

Chapter 12: Getting powerful help

Most people have the power to call on help from others, especially others whose role involves enforcing rules.

Case 20: Help for other rule breaking

This is the Case of bad behaviour that is against some rules or expectations (often against the law) and not going to be stopped by reason and fairness.

The simplest method is to remind someone that other people are observing or would be interested. The other people might not have some authority and an enforcement role.

E.g. When I was at school I was threatened by an older boy outside one lunchtime. He held a screwdriver threateningly near my face and made verbal threats. I was rigid with fear but noticed, out of the corner of my eye, a teacher nearby. I said something like 'There's a teacher over there.' and the bully just walked away.

Others we can go to for help include parents, teachers, online discussion moderators and reviewers, meeting chairmen, managers, regulators, professional standards groups, some charities, inspectors and reviewers, security guards, lawyers, and police officers.

In an ideal world, enforcers would always intervene immediately and we would not need to call on them. In reality, they often do not intervene without a prompt, for a variety of reasons.

Case 11 considered rule breaking in a discussion. This current Case considers rule breaking in any other situation, with recommendations mostly for ordinary people.

The Case features bad behaviour by unreasonable people where a powerful enforcer could help but has not yet. The enforcer may have taken no action because they:

- are not aware of the bad behaviour;
- have not realized the behaviour is breaking a rule or otherwise wrong;
- have not realized the situation is serious enough to justify intervening;
- do not have enough evidence to act;
- think it is someone else's responsibility to intervene, not theirs; or
- are concerned by possible negative effects of intervening.

One of your problems may be identifying someone who can help.

Identify the right people to call on

Sometimes people do not call on powerful help simply because they do not know who to turn to. Perhaps they do not know that the person or role even exists.

Knowing who is there and who might be worth contacting is vital. Possibilities in the UK include: any independent person, teacher, supervisor, boss, head of department, chairperson, personal tutor, curriculum quality team, diversity/equality officer, student union, trade union, lawyer, ombudsman, adjudicator, whistleblowing line, complaints department, 'the manager', Human Resources, regulatory risk team, compliance team, Money Laundering Reporting Officer, ethics panel for a relevant professional institute, police, independent regulators/watchdogs (e.g. Advertising Standards Authority, Ofcom, Ofwat, Ofgem), your Member of Parliament, tax inspectors, immigration officials, buildings inspectors, the Bar Standards Board (regulating barristers), Monitor (for health service complaints), and the Financial Conduct Authority.

You might explore multiple options simultaneously. A group such as the Citizen's Advice Bureau might help you decide who to turn to.

E.g. If you face what seems like illegal behaviour then it might be a civil or criminal matter. If civil then you need a lawyer. If criminal then you can contact the police. If you need the police, it might be an emergency (so call 999 in the UK) or something less urgent that might require a call to one of their other special numbers. (What about visiting a police station in person? I did this once and they just gave me a telephone number to call. That call was very successful.)

Can the people you call on for help actually help and will they? Can they and will they influence someone who can? Who is most likely to act at all, and who is most likely to act objectively rather than do their best to pretend there is nothing wrong?

E.g. If you notice biased news reporting by the BBC then you could complain to the BBC, which has a committee for this kind of complaint. However, it usually decides there was no bias and its standard 'punishment' is to remind the people involved to try to be unbiased in future. In short, this is probably a waste of time and you should complain to someone who is more independent of the BBC.

Many of the potential helpers have published rules that they apply, usually available online.

E.g. The UK's Advertising Standards Authority applies advertising codes written by the Committee of Advertising Practices. If you make a complaint, you should receive an update about what happened as a result. Online you can select cases by date range, topic, and outcome and see the details of the complaints and the outcome. It is fascinating.

Knowing their rules helps you predict how the powerful authority will respond if you raise bad behaviour with them.

Mention rules and options for enforcement

Fair use of power should be done openly so that the other person understands what is happening. However, this gives them the opportunity to undermine the use of that power.

