

## **THE HOUSING SERVICE ANTI-SOCIAL BEHAVIOUR POLICY & PROCEDURES**

**Cabinet Member**                      Cllr Ray Stanley  
**Responsible Officer**                Housing Services Manager

**Reason for Report:** The Housing Service is required to have an anti-social behaviour (ASB) policy and procedures and these should be revised from time to time.

**RECOMMENDATION(S):** The Cabinet approves the revised Housing Services anti-social behaviour policy and procedures.

**Relationship to Corporate Plan:** The Council must run the Housing Service efficiently and effectively and in accordance with legislative requirements and the provisions of the regulatory framework

**Financial Implications:** There is a budget set aside within the Housing Revenue Account for managing ASB. This is important because small changes, such as the erection of a fence, can help to stop minor nuisance escalating into a bigger problem. Furthermore, the costs associated with legal action can be very high. However, sometimes such action may be necessary in order to reinforce our commitment to tackling ASB.

**Legal Implications:** The Council is required, under Section 12 of the Anti-social Behaviour Act 2003, to prepare a policy and procedure on ASB and to publish the following documents:

- Statement of policy on ASB;
- Statement of procedure on ASB;
- Summary statement of current policy and procedures on ASB

**Risk Assessment:** The Council needs to take a robust approach to the management of anti-social behaviour because the housing stock is a valuable asset and because nuisance and ASB can blight the lives of other tenants. Failure to tackle problems could lead to innocent victims experiencing harassment, alarm and distress and there is a reputational risk if the Housing Service fails to address the issues.

### **1.0 Introduction**

1.1 As a registered provider (RP) of social housing, the Council is regulated by the Homes & Community Agency. The regulatory framework consists of a number of standards and the Council is expected to comply with the provisions of those relating to consumer regulation.

1.2 Regulatory requirements relating to the management of ASB are contained within the Neighbourhood and Community Standard. In accordance with the provisions of this Standard, the Council is required to work in partnership with other agencies to prevent and tackle ASB in the neighbourhoods where we own homes.

- 1.3 There is also a specific expectation that the Council should publish a policy on how we will work with relevant partners to prevent and tackle ASB in areas where we own properties.
- 1.4 In August 2004, the Government published a code of guidance for local authorities and housing action trusts relating to policy and procedures and ASB.
- 1.5 The Anti-Social Behaviour, Crime and Policing Act 2014 introduced a number of new tools and powers which can be used by RPs and this made a review of the existing policy and procedure necessary. The new draft policy and procedures include reference to the changes introduced as a result of the new legislation.

## 2.0 **Changes to the existing policy**

- 2.1 The revised policy and procedure have been written to take account of government guidance. The guidance is very prescriptive and specifies that local housing authorities should have policy and procedural commitments relating to racial and other harassment; and domestic abuse. The revised policy contains reference to these issues and we have developed separate draft policies relating to harassment and domestic abuse to reinforce our commitment to tackling ASB in all its forms. Approval of these draft policies is also being sought separately. However, it is intended that all three policies and the ASB procedures should be complementary.
- 2.2 The definition of ASB contained within the revised policy refers to the definition of ASB contained within the Housing Act 1996 as amended by the Anti-Social Behaviour, Crime & Policing Act 2014. This states that: “a) ASB is conduct that is capable of causing nuisance or annoyance to some person (who need not be a particular identified person) and that directly or indirectly relates to or affects the landlord’s housing management functions, or b) conduct that consists of or involves using or threatening to use housing accommodation owned or managed by the landlord for an unlawful purpose”.
- 2.3 The revised policy makes reference to the Council’s corporate ASB policy. The revised Housing Service policy was drafted to complement the corporate policy and should be read in conjunction with this.
- 2.4 The Government guidance specifies that the Council should publish a summary of current policy and procedures on ASB and if the revised policy and procedures are approved, the existing summary will be reviewed to bring it into line with them.
- 2.5 The guidance also requires the revised policy to contain the following:
  - A definition of ASB
  - General policy statement of approach to ASB
  - Information on the standards of behaviour that are expected of tenants, other members of their households and their visitors
  - Information on how complainants and witnesses will be supported
  - Information as to how ASB will be prevented

