

How your evidence helps in anti-social behaviour cases

First of all, thank you for making a report of anti-social behaviour (ASB).

We know that ASB causes fear and anxiety. It can also damage communities. That's why Radian has strong policies and procedures to deal with the few people who cause ASB.

We rely on reports like yours to get successful results. Your evidence helps us decide what action to take. If we take enforcement action (such as going to court), we need strong evidence from our residents. And usually we need it to be supported by our partners such as the police or the local council's Environmental Health Department.

Sometimes it can be difficult to take a case to court, for example if it is one person's word against another. In these cases we will work with you to see if there is a different way, such as mediation.

What legal tools can we use?

Our ASB policy and procedure sets out what kind of enforcement action we can take. Here are some of the possibilities:

- **Serve a Notice of Intention to Seek Possession (NOSP)** – this is required before we take legal action. It acts as a warning to give the alleged offender a chance to stop the ASB.
- **Serve a Demotion Notice** – this is similar to a NOSP and warns that if the behaviour does not stop, we will apply for an order that reduces the person's tenancy rights.
- **Get an Acceptable Behaviour Contract (ABC)** – an agreement between us, other agencies including the police, and the alleged offender.
- **Get a Civil Injunction (CI)** – a civil-court order we apply for against an alleged offender aged 10 or over. The order forbids any further ASB.
- **Apply for a Demotion Order** – this reduces a tenant's rights.
- **Apply for a Possession Order** – this allows us to take back the property.

In line with our ASB policy and procedure, action we take has to be reasonable and proportionate to the complaint.

The Homes and Communities Agency, our regulator, gives us guidance on ASB enforcement. It says that we should only take action to repossess a property as a last resort.

We will work with you to collect your evidence and other evidence from our partner agencies. We will then inform you promptly of our decision on the best way to deal with your complaint. If we decide to take enforcement action, we will keep you informed and updated.

What kind of evidence can we use?

If we take legal action, we will need strong evidence. Where possible, we will need support for the evidence from other sources. The court has to be sure that the evidence proves the case on the 'balance of probability' – in other words, our case is more likely than not to be true. The court also has to decide whether the outcome we want is reasonable and proportionate.

We are allowed to use 'hearsay evidence' – what someone tells us – so long as we can identify its source. We often use hearsay evidence in serious ASB cases where witnesses do not wish to be named but are happy for us to use their evidence anonymously.

We will always discuss this with you to ensure you understand fully and are happy for us to use your evidence in this way. Often we also use third-party evidence, such as from the police. In court proceedings we can rely on, and use, the following evidence:

Witness statement – this is your story. It should detail the ASB you have suffered, how it has affected you, and any harm it has caused you or your family. Your statement is the best form of evidence for the court because it is your first-hand personal experience as the ASB victim. We can help you prepare your witness statement to make sure it is accurate and reflects your view of what happened. You will have plenty of time to go through it carefully and get it right.

Documentary evidence – this may include diary sheets noting what happened and when, written complaints and also documents from third-party agencies such as the police or the local council's Environmental Health Department.

Audio evidence – in many cases about noise, the local council's Environmental Health Department will make sound recordings. We may be able to use sound recordings you have made yourself but only if they show what the problem is and if they prove the date and time.

Visual evidence – such as photographs or video. This can include CCTV footage but there are some restrictions on how we may use it. The court decides whether the evidence we collect can be used and, if so, whether it is strong enough to support the allegations.

Completing diary sheets

When you make a complaint of ASB, we will give you diary sheets to complete, explain them fully and help you decide what to include.

It is vital that you only record the ASB you are suffering and not any other day-to-day activity that would not amount to ASB.

Telling us your story

When you provide written complaints, diary sheets or talk to us about ASB, it is essential that you tell us everything that has happened including:

- any acts of violence against you or your family threats or threatening behaviour
- obscene or abusive language directed at you or your family, or overheard
- noise nuisance, the type of noise, and the times of day and night when it has occurred
- details of anybody else who has witnessed the ASB whether you have complained
- about the ASB to other agencies such as the police and the local council's Community Safety team and Environmental Health Officer.

It is essential that you can identify the alleged offender(s). You will need to state whether it is your neighbour, another resident or a member of their household, or their visitors. You will also need to state where the incidents took place. If the ASB is affecting your health, it would help us if you could provide any documentary proof from your GP or consultant.

All this evidence helps us decide what action we can take.

How we use your written complaint and witness statement

If you make a complaint of ASB, we will usually have to put your allegations to the alleged offender(s). However, we can only do this if you agree that we can use your evidence; whether this is diary sheets, written complaints or phone communications. Sometimes we can use your evidence anonymously if you have good reasons for not being identified; however, we cannot absolutely guarantee that someone will not be identified from anonymous evidence. In such cases you will need to be happy for us to put your allegations to the alleged offender(s) and potentially use them as evidence in court. We will never use your evidence without your agreement. If we take enforcement action, we will take you through every step.

Thank you for taking a stand against anti-social behaviour

If you have any questions, please contact us.
(t) 0300 123 1567
(e) radiandirect@radian.co.uk
(w) www.radian.co.uk
Radian, Collins House,
Bishopstoke Road,
Eastleigh, Hants, SO50 6AD

