**Noxious Odours (cannabis) Protocol**

**Residential Premises**

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| **Signed off by** | Nick Howard (AD Regulatory) |
| **Date commencing** | 1 March 2025 |
| **Date for review** | 1 March 2028 |
| **Interim review** | 1 July 2025 |

Introduction

Nuisances caused by fumes, smells and odours are normally regulated by the statutory nuisance provisions in the Environmental Protection Act 1990. This outlines that a statutory nuisance is “any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance” but these provisions do not apply to dust, steam, smell, or other effluvia arising from residential premises.

For the purposes of this protocol, we will refer to fumes, smells, and odours collectively as odour.

Where odour from a residential property is very unpleasant and persistent and is having a detrimental impact on nearby residents, the Council, along with Norfolk Police and Registered Social Landlords (“its partners”) may be able to take action using alternative tools and powers.

The Anti-social Behaviour, Crime and Policing Act 2014 allows a community protection notice (CPN) to be served, where following a written warning having first being issued, anti-social behaviour takes place which:

* Is having or is likely to have a detrimental effect on the quality of life of those in the locality.
* is of a persistent or continuing nature and
* is unreasonable.

This protocol provides an overview of how the councils and its partners will deal with complaints of noxious odours perceived to be linked to the use of cannabis.

Research has identified that cannabis is by far the most widely used illicit drug in the UK and is now the third most consumed drug after alcohol and tobacco. Cannabis also dominates the drug crime statistics, and the figures are rising. Reports of residents having to endure the distinctive cannabis odours are increasing and, in a minority of cases, this is having a detrimental effect on their health and wellbeing.

We will use a case-by-case approach to manage the expectations of residents as there must be realism about when action is deemed to be necessary and proportionate.

This protocol works in conjunction with the Councils Anti-social Behaviour Policy and is an efficient process specifically designed to deal with complaints of odour believed to be caused by the use of an illicit substance, in the main known as cannabis.

What is noxious odour?

This is what we are able to detect from substances usually carried by air to our nose. The degree to which someone is affected will depend on their sensitivity, sense of smell, and their tolerance of the odour in question.

Cancard and Medicinal Cannabis

A Cancard is a medical ID card that allows for the police to exercise discretion by understanding that the patient caught in possession is medicating their condition. A Cancard has a limitation of cover and function, and only proves that the holder is legally entitled to a **cannabis prescription** but does not in fact, entirely protect a user from possession charges or the use of cannabis causing a detrimental impact on others.

Whilst the use of medicinal cannabis is legal, this must be Tetrahydrocannabinol (TBC), which only comes in the form of:

* Oil
* Vape
* Sweet

TBC **is** not prescribed in smoking form and therefore it’s use **is not** covered by the Cancard.

Information sharing

Data and information that is provided in a complaint will be processed for the purpose of carrying out the Councils statutory functions under the Anti-social Behaviour, Crime & Policing Act 2014, and the Crime & Disorder Act 1998.

Information may be shared with Police and where appropriate private landlords and registered social landlords.

Where a complaint concerns a child or young person, the information may be shared with Children’s Services using the Councils Safeguarding Procedure.

Human Rights & Equalities

There is no content within this protocol that allows for a breach of Human Rights or will adversely impact anyone with a protected characteristic.

Change Grow Live (CGL)

Change Grow Live is a service that assists those who use alcohol or drugs. It is important during this process that assistance and support is extended to alleged perpetrators throughout the incremental approach before more formal and legal proceedings. These steps are designed to help those in need or in a vulnerable position before more damaging ramifications are incurred, protecting those that would benefit from intervention and support. Details of this service will be provided to alleged perpetrators at stages 2 and 3 of the process.

Organisation: Change Grow Live (CGL)

Telephone No: 01603 514096

Address: Adobe House, 5 Barton Way, Norwich, Norfolk, NR1 1DL

Website: <https://changegrowlive.org>

Threshold

The Council and its partners, whichever is appropriate, will respond to complaints where the **all** the following is met:

1. The odour is allegedly significantly affecting the usual living areas (bedrooms, lounge, dining room, garden) and is preventing reasonable comfortable use of those areas.
2. The complainant is willing to complete and sign diary sheets, provide a statement, and attend Court, should that be needed.
3. The odour is allegedly very unpleasant and persistent and is having a serious or detrimental effect on the complainant and/or their household.

The Council will not investigates complaints where the odour is occasional or intermittent.

There is a responsibility on the complainant to complete diary sheets and/or written statements and allow authorised officers, Police officers and other relevant people, such as housing officers (if the complaint relates to a tenant of a housing association or trust). We would also expect complainants to be prepared to attend court if formal enforcement action is taken. This requirement is integral as enforcement action will be entirely dependent on gathered evidence and statements. This is also why reports of noxious odour cannot be made anonymously or by third parties.