- Our policy relating to the rehabilitation of perpetrators and support for vulnerable groups
- How the Housing Service will work in partnership to prevent and manage ASB
- What protocols the Housing Service has in place for sharing information and how confidentiality will be maintained particularly in relation to the identity of complainants
- How the housing service will respond to issues involving residents living in other housing tenures
- How the housing service will ensure that staff are protected
- How staff will be trained to deal with ASB
- Information on related policies

2.6 The guidance specifies what should be contained in the statement of procedures, as well. It should address:

- The making of a complaint, the processing of a complaint, the provision of support to complainants
- The use of enforcement action
- The support available in respect of the perpetrator
- Monitoring complaints of ASB
- How the Council will work in partnership with other agencies
- The use of professional witness schemes
- How ASB will be monitored
- How actions taken to resolve ASB issues will be monitored

2.7 In accordance with the provisions of the new legislation, landlords can now evict tenants if they, a member of their household, or a visitor has been found guilty of ASB, and reference to this new absolute power of possession has been made in the new draft documents.

2.8 Other measures introduced by the new legislation which may be of interest include the community trigger, which allows victims and communities the right to request a review of their case; and the introduction of the civil injunction which will include prohibitions and can include positive requirements. This may, for example, include the requirement to seek help with drug or alcohol issues, the aim being to encourage the perpetrator to address the underlying causes of their ASB. Information about these remedies has also been included.

2.9 The revised policy and procedures also make reference to the Respect Charter for Housing. Although the Council has not signed up to this, the Charter provides a robust framework on which to base our approach to tackling ASB. We intend to review our services in due course with a view to signing up to the Respect Charter.

### 3.0 **Consultation**

3.1 The following organisations were given an opportunity to comment on the revised policy and procedures during April and May 2015:

- East & Mid Devon Community Safety Partnership

- The Police
- Torridge, North, Mid and West Devon Citizen's Advice Bureau (CAB)
- Churches Housing Action Team (CHAT), Tiverton
- Age UK (Tiverton branch)
- Devon Mediation Service

3.2 The Police and the Community Safety Partnership commented on the revised policy and procedures.

3.3 The Housing Service encourages tenants to get involved in scrutiny, in accordance with the regulatory framework. Our Scrutiny Group recently changed its name from the Scrutiny Improvement Group (commonly known as the SIG) to Tenants Together. This group reviewed the revised policy at its meeting on 14 May 2015 and did not suggest any amendments.

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**Circulation of the Report:** Councillor Ray Stanley, Cabinet Member for Housing

**List of Background Papers:**

1. Anti-Social Behaviour, Policy and Procedure: Code of Guidance for local housing authorities and housing action trusts, Office of the Deputy Prime Minister, August 2004
2. Corporate ASB Policy

**Mid Devon District Council**

**Housing Services Anti-social Behaviour Policy**

Policy Number: HSC v1.4

**June 2015**

## Version Control Sheet

Title: Housing Services Anti-social Behaviour Policy

Purpose: To ensure that the Housing Service manages anti-social behaviour in accordance with legislative and regulatory requirements and good practice

Owner: **Housing Services Manager**

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*Date:* **June 2015**

*Version Number:* 1.4

*Status:* Review of Policy

*Review Frequency:* **As and when required and in accordance with changes in good practice and legislation**

*Consultation* **This document was sent out for consultation to the following:**

Cabinet Member

Staff

The Police

The East & Mid Devon Community Safety Partnership

Devon Mediation

CHAT (Churches Housing Action Team)

CAB (Citizen's Advice Bureau)

Age UK

Tenants Together

Management Team

PDG Decent & Affordable Homes

## Document History

This document obtained the following approvals.

<b>Title</b>	<b>Date</b>	<b>Version Approved</b>
Head of Service		
Tenants Together	14/5/15	
Management Team		
Cabinet Member		
PDG Decent & Affordable Homes		
Cabinet		

## 1. Introduction

The Anti-Social Behaviour Act 2003 placed a duty on all social landlords to prepare and publish policies and procedures relating to anti-social behaviour and to ensure that they are available for inspection to any person who asks for sight of them. The Council is also obliged to publish a statement and summary of the policy and procedures. When preparing and reviewing the policy and procedures, the social landlord must take account of guidance issued by the government and by the regulator of social housing, currently the Homes and Communities Agency (HCA).

