft or traffic cannot be considered as a statutory nuisance.

2. Abatement Notice: a legal document that imposes specific requirements on the recipient with timescales, to abate the nuisance or mitigate to a point that it is no longer causing a nuisance. This includes noise abatement notices.

3. Fixed Penalty Notice: before a Fixed Penalty Notice is issued under the Environmental Protection Act, an Abatement Notice must have been served. The Abatement Notice must have expired without the problem being resolved and there must be a further breach of the Abatement Notice before a Fixed Penalty Notice can be served. If the Abatement Notice required the recipient to prevent recurrence of the problem, further Fixed Penalty Notices can be issued for each subsequent breach of the Abatement Notice. However, under such circumstances it would be considered more appropriate to report the offender to the Procurator Fiscal, recommending prosecution, rather than repeated issuing of Fixed Penalty Notices.

- 7.4 In instances where Environmental Health Officers are unable to verify complaints, or where the nuisance doesn't meet levels required for statutory nuisance action to be taken, there is specific provision within the Environmental Protection Act 1990 for the complainant to take civil action through the Sheriff Court. This would be at the complainant's cost, although costs may be awarded if they are successful.

8. Community Safety Team: Key Processes and Legislation

- 8.1 The Community Safety Team and multi-agency partners within the Community Safety Partnership deal with antisocial behaviour. The Antisocial Behaviour (Scotland) Act 2004 states that a person engages in antisocial behaviour if someone acts "in a manner that causes or is likely to cause alarm or distress; or pursues a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not of the same household as them". A process map for the overall response to antisocial behaviour is set out in Appendix 3.
- 8.2 Most complaints are resolved in the earlier stages of the process through early intervention measures, and cross-service working in the Council and in the Community Safety Hub. For persistent antisocial behaviour the main levers that can be used are:
- 1. The Antisocial Behaviour (Scotland) Act 2004:** the Act makes provision in connection with antisocial behaviour to deal with people who cause alarm, distress or annoyance to members of the public.
 - 2. Interim Antisocial Behaviour Orders:** interim orders allow the Sheriff Courts to grant an order designed to prevent antisocial behaviour prior to a full court hearing (around 6 weeks). The application is made at the same time as for the full ASBO and is available to provide more immediate protection from antisocial behaviour, but can impose the same prohibitions and has the same penalties for breach as full ASBOs but do not impact on security of

tenure. The provisions in the Housing (Scotland) Act 2001 are only related to the granting of full ASBOs.

3. Antisocial Behaviour Orders (ASBOs): are preventative orders intended to protect people in the community affected by antisocial behaviour from further acts or conduct that would cause them alarm or distress. ASBOs are court orders which prohibit, either indefinitely or for a specified period of time, the individual from doing anything described in the order. An ASBO is made in the civil court, however, breach of an order is a criminal offence.

- 8.3 ASBOs can be used to deal with antisocial behaviour wherever it occurs, provided the person(s) affected by the behaviour and the person behaving antisocially are not of the same household. They are not restricted to dealing with neighbour issues.
- 8.4 Guidance produced in relation to ASBOs states that applications should be considered in the context of wider strategies to prevent antisocial behaviour, and that prevention is better than cure and authorities will want to consider a range of options such as mediation, support services and voluntary agreements before pursuing legal action.
- 8.5 While registered social landlords, including Renfrewshire Council's Housing Service, may seek antisocial behaviour orders or even eviction as a last resort, they have no powers to evict private tenants and/or owner occupiers. However, other services within the Council and Police Scotland may have some powers that can be used to influence people to modify their behaviour depending on the nature and severity of the complaint, e.g. a private landlord who fails the 'fit and proper' test by not dealing with antisocial behaviour of tenants could have their landlord registration licence revoked under Section 8 of the Antisocial Behaviour (Scotland) Act 2004.
- 8.6 All services dealing with neighbour disputes and wider antisocial behaviour understand the importance of keeping the complainant updated throughout and this forms a key part of all processes, while still ensuring confidence is maintained.