For example, if you tell someone dishonest you are going to call the police then they have a strong motive to stop you. If you tell someone dishonest you are going to tell a teacher then that gives them a strong motive to go to the teacher first and give their own story before you can tell the truth. Without that urgent motivation they would prefer not to take such drastic steps.

To minimize your risk, mention the applicable rules and authorities available to refer to in a general way, early on, without saying you now intend to call on them. This shows unreasonable people that you know your options and the rules, and might call on powerful help at some point. Usually this will motivate unreasonable people to take care not to provoke that escalation.

E.g. 'Thank you for agreeing to talk about this. It could be, potentially, a matter for my trade union but it would be quicker and more convenient for everyone if we can just reach a fair agreement without getting them involved.'

E.g. 'As you know, I am not happy with the service you have provided with respect to my rented properties. I know that, as a member of the Royal Institute of Chartered Surveyors, you are bound by an ethical code enforced by the Institute and there is a route by which I could make a complaint. However, it would be better for everyone if we did not go down that route. All we need to do is agree a fair plan for resolving the issues and managing my properties in future. Would you like to begin by telling me more about the challenges you have experienced with my tenants and what you have done about them?'

As you can tell from these examples, this move raises the tension in a conversation so is only for situations where you strongly suspect the other side is going to be unreasonable. Maybe they have pushed you around in the past and you have decided not to be bullied again.

Show awareness of rules

Sometimes it helps to let offenders know you are aware of a particular rule and know or suspect it is applicable and perhaps is being broken.

E.g. Suppose you are considering buying something for a particular purpose but you are not sure if it is suitable for that purpose. For example, can this wristwatch be worn when swimming? Is this flour suitable for making scones? Can this phone be used in France? Under the Consumer Rights Act (2015), if you ask the salesperson if the product is suitable for that use and they say it is then you are entitled to return the good and get a refund if it is not. (There are some finer points.) This is the case even if the product is not otherwise advertised as suitable. Asking a salesperson this kind of question should make them aware that you know this rule and are taking careful note of what they say. Should you have to return the item you can say 'When I bought this, I asked the salesperson if it

was suitable for ...' which shows them again that you know the rule. If they do not respond positively then you may need to mention the Act.

Ask enforcers to consider intervening

If references to the rules and authorities have not produced a fair outcome then it may be necessary to call on powerful help. Make the enforcers aware of what is happening, planned, or has happened. Ask them to consider intervening or follow their require process for raising issues.

Even if the authority takes no action over an incident you report, their statistical evidence will be affected. When they later review the recorded incidents they will have a signal saying that perhaps now something more should be done.

That might mean paying more attention to a particular type of offence, a location, or an offender who has been named many times.

For many types of offence, if nothing is reported then nothing will be done. Law enforcers are not searching for those offences. Conversely, being told about an offence will sometimes mean the enforcer is required to pay more attention or even to act.

E.g. The police look bad if you report an angry argument outside a pub, the police do nothing, and 30 minutes later one of those involved is stabbed. Your report is more than just information about what is happening. It tells them there is at least one person who might be waiting to see what they do. Make it impossible for enforcers to say they didn't know.

Reporting rule breaking can include searching for illegal content online that was made in your country and reporting it.

E.g. The police may not have time to watch long videos of religious or political meetings to check for content that encourages crime or illegal forms of hatred, so alerting them to such content (e.g. 45 minutes into a two hour video) is helpful. Some content may be in a language not spoken by most police officers, so translating for them helps too. The content may use words that have a special meaning for the intended audience but make little sense to most police officers, so explaining these words may also help them recognize that an offence has been committed.

Prompt others to complain

The right people are less likely to ignore a call to action if it is joined by many other calls by other people. You might be able to achieve this effect by providing the results of a survey, or by using social media or some other method to prompt other people to complain directly too. This provides evidence to law enforcers that many people have noticed the problem and perhaps also are affected by it.

Consider complaining in public through postings on websites and letters to newspapers.

Suggest rules that may have been broken

One potential reason for inaction by enforcers is that they do not realize a rule is applicable to a particular situation. There are hundreds, perhaps thousands, of offences in law with more added each year, so it is not surprising that police officers, for example, sometimes fail to realize an offence has been committed.