Our corporate ASB policy states that Mid Devon experiences low levels of crime and that anti-social behaviour (ASB) can blight people's lives, destroy families and ruin communities if not dealt with effectively.

## 2. Scope

This policy statement outlines the commitment of the Housing Service of Mid Devon District Council (MDDC) to prevent, investigate, respond to and monitor incidents of ASB involving our tenants. By being responsive to complaints, and tackling issues in a fair, consistent and proportionate way, we can provide safe and secure environments around our homes and neighbourhoods, where people want to live.

Our approach to the prevention and management of ASB therefore reinforces our work to build sustainable communities. These are neighbourhoods where people from all sections of society can live side by side and where there is a culture of co-operation and respect. We recognise that in order to build sustainable communities, we must work with other residents who live on our estates and for this reason, this policy will also apply to complaints made by or about tenants of other landlords or by owner occupiers.

The ASB policy states how we will deliver our commitments and how we will respond to complaints. The overall purpose of the policy is to explain how:

- we will investigate complaints of ASB and nuisance
- we will tailor action plans to take account of the circumstances of each case
- we will make best use of the remedies available
- we will involve vulnerable tenants, victims and perpetrators, to resolve ASB problems
- we will support victims, witnesses and perpetrators
- we will work in partnership with other agencies to resolve problems and to prevent ASB happening on our estates

This policy should be read in conjunction with the ASB procedures and related documents as stated below.

## 3. Related Documents

- a. The ASB procedures of the Housing Service
- b. The corporate ASB policy
- c. The Housing Service tenancy agreements

- d. The corporate plan
- e. The homelessness strategy
- f. The housing strategy
- g. The corporate Safeguarding Children and Vulnerable Adults Policy
- h. The Housing Service tenancy policy
- i. The corporate Compliments, Complaints and Feedback Policy
- j. The Single Equality Scheme
- k. The Housing Service domestic abuse policy
- l. The Housing Service harassment policy
- m. The tenant involvement policy
- n. The Housing Service's Our Service Standards
- o. The Sanctuary Scheme protocol

#### **4. Definitions**

The Council's corporate ASB policy defines ASB as: "Any aggressive, intimidating or destructive activity that damages or destroys another person's quality of life". It states that there are many types of behaviour that could be considered as being anti-social, and different types of behaviour will have differing levels of impact depending on where and when it is conducted".

The Housing Service refers to the definition of ASB contained in the Housing Act 1996 as amended by the Anti-Social Behaviour, Crime and Policing Act 2014.

ASB is:

- a) Conduct that is capable of causing nuisance or annoyance to some person (who need not be a particular identified person) and that directly or indirectly relates to or affects the landlord's housing management functions, or
- b) Conduct that consists of or involves using or threatening to use housing accommodation owned or managed by the landlord for an unlawful purpose

Such conduct may cause nuisance and annoyance to anyone who has a right to live in the property owned or managed by the Council, those living in any other property in the neighbourhood and anyone else visiting such property or the locality. This will include those working or using local facilities.

The Council recognises that in order to provide a high quality housing service for its residents, it must be effective in tackling the problems created by ASB.

The impact of any nuisance and annoyance on others will be taken into account by the Housing Service which means that both criminal activity and non-criminal activity will be included in the definition of ASB.

Some examples of ASB:

- crimes against people
- actual violence including acts of aggression
- aggressive and threatening language and behaviour
- hate crime



- intimidation and harassment
  - crimes against property
  - criminal damage
  - damage to the environment
  - nuisance vehicles
  - litter
  - rubbish
  - fly-tipping
  - vandalism
  - misuse of home or neighbourhood
  - alcohol or solvent abuse
  - pets and animals to include dangerous dogs, noise complaints and issues relating to fouling, breeding etc
  - noise nuisance including loud parties, loud music, burglar alarms and shouting
  - criminal activity involving drugs
  - garden nuisance
  - boundary disputes
  - nuisance arising from people using the property for business use

This list is not exhaustive.