The Protocol

The purpose of this protocol is to ensure that by using a harm centred approach, an efficient and effective service is provided to our residents and communities.

The Councils will manage the collation of complaints from residents living within the two districts.

Where the report relates to:

* a social landlord managed property, the social landlord will take the case forward following this protocol.
* a privately rented property, the Councils will endeavour to work with the landlord using this protocol.
* a private homeowner, the Councils will take the case forward following this protocol.

Stage 1

If the threshold is met, the information must be emailed to the Operational Partnership Team (OPT) at: snandbrdopt@norfolk.police.uk for deconfliction purposes. The OPT will advise if it is appropriate for the Council to continue with this protocol. The Council will follow the OPT guidance on this, particularly if it is asked to not progress with action – seeking their views on what it is appropriate to advise the complainant. Record this information on UNIFORM.

If the OPT advise it is okay to continue with this protocol, and the property is managed by an RSL, refer this to the appropriate RSL and close the case on UNIFORM. In all other tenures, diary sheets should be issued to the complainant/s so the frequency and impact can be documented and monitored for a period of up to three weeks.

A letter should be sent to the address from which it is reported the odour is escaping from, advising the occupants of the complaint that monitoring is taking place. They will also be invited to make contact with the Officer to discuss the situation.

If the diary sheets are not completed or show that the issue has reduced below the investigation threshold, the case will be closed, and no further action will be taken.

Stage 2

If the diary sheets show the issue has not reduced below the investigation threshold, the Officer will make a visit to the address and speak with the occupier. The Officer has the discretion to issue early intervention actions as this point, such as Acceptable Behaviour Contracts, signposting to CGL or similar support services. Mediation between the two parties might also be a consideration at this point.

Monitoring should continue for up to the next three weeks, using the diary sheets. The complainant must be kept informed of the actions being taken.

If after this period, the issue no longer meets the threshold, the case will be closed, and no further action will be taken.

Stage 3

If the issue continues, a joint visit with the Police (where deemed appropriate) should take place. If it is evident that formal enforcement is likely to be the only option to resolve the issue, officers will need to evidence proportionality through impact statements and assessments. It is at this point that it should be made clear that formal enforcement is being considered.

The complainant must be kept informed of the actions being taken. Check again that they are prepared to support formal enforcement by providing statements and attending Court if necessary.

Monitoring should continue for up to the next three weeks, using the diary sheets.

If after this period, the issue no longer meets the threshold, the case will be closed, and no further action will be taken.

If the complainant is not happy with this outcome, please refer them to the Councils Complaints Procedure.

Stage 4

The use of Community Protection Warnings (CPW) and Notices (CPN) under the 2014 Act will be the preferred method of formal action. This will be kept under monitoring to determine their effectiveness at reducing or stopping the detrimental impact; however, using a case-by-case approach does not prevent alternative methods such as Civil Injunctions or Closure Orders being considered.

Look to establish if enforcement action can be joined up with any other potential action, such as tenancy actions, Police actions etc.

If it is evident the issue has not reduced to a level deemed by the officer as satisfactory, then consideration should be given to issuing a CPW in the first instance and CPN if the situation continues.

If a CPW is issued, the situation will be monitored for a period of up to three months for compliance. If the issue no longer meets the threshold, the case will be closed. If the issue continues, then the decision to move to CPN lies with the Officer.

In the unlikely event that the CPN is breached, the officer will make a decision on whether to issue a Fixed Penalty Notice (FPN) in the first instance with consideration to moving to prosecution for subsequent breaches.

# Flow Chart: Early Intervention

Complaint received via online form which populates UNIFORM and sends an email with a copy of the webform to Officer. Alternatively, the complainant can make a complaint via telephone/in person with the officer completing the online form on their behalf.Carry out an initial assessment to establish if threshold has been met.

Notify OPT of the report and seek deconfliction advice.

Threshold met and OPT confirm okay to proceed.

IF OPT advice is not to proceed, seek their advice on what the complainant should be told.

Stage 1 commences.

Threshold not met. Case closed. Letter sent advising information to be held for intelligence.

Activity continues. Stage 2 commences.

Activity stops – case monitored. NFA case closed.

Activity continues. Stage 3 commences.

Activity stops – case monitored. NFA case closed.

# Appendix 1: Example CPW

Activity continues and/or CPN appealed.

Council Legal Services directed to pursue with legal action.

Activity stops – case monitored. NFA case closed.

Activity continues. Stage 4 commences.

Activity stops – case monitored. NFA case closed.