E.g. The UK's Public Order Act 1986 has many seemingly similar offences. It is easy to get confused and forget that, for example, it is perfectly legal to mock a religion.

Using key words from the legislation or other rules may trigger recollection of the applicable rule.

E.g. If someone has been shouting angrily at you it may help to say you felt 'threatened' because that is a word used in the relevant legislation.

E.g. If you call to complain then it may help to use the word 'complain' or your call may be classified as just an enquiry.

Taking this idea further, it sometimes helps to state which rules you think may have been broken. Perhaps it is a bylaw of a park, a section of a statute, or a rule of a club. In a letter or email you can quote the rules to save time for the reader and make your point more effectively.

Help enforcers with evidence

Lack of evidence is a common reason for enforcers taking no effective action, especially in criminal cases.

E.g. In the UK you can view your local crime map and see basic details of crimes committed near you, month by month. You can also see statistics for crimes recorded and what happened later.

In Epsom South, where I live, for the period April 2017 to March 2018 inclusive, there were 1,406 recorded incidents⁵. Of these 427 were 'antisocial behaviour' and by May 2018 (when I first reviewed the figures) no punishments had been given for any of them. Of 304 crimes under 'violence and sexual offences' results were known for 250, and of those just 10 had resulted in punishment, which is 4%. (When I looked again in July 2018 the only progress was news of a fine resulting from a court case.) Considering all incidents for which a result was available only 1.7% resulted in punishment. Three people went to prison and six were given fines.

The main reasons for no punishment were failure to identify a suspect (469 crimes) and taking no action (427 crimes). In 235 cases it was not possible to prosecute the suspect identified, presumably due to lack of sufficient evidence. Lack of clues is the main reason that most crime goes unpunished.

This performance looks worse when you consider the likely circumstances of arrests made and successful prosecutions. Television documentaries that follow British police forces doing their regular work often show officers called to

⁵ This excludes motoring offences, which are not shown on the website.

incidents. Once they get there, they find people who are drunk, drugged, or insane who fail to run away and instead continue committing offences on CCTV, on television camera, and in front of the police officers. Almost no effort is required to identify the suspects, arrest them, and gather evidence of their offences. In some incidents the hardest part seems to be keeping track of the string of offences committed in rapid succession with no attempt at concealment.

If we remove from consideration this sort of unavoidable arrest, how much was really achieved by my local police force? These are not reassuring statistics for law abiding citizens.

Looking at the statistics on crimes recorded that led to no punishment it is clear that lack of evidence is a massive problem. The police usually do not have enough evidence to identify a suspect let alone prosecute.

But technology is beginning to help. Citizens can mark their property visibly and invisibly, and they can install cameras on their property as long as some privacy rules are met. Many motorists have dashcams to record incidents on the road and cyclists have helmet-cams to do the same.

Privacy complaints are holding back the spread of these systems and there are behaviours that people might want to conceal even though they are quite legal, such as adultery. However, the evidence value of high-quality CCTV may in future persuade whole neighbourhoods to accept the potential lack of privacy created by a network of cameras across all their properties. These would provide high quality images of all activity, even in publicly visible areas, that could be used by the police and in court.

Imagine those cameras, controlled automatically by artificial intelligence, zooming in on faces whenever possible so that every visitor is clearly identifiable. Imagine those records encrypted and stored securely on a blockchain so that they are tamper proof and can only be accessed in the event of a criminal inquiry. This could make it much harder to get away with outdoor crime.

The power of dashcams might be increased by adding the following features:

- The video is recorded on a tamper proof blockchain with time stamping.
- High definition is recorded.
- Artificial intelligence zooms in on the number plates of surrounding vehicles.
- The video is recorded along with the current speed of the vehicle holding the dashcam and analysis software can deduce the speeds of surrounding vehicles.

The technology would mean that every driver could, if they wished, become a traffic speed cop, with their car's system contributing legally solid evidence of dangerous, illegal driving. Imagine that, in future, if someone speeds past you, cuts across, then roars off at 90 mph you can be sure that the offence has been recorded by the legally endorsed system in your car and by the end of the day legal action will have been taken, with a fine, points, and perhaps even an arrest and confiscation of the vehicle.