Hate incidents and hate crime are defined as any incident which is perceived by the victim or any other person as being motivated by prejudice or hate based on their diversity. This may include age, race, religion or belief, gender or gender identity, disability, pregnancy, marital status and sexual orientation.

Our Single Equality Scheme states the Council's commitment to providing quality services delivered in a fair and equitable way and to promoting good relations between different groups in the community.

We will adopt a sensitive approach to responding to any complaints involving hate incidents or hate crime. We are committed to zero tolerance of this type of behaviour and the action taken in connection with any such incidents will reflect this, in accordance with provisions of our harassment policy.

The Housing Service defines domestic abuse as any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional

Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim. This is not a legal definition but will include “honour” based violence and forced marriage.

We encourage victims of domestic abuse to report this to us and are committed to working in partnership with other agencies, as appropriate, to resolving the issues. We have a separate policy relating to our approach to this and also operate a sanctuary scheme to ensure that victims can remain in their own homes.

## **5. The Respect ASB Charter for Housing**

The Housing Service has developed this policy and procedure to explain how we will prevent and manage ASB. This will be achieved by reference to the seven ASB commitments set out in the Charter.

### **5.1 Accountability, leadership and commitment**

The Housing Service will make a commitment to tenants that steps will be taken to prevent and tackle ASB. More detailed information is explained in our ASB Procedures attached (Appendix 1)

This policy has regard to the Chartered Institute of Housing, Resolve ASB (formerly known as the Social Landlord Crime & Nuisance Group) and the Housemark Respect ASB Charter for Housing which was published in June 2011.

All complaints will be investigated, evaluated and the necessary action taken, as appropriate. Complainants will be provided with agreed action plans and they will be kept updated as to the progress of their case.

### **5.2 Making the service accessible by:**

- providing clear information in the Tenancy Agreement
- publicising and promoting our service
- offering a wide range of reporting mechanisms with details included in the Tenants Handbook
- providing clear information and guidance about our service standards

### **5.3 Protecting communities through prompt and proactive actions by:**

- using the full range of tools and powers available under the ASB, Crime and Policing Act 2014
- building on our strong partnerships by working closely with our partner agencies such as the Police, Social Services, Youth Offending Team, Fire Service

- encouraging the communities to work together and respect each other
- using effective measures to rehabilitate perpetrators
- accelerating enforcement action if we deem any incident to be of a serious or life threatening nature.

#### **5.4 Adopting a supportive approach to working with victims and witnesses by:**

- identifying and minimising risks
- protecting our communities by taking a proactive approach to minimise all types of harassment.
- protecting our communities by taking a proactive approach to minimise domestic abuse
- ensuring staff are fully trained in signposting to all support agencies

#### **5.5 Bringing communities together by:**

- providing the resources to foster greater tenant involvement
- helping to make your neighbourhood a better, safer place to live

#### **5.6 Prevention and early intervention by:**

- providing a Tenancy Agreement that clearly states that ASB will not be tolerated and which sets out, in Plain English, what behaviour would be considered to be unacceptable.
- proactively engaging with our residents and partnership agencies
- promoting mediation at an early stage especially in cases where there is a clash of lifestyle, and encouraging neighbours to work together to find solutions
- using the full range of tools in order to prevent the escalation of ASB

#### **5.7 Offering a value for money service by:**

- utilising a clear understanding of resources available and using them effectively and efficiently
- encouraging staff to identify value for money opportunities
- evaluating performance against resident satisfaction and cost

### **6. Our approach**

**6.1** The Corporate ASB policy states that the Council cannot work in isolation and relies on members of the community to assist with positive problem solving in their area. It is the responsibility of everyone to acknowledge where a problem exists and to report this to the relevant agencies. All complaints received will be investigated and evaluated and action will be taken in line with relevant policies and enforcement legislation as well as good practice.

**6.2** We will seek the support of the community in order to take action so victims,

complainants and witnesses are asked to complete and return diary sheets to demonstrate the nature and extent of the problem. Such notes provide vital evidence which can be used in court if required. Without this support and commitment from the community, the Housing Service may not be able to resolve the issues in a satisfactory manner. We will also work in partnership with other agencies.

