

Briefing Report to the Community Well-being Policy Development Group (PDG): The Management of ASB on Housing Estates

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The regulatory framework for social housing is operated by the Homes & Communities Agency (HCA). The regulatory framework consists of a number of standards, some of which apply to local authority landlords, such as the Council. All of the regulatory standards apply to housing associations.

The Neighbourhood and Community Standard states that Registered Providers of social housing (RPs) should work in partnership with other agencies to prevent and tackle anti-social behaviour in the neighbourhoods where they own homes. The Standard contains a number of specific expectations. In particular, RPs are expected to demonstrate strong leadership, commitment and accountability on preventing and tackling ASB that reflects a shared understanding of responsibilities with other agencies.

In addition, RPs are obliged to publish a policy stating how they will work with relevant partners to prevent and tackle anti-social behaviour (ASB) in areas where they own properties. They also need to demonstrate that they make tenants aware of their responsibilities and rights in relation to ASB. Another requirement is that RPs are expected to ensure that all tenants and residents can easily report ASB and are kept informed about the status of their case where responsibility lies with the organisation. If it does not, then they are expected to signpost the complainant, as appropriate. They are expected to provide support to victims and witnesses and to demonstrate that a strong focus exists on preventative measures tailored towards the needs of tenants and their families.

Early intervention is also a key requirement. RPs must demonstrate that they will take prompt, appropriate and decisive action to respond to complaints arising from ASB before it escalates, which focuses on resolving the problem. They are expected to have regard to the full range of tools and legal powers available.

The Housing Service has a policy relating to ASB and associated procedures, which are available to view on the Council's website. Both documents have been summarised and the leaflet containing this summary is sent to all complainants. This is also available to view on the Council's website. The policy and procedure were drafted with tenant involvement; a focus group worked on the project and the members of this group were all people who had previously experienced problems involving ASB and/or the way in which the Housing Service had dealt with the issues raised. The policy and procedures were drafted to take account of the regulatory requirements and also best practice.

Members will be aware that the Council uses the Devon Home Choice scheme to allocate available homes. Those people who are assessed by local authorities in Devon as being guilty of unacceptable behaviour are denied the right to register with Devon Home Choice.

Examples of unacceptable behaviour could include:

- A history of rent arrears
- Conduct likely to cause serious nuisance, annoyance or harassment to neighbours (including racial harassment)
- Using accommodation or allowing it to be used for immoral or illegal purposes
- Serious damage or neglect of a property by the tenant or other occupants
- Committing domestic abuse
- Threatening, or perpetrating violence or abuse against members of staff of a Devon Home Choice partner organisation.

In accordance with the provisions of the Localism Act 2011, the Council must have a tenancy policy which sets out the approach to tenancy management; the type of tenancies it will grant, and the circumstances in which they will be granted.

All the tenancy agreements currently used by the Council contain clauses relating to community obligations, nuisance and anti-social behaviour, illegal activities and domestic violence and abuse. In common with most RPs, the Council issues introductory tenancies to new tenants (housing associations will issue “starter” tenancies). This means that new tenants have to go through a trial period, which will usually last for 12 months, before they become a flexible or secure tenant.

During the trial period, they must demonstrate that they:

- Are able to adhere to the terms of their tenancy agreement
- Take steps to ensure that rent is paid
- Do not cause a nuisance to neighbours or other local people

The Council can either extend the trial period or take action to end the tenancy if there are concerns about the tenant’s ability to sustain their tenancy. Introductory tenancies can be ended more easily than flexible or secure tenancies.

If the probationary period is completed successfully, most tenants automatically become flexible tenants. The Council’s tenancy policy states that if a new tenant has a history of anti-social behaviour, a Service Manager may decide that the circumstances are exceptional and offer a flexible tenancy of two years, rather than of five years. There is a statutory requirement for the tenancy policy to include a statement of the circumstances in which it may or may not grant another tenancy on the expiry of the fixed term. The policy offers the Council the opportunity to opt not to renew the tenancy at the end of the fixed term if possession action has been commenced during the tenancy on the grounds of anti-social behaviour.

Members will be aware that the Council is able to seek to recover a property on the grounds of anti-social behaviour. However, in the event that there have been serious ASB problems, the Council must demonstrate to the Court that they have given the tenant an opportunity to modify their behaviour. They must also prove that the problems are on-going and that it would be both reasonable and proportionate for the Court to make an Order for Possession.

There is a range of other tools and powers available to enable the Council to manage ASB but these are about to be reformed and the Anti-social Behaviour, Crime and Policing Bill sets out the new approach. The rationale for reforming the existing remedies is to focus the response to ASB on the needs of victims and communities. The new community trigger will give people the power to make agencies take persistent problems seriously. The Bill also introduces a new range of powers with the intention of enabling front-line professionals to better protect the public.

The new tools can be summarised as follows:

1. An Injunction to prevent nuisance and annoyance: local Councils, RPs and the Police will be able to apply to the County Court for a civil injunction to stop ASB and seek to change behaviour.
2. The Criminal Behaviour Order: available following a conviction for any criminal offence in any criminal court.
3. The Police dispersal power which will enable Police Officers to require a person who has committed, or is likely to commit, ASB to leave a specified area and not return for up to 48 hours.
4. The Community Protection Notice: local Councils, RPs and the Police will be able to deal with a particular problem negatively affecting a community. It could be used to tackle a range of ASB including graffiti, littering or inappropriate use of a skateboard.
5. The Public Spaces Protection Order: available to local Councils to put in place restrictions to address a range of ASB issues in public places, and prevent future problems.
6. The Closure Power: the Police and local authorities will have new, simpler powers to close any property, for up to 48 hours if there is, or is likely to be, a public nuisance.