In future we may also be able to wear personal recording gadgets. Press the panic button and the device begins to upload immediately so there is no point in a violent attacker trying to find and destroy the gadget to destroy the evidence.

Today those technologies are not yet in use, but saving correspondence, logging antisocial incidents when they occur, and other low-tech evidence gathering activities can help enforcers. If you have evidence then make sure the police know about it when you report the crime or they may incorrectly decide the crime cannot be investigated effectively and do nothing.

Carefully collecting evidence and providing it when you raise an issue is applicable even when the police are not involved.

E.g. The National Union of Journalists has a code of ethics that forms part of union rules. Some of the items may surprise you because journalists break them frequently with no sanction. For example, rule 2 says that a journalist 'Strives to ensure that information disseminated is honestly conveyed, accurate and fair.' If you made a complaint about a member's conduct, you could quote their words and explain precisely how they were not accurate or not fair and why the journalist should have known that at the time.

Make bad intentions clear

A crucial element in the definition of many crimes is that the person must do the offending act intentionally.

E.g. The Public Order Act 1986 makes it an offence to possess or distribute literature that incites hatred of people on the basis of their religion or lack of it, but only if you intended to incite that hatred.

Proving that someone had that crucial intent is often difficult. Courts look at the person's behaviour and decide if they think it indicates the required intention. The difficulty of proving intent in some cases discourages the police and public prosecutors from taking an interest in an offence.

If a person knows their behaviour causes harm then it is harder for them to say they did not intend to cause the harm. If they know how to behave better then their intention is even clearer.

E.g. Imagine that a religious preacher often tells his followers that unbelievers are no better than animals and that a god will 'smite down' unbelievers. His followers, hearing this week after week, often display hatred of unbelievers and many think the 'smiting down' is something they should do for their god. Some of them have beaten up unbelievers and even attacked with knives. When questioned by police the preacher says he did not intend to incite hatred, that he meant unbelievers were no better than animals only in a spiritual way, and that he is confident god will do the smiting without help from his followers. The police decide they cannot establish intent and give up.

But now suppose that a campaign effort is made to gather evidence on the beliefs of his followers and what those beliefs are based on. The research shows many followers use the preacher's exact words and justifications. Rightly or wrongly, many of his followers think he means they should hate unbelievers and beat them

up. These results are published and sent to the preacher along with suggestions for alternative wordings for his preaching that would make clear to followers that they are not to hate unbelievers and must not hurt or intimidate them.

Despite this, the preacher continues to preach using the same words and texts as before. The police are called on again to intervene. Now it is clear that the preacher's words have had a dangerous effect, he could use alternative words, and he knows. It is harder for him to argue that he had no bad intentions.

E.g. Imagine a hypothetical religion uses a sacred text that includes many passages that encourage hatred on the basis of race, religion, and sexuality. The police ignore this because they think they cannot establish an intention to incite hatred on the part of anyone who uses the sacred text. However, a campaign is started that highlights the unsavoury passages and encourages people to include in their copies of the sacred text a disclaimer that says they do not endorse any interpretation of the text that incites hatred or commission of any crime. After a slow start, more and more people stick this disclaimer into their copy and some publishers put it in printed copies. Now, if someone uses a copy without the disclaimer, it is increasingly clear that they endorse inciting hatred and commission of crimes, showing bad intention.

Raise legal expectations for behaviour

The legal approach to negligence by skilled people in the UK involves courts considering whether what was done was below the standard usually expected. This means that someone can be incompetent and careless and get away with it, provided almost everyone else in their industry is just as bad and following similar bad guidance.

A long-term strategy for a large-scale campaign to reform entrenched bad practice is to raise expectations. This might be done by publishing case studies of better practice, publishing better guidance, talking about it, turning the guidance into standards, and getting those standards endorsed by groups with an interest. All this becomes evidence a court can consider when establishing expectations. Eventually, behaviour that was once common practice will become negligent.