**6.3** We ensure that all new tenants are made aware of their rights and responsibilities before they sign their tenancy agreement. In particular, we make it clear that they are responsible for the behaviour of other household members and visitors and that we will not tolerate ASB.

**6.4** Our tenancy agreements contain specific conditions which relate to the community obligations of our tenants and which set out what behaviour will not be tolerated. There are specific clauses relating to nuisance and anti-social behaviour, harassment, violence, and illegal activities including prostitution, storing or distributing pornographic material, selling or dealing in any illegal or controlled drugs and storing or handling stolen goods or vehicles.

## **7. Complaints about ASB**

**7.1** When we receive a complaint about ASB we will assess the type of ASB being claimed to determine how quickly we need to respond. It will be assigned to one of four categories. We will also complete a risk assessment matrix to enable us to work out who is vulnerable for both complainants and perpetrators, where applicable.

The following categories will be applied:

- Level one: High risk/ urgent - response within one working day. This will apply where there is a serious risk to the complainant so will include race/hate crime, threats or use of violence.
- Level two: medium risk/ persistent nuisance – response within five working days. This will apply where there is no immediate risk to the complainant and will include noise complaints, nuisance vehicles and ongoing issues relating to pets and animals.
- Level three: low to no risk/ non-urgent – response within five working days. This will include ball games which result in damage to property, issues arising from a clash of lifestyle and other ASB, such as neighbour disputes where there is no independent evidence, unlikely to cause harm in the short term. It will also include one-off complaints and incidents where there is not enough evidence to show that a nuisance exists at all. Most incidents judged to be

low to no risk will be recorded only. Mediation will be offered but otherwise, there will be no further action. *We would only offer mediation if a case was recorded.*

- Anonymous complaints: generally, these will be recorded for information only. This is because it is unlikely that we would be able to gather all the evidence needed as part of the investigation. In the event of serious allegations, where there is safeguarding or other such issues of concern, we will involve other partners in order to take appropriate action.

**7.2** The Housing Service operates a generic system of housing management which means that we have patch officers in neighbourhood teams who are responsible for housing management issues in a defined geographical area. They will be responsible for dealing with any ASB which occurs in their area of responsibility.

## **8. Reporting ASB**

**8.1** ASB can be reported in a variety of ways. The Council's Customer First team will receive complaints on 01884 255255 or by email at [customerservices@middevon.gov.uk](mailto:customerservices@middevon.gov.uk) Alternatively tenants and others can contact the appropriate neighbourhood team directly using the same telephone number or by email on [htenancy@middevon.gov.uk](mailto:htenancy@middevon.gov.uk) .

**8.2** We will also accept complaints made in written correspondence or by personal visits to our offices, or made through a third party such as a local Councillor. We will attempt to make contact with the complainant within one working day in all level one cases.

**8.3** We will acknowledge all level two and three cases in writing within five working days and endeavour to set up an interview to discuss the complaints.

**8.4** We will issue diary sheets straight away but if the complainant is unable to complete these for whatever reason (this may include literacy problems, English not being the first language, or due to a disability), we will tailor our response, and this may include the provision of a dictaphone.

**8.5** We understand how important it is to keep complainants informed about what we are doing to resolve the issues that they have reported and we will be as open and transparent as we can be taking into account the need to maintain tenant confidentiality and data protection.

## **9. The investigation of ASB complaints**

**9.1** We use our electronic housing management system as an incident management tool

and this enables us to be consistent.

**9.2** When gathering evidence, we will use all the tools available to us, which may include working with Environmental Health professionals in connection with the use of noise monitoring equipment, information exchange with other agencies such as the Police and evidence from other potential witnesses, including neighbours. In very serious cases, we would make use of professional witnesses especially where potential witnesses were fearful of reprisals and intimidation and unwilling to give evidence in court proceedings.

**9.3** We will take all reports of ASB seriously and investigate impartially.

## **10. Contact with Complainants**

**10.1** We will develop an action plan with the complainant immediately prior to investigating the incident. If there is evidence to support the need for further action, we will amend the action plan again with the complainant setting out how we will proceed. We will also agree a level of support and contact as the case progresses. This is to ensure that complainants know what action and support they can expect from us, and what will be required from them; this will include, for example, keeping diary sheets.