9. Antisocial Behaviour National Review

- 9.1 The Scottish Government Review on Antisocial Behaviour was published on 7th November 2023 and advocates a refreshed, long-term approach to antisocial behaviour, with a more preventative and supportive focus in preventing antisocial behaviour from occurring in the first place. This was based on discussions with key stakeholders across Scotland including those who have experienced antisocial behaviour, frontline staff seeking to prevent and tackle antisocial behaviour and community and equality groups.
- 9.2 There was also a recognition of the age of the antisocial behaviour legislation and societal changes over the subsequent 20 years. The review recommended an independently chaired group of experts, including statutory, non-statutory and voluntary service providers and key community representatives to develop a long-term framework for addressing antisocial behaviour. This will have a strong focus on steps that can be taken to prevent

antisocial behaviour in the first place as well as considering the effectiveness of current approaches to tackling antisocial behaviour that does occur.

- 9.3 Further consideration as part of the refresh may also include:
- the definition of antisocial behaviour
 - legislation and guidance
 - powers
 - reporting, including support and outcomes
 - general approach, including partnership working and public information
 - person-centred and trauma-informed approaches

10. Next Steps

- 10.1 The next report to Board in May will provide a final summary of the overall review and seek approval for its submission to full Council.
- 10.2 To ensure the broadest review of the process, this review will continue to speak to all key stakeholders, including residents with lived experience of neighbour disputes and anti-social behaviour. This will help to identify any potential gaps in service provision or areas in the process where improvements could be made from a service user point of view through embedding learning from those who have been through the process.

Implications of the Report

1. **Financial** - None directly arising from this report.
2. **HR & Organisational Development** - None directly arising from this report.
3. **Community/Council Planning** - None directly arising from this report.
4. **Legal** - None directly arising from this report.
5. **Property/Assets** – None directly arising from this report.
6. **Information Technology** – None directly arising from this report.
7. **Equality and Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because relates to carrying out an investigation on behalf of the Board. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health and Safety** - None directly arising from this report.
9. **Procurement** - None directly arising from this report.
10. **Risk** - None directly arising from this report.
11. **Privacy Impact** - None directly arising from this report.
12. **COSLA Policy Position** - None directly arising from this report.
13. **Climate Risk** - None directly arising from this report.

Appendix 1: Housing Process Map

Appendix 2: Environmental Health Process Map

Appendix 3: Antisocial Behaviour Process Map

List of Background Papers:

Audit, Risk and Scrutiny Board Annual Programme

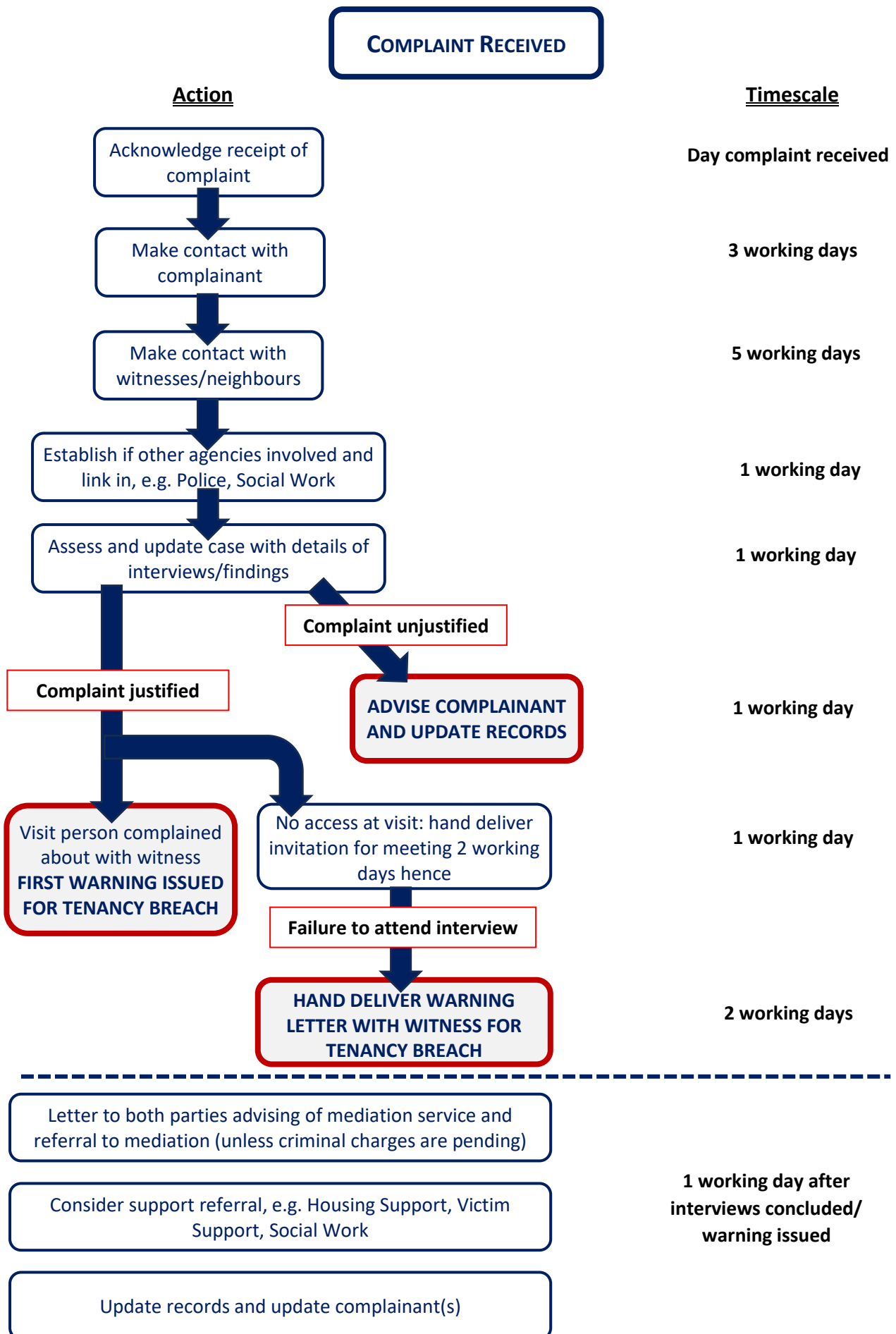
Neighbour Disputes Paper - Audit, Risk and Scrutiny Board, January 2023

Neighbour Disputes Paper - Audit, Risk and Scrutiny Board, March 2023

Neighbour Disputes Paper - Audit, Risk and Scrutiny Board, January 2024

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Appendix 1: Housing Process Map for Categories B & C (Antisocial Behaviour and Nuisance Cases)



IF FURTHER COMPLAINTS ARE RECEIVED WITHIN 12 WEEKS OF 1ST WARNING BEING ISSUED

Action

Timescale

Previous complaint investigation process is followed

Complaint justified

Visit person complained about with witness
SECOND WARNING ISSUED FOR TENANCY BREACH

IF FURTHER COMPLAINTS ARE RECEIVED WITHIN 12 WEEKS OF 2ND WARNING BEING ISSUED

Previous complaint investigation process is followed

Complaint justified

Discuss case with Local Housing Manager and prepare for authorisation

1 working day

Email case file to the Senior Tasking and Deployment Coordinator and arrange joint visit to interview person complained about to issue
FINAL WARNING FOR TENANCY BREACH

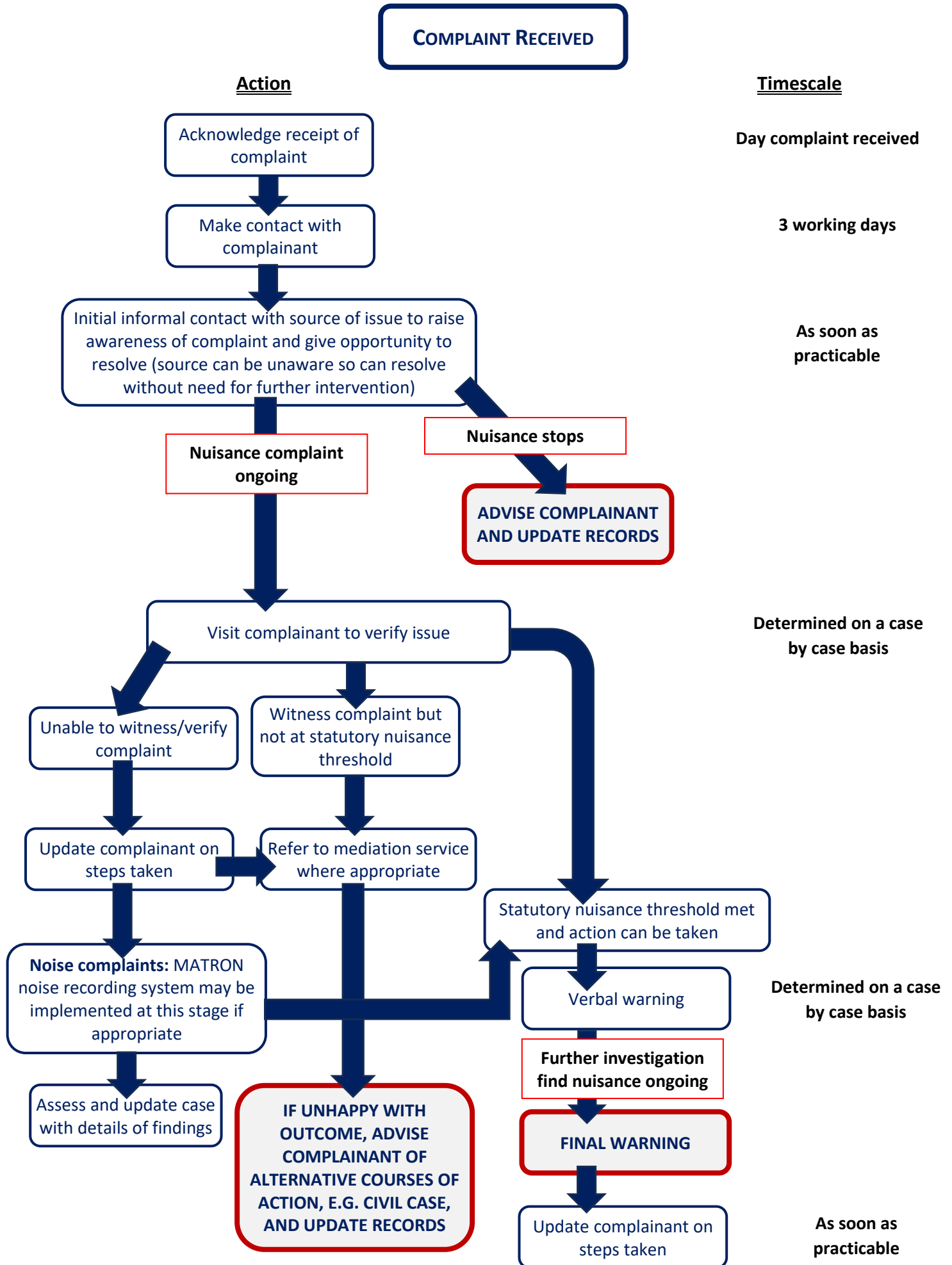
2 working days

Update complainant(s)

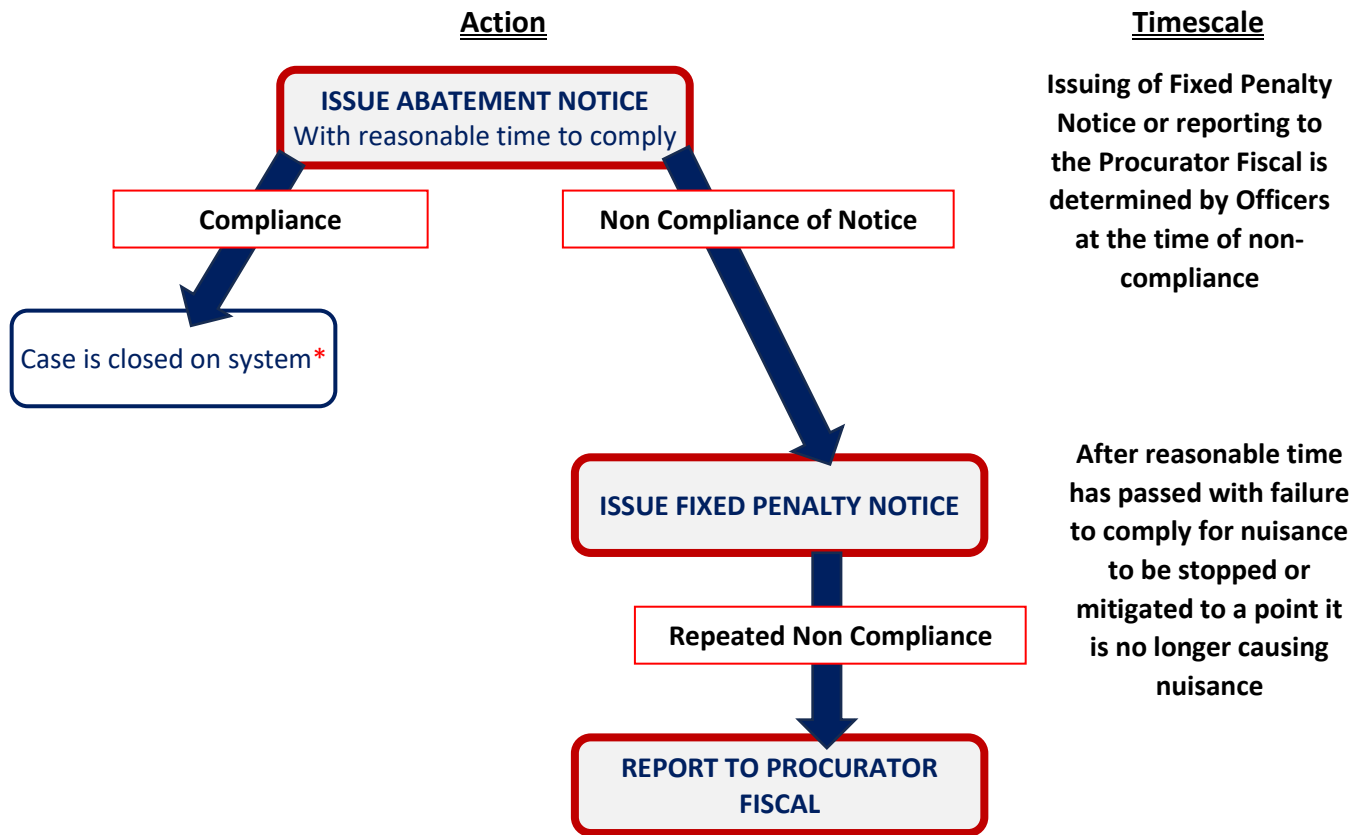
Day warning issued

CASE NOW ESCALATED FOR COMMUNITY SAFETY PARTNERSHIP INVESTIGATION TO TAKE PLACE AND THE LEAD COMMUNITY SAFETY INVESTIGATOR WILL BECOME THE KEY CONTACT FOR COMPLAINERS AFTER THE FINAL WARNING IS ISSUED

Appendix 2: Environmental Health Process Map for Statutory Nuisance Cases



STATUTORY NUISANCE WITH NO RESOLUTION FOLLOWING FINAL WARNING



* In cases such as accumulated waste, if an abatement notice is served and waste is cleared then the Notice has been complied with. However, if the same issue occurs a few months later, the Notice remains live and can be enforced, requiring compliance at that time.

Appendix 3: Antisocial Behaviour Process Map