**ANTI-SOCIAL BEHAVIOUR, CRIME & POLICING ACT 2014**

Sections 43 to 58

**Community Protection Warning**

Ref:

To (name)

Of (address)

Take notice that under the provision of the Anti-social Behaviour, Crime & Policing Act 2014, the below named authorised officer of [enter council name] is satisfied on reasonable grounds that:

Whilst residing at [insert address] you and/or your visitors have permitted offensive or noxious fumes or odours to escape from the address which has caused nuisance, annoyance to others in the vicinity of the premises.

This is unreasonable behaviour which is having a detrimental effect on their quality of life and use of their home which cannot continue.

This letter is a formal warning that if you do not take the action/s within the timescales given below, a Community Protection Notice may be issued against you, pursuant to section 43 of the Anti-social Behaviour, Crime & Policing Act 2014. The extract of this Act is included with this warning.

|  |  |
| --- | --- |
| Actions required | Deadline |
| **You must not allow** offensive or noxious fumes or odours to escape from your premises, such as likely to cause detrimental impact to others in the vicinity of your premises. This applies to all such fumes or odours and in particular those linked to the use of illegal substances. | Immediately |

If, without reasonable excuse, you fail to comply with any requirement of this warning, a Community Protection Notice may be issued against you without further warning. Non-compliance with a Community Protection Notice carries criminal sanctions and can lead to a criminal record.

Failure, without reasonable excuse, to comply with a Community Protection Notice can lead to seizure and forfeiture of items, default works and recovery of costs and/or a fine of up to £2,500 in relation to an individual or up to £20,000 in the case of a company.

I trust however, that it will not be necessary to proceed to the stage of issuing a Community Protection Notice and that you will carry out the actions immediately.

This warning will be in place for 12 months from the date of issue below.

Dated: Signed

Officer Name: Title:

Horizon Business Centre, Peachman Way, Broadland Business Park, Norwich, Norfolk, NR7 0WF

# Appendix 3 Example CPN

**ANTI-SOCIAL BEHAVIOUR, CRIME & POLICING ACT 2014**

Section 43

**Community Protection Notice**

Ref:

To (name)

Of (address)

**Take notice** that having failed to comply with the requirements of the Community Protection Warning served on [date/time], under the provision of the Anti-social Behaviour Act 2014. Section 43. The Council is satisfied that your conduct\* is having a detrimental effect on the quality of life of others in the locality caused by:

1. Allowing offensive or noxious fumes to escape from your premises, such as to likely cause detrimental impact to others in the vicinity of your premises, including smells linked to the use of illegal substances.

The Council hereby requires you, the person responsible for the said conduct, following the service of this notice to:

|  |  |
| --- | --- |
| **You must not allow** offensive or noxious fumes or odours to escape from your premises, such as likely to cause detrimental impact to others in the vicinity of your premises. This applies to all such fumes or odours and in particular those linked to the use of illegal substances such as cannabis. | Immediately |

If, without reasonable excuse, you fail to comply with any requirement of this notice:

* You may be prosecuted. If you are prosecuted and convicted, the maximum penalty for an individual is a fine not exceeding level 4 on the standard scale (currently £2,500) and in the case of a company/business up to £20,000.
* The council may have work carried out to rectify any failure to comply with this notice, and any costs incurred may be recovered from you.
* The court may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done, is done. An order under this section may in particular require you to carry out specified work, or to allow the specified work to be carried out by or on behalf of the council. The court may require you to surrender possession of any item/s used in your failure to comply with this notice. The court may require this item to be destroyed or disposed of. A Justice of the Peace may issue a warrant, authorising a constable or designated person to enter your premises to seize the item/s.
* You may, in the alternative, be given the opportunity of accepting in lieu of prosecution, a fixed penalty notice.

/…continued overleaf

Dated: Signed

Officer Name: Title:

Horizon Business Centre, Peachman Way, Broadland Business Park, Norwich, Norfolk, NR7 0WF

\*Conduct includes failure to act to abate the detriment described. Conduct on, or affecting, premises that a person owns, leases, occupies, controls, operates, or maintains, is treated as conduct of that person.

**Right of Appeal**

An appeal against this notice may be made to a magistrate’s court within 21 days from the date on which it is served, on the grounds that:

1. The conduct specified in the Community Protection Notice –
	1. Did not take place.
	2. Has not had a detrimental effect on the quality of life of those in the locality.
	3. Has not been of a persistent or continuing nature.
	4. Is not unreasonable.
	5. Is conduct that the person cannot reasonably be expected to control or affect.
2. Any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable.
3. There is a material defect or error in, or in connection with, the notice.
4. The notice was issued to the wrong person.

**Important note**

While an appeal against a Community Protection Notice is in progress [until the appeal is finally determined or withdrawn].

1. Any requirements imposed by this notice to stop doing specific things remains in effect, unless the court orders otherwise, but
2. Any other requirements imposed by the notice is of no effect.