## **11. Working with the Perpetrator**

**11.1** We will interview the alleged perpetrator to make them aware of the issues being reported at an early stage. We will write to them and invite them to meet with a member of the neighbourhood team. We need to meet with the alleged perpetrator as part of the investigation and to give them an opportunity to respond to the allegations made. We will only arrange such an interview if the complainants have agreed to this as part of the action plan. After this, taking into account the outcomes of interviews with both the complainant and the perpetrator, the officer dealing with the case will make a judgement and decide on the most appropriate way forward.

**11.2** We may approach the perpetrator and issue a warning so that they understand the need to modify their behaviour. We may also carry on trying to obtain evidence and we may consider legal action as a way forward recognising that eviction is a last resort.

**11.3** We understand that the perpetrator may be vulnerable and, for this reason, we will undertake a vulnerability risk assessment. We will review any support needs and make referrals, if required, and/or involve relevant agencies, where appropriate.

## **12. The Support Needs of Complainants & Victims**

- 12.1** We will use all the options available to resolve a case of ASB and to protect victims. We would only consider transferring the perpetrator or commencing possession proceedings as a means of resolving the problem as a last resort even if there have been breaches of the tenancy agreement. Any possession action must be both reasonable and proportionate and in a lot of cases, it would be difficult for us to prove that depriving someone of their home, especially if there are children involved, would be an appropriate response to the issues raised.
- 12.2** However, we do recognise the need to support the needs and vulnerability of the complainant and any witnesses and it is for this reason that we will undertake a risk assessment every time we are informed of an incident or where incidents escalate.
- 12.3** We appreciate that the chances of successfully resolving ASB cases are greatly increased if complainants are involved in all stages and are willing to co-operate. We will provide support to complainants and witnesses and this may include frequent home visits or telephone calls to provide support, signposting or referral to other appropriate agencies and help and advice about all stages of the process.
- 12.4** We will do everything we can to make complainants and witnesses feel safe and this will involve the provision of increased security measures such as fireproof letter boxes, additional security lights and additional security locks, as appropriate. By providing support and security measures to tenants and witnesses we are preventing homelessness and maintaining support networks for those most vulnerable.
- 12.5** If legal action is commenced, we will give complainants and witnesses an opportunity to attend Court beforehand so that they know what to expect later on. We will meet with them at the Court prior to the hearing and we will arrange transport and/or pay any costs relating to travel, as required. We will also pay any costs relating to subsistence whilst at Court and any other out of pocket expenses, such as compensation in respect of lost earnings, provided that any claims can be supported by evidence showing this.
- 12.6** In situations where there may be a threat to the health and safety of the complainant or victim, outside of normal working hours, we advise dialling 999 to summon the Police. They may telephone 01884 255255 and speak to an advisor who will contact the Standby Officer if there are any issues which require an immediate response from the Housing Service.

## **13. Further Action**

- 13.1** When further action is needed, the officer dealing with the case will look at all the evidence and, taking this into account, will work out what action is needed to ensure that there is a reasonable and proportionate response to the issues reported. The



aim will be to resolve the case. We will always offer mediation as a first step to resolve the issue unless the case is high risk and falls into level one.

- 13.2** There is an escalation process and this will be used if mediation is not appropriate. The first stage might include giving advice to help the perpetrator to avoid the problem behaviour and this could involve joint agency visits; however, warning letters may also be sent in conjunction with the Community Safety Partnership and Acceptable Behaviour Contracts may be issued.
- 13.3** If the ASB is very serious, a fast track response may be necessary and legal action including injunctions, possession proceedings or demotion orders may be considered. If legal action is required, the officer dealing with the case will work with others including partner agencies to gather the evidence needed to support this.
- 13.4** Prior to making the referral to Court, there will be an internal review meeting. Introductory tenants will have an opportunity to appeal if possession action is proposed in accordance with the relevant legislation. For other tenants, the evidence will be discussed at an Eviction Panel hearing and their local Councillor will be invited to attend this meeting.
- 13.5** If we believe that any child or vulnerable adult is at risk as a result of any ASB, we will take action in accordance with the corporate Safeguarding