The Bill is also being used to introduce new stronger powers to enable evictions on the grounds of ASB. A new absolute ground for possession for serious ASB will be available to social landlords. Those who commit riot-related offences in other people's communities or ASB against their landlord, or staff or contractors working for the landlord away from their local area, will face the same consequences that they already face if they commit ASB in their own neighbourhoods.

Our Neighbourhood teams are expected to respond to complaints of nuisance and/or ASB in accordance with our policy and procedures. In most cases, they promote mediation as a way forward because it offers complainants an opportunity to resolve the problems themselves. They work in partnership, where appropriate, with other agencies and are expected to work on action-plans with complainants. If necessary, they will co-ordinate multi-agency meetings to work out the best course of action. They must be able to demonstrate that any action proposed is both reasonable and proportionate. They are also expected to contact complainants on a regular basis to check on their well-being and to keep them informed.

During 2012/13, the Housing Service closed 179 ASB cases and 92% were resolved. The three main ASB complaints were as follows:

- 58 complaints relating to noise nuisance
- 45 complaints about verbal harassment and intimidating behaviour

- 25 complaints arising from pet and animal nuisance

3 tenants were evicted on the grounds of ASB.

During the same period, 154 noise complaints were received by the Environmental Service, and closed. Some of these complaints would have been managed by the Housing Service, in the first instance, if any Council tenants were involved; therefore, there will be a number of cases where both Services will have worked in partnership to resolve the on-going problems. In accordance with policy and procedures, the Neighbourhood teams refer cases involving noise nuisance to the Pollution Control Officers who are able to undertake noise monitoring and serve Notices if there is evidence of statutory nuisance. Due to time constraints, it is not possible to provide a detailed breakdown showing the number of cases where Officers from both Services were involved.

The Council also obtained a closure order in September 2012 for one of our properties in Westex North. There have only been three property closures in Mid Devon in total. The others involved a "Crack House" closure which was carried out by Police on a privately rented property in February, 2009 and an ASB closure on a privately owned property at Orchard Way, Cullompton in February, 2011.

It is interesting to note the results of a STAR survey undertaken during 2011/12. A questionnaire survey was sent to a representative sample of tenants and the responses showed that 37% saw rubbish/ litter as a problem in their neighbourhood.

Other issues were also seen as a problem in the neighbourhood. These are listed below with the proportion of respondents who identified the issue as a problem shown in brackets:

- Noisy neighbours (21%)
- Pets and animals (30%)
- Disruptive children/ teenagers (22%)
- Drunk or rowdy behaviour (15%)
- Drug use or dealing (13%)
- Vandalism and graffiti (11%)
- People damaging their property (11%)

In summary, the Council, as a social landlord, has a regulatory requirement to be pro-active in its approach to the management of ASB. It must have a clear policy and a victim-centred approach. It must also work in partnership with other agencies, as appropriate. Access to social housing is denied to those housing applicants who have a history of anti-social behaviour. The Council uses the sign-up process to explain the rights and responsibilities of tenancies, which are clearly stated in all the tenancy documents. New tenants are issued with introductory tenancies and the Council can take action to end these in the event of any nuisance problems. Most tenants become flexible tenants after the first year and they are bound by the same conditions relating to anti-social behaviour and other nuisance problems as other tenants. However, the Council can choose not to renew the tenancy if there have been nuisance problems during the term of the tenancy.

The Housing Service is able to evict those who cause nuisance and annoyance but this is seen very much as the ultimate sanction. However, given that the Council

cannot evict those people who cause problems and who live in private rented accommodation or in their own homes, this can give rise to the perception that tenants are treated less favourably. The Environmental Service can and does respond to complaints relating to statutory nuisance and can take action to resolve such problems. In such cases, a favourable outcome is more likely to be achieved by working in partnership with all relevant agencies

The tools and powers available to tackle nuisance and ASB are being reformed and the Government is making it easier for RPs to obtain possession of properties where the tenant has perpetrated nuisance and/ or ASB. It could therefore be argued that tenants are being further disadvantaged by the reforms.

Background papers

The Regulatory Framework for Social Housing 2012 (HCA):

<http://www.homesandcommunities.co.uk/sites/default/files/our-work/regfwk-2012.pdf>

The Housing Services ASB Policy:

<http://www.middevon.gov.uk/CHttpHandler.ashx?id=2126&p=0>

The Housing Services ASB Procedure:

<http://www.middevon.gov.uk/CHttpHandler.ashx?id=18256&p=0>

The ASB Summary Leaflet:

<http://www.middevon.gov.uk/CHttpHandler.ashx?id=20267&p=0>

Devon Home Choice Policy:

<http://www.devonhomechoice.com/NovaWeb/Infrastructure/ViewLibraryDocument.aspx?ObjectID=2045>

Link to sample tenancy agreements on the website:

<http://www.middevon.gov.uk/index.aspx?articleid=7855>

The Council's Policy Relating to Introductory Tenancies:

<http://www.middevon.gov.uk/CHttpHandler.ashx?id=18193&p=0>

The Council's Tenancy Policy:

<http://www.middevon.gov.uk/CHttpHandler.ashx?id=19318&p=0>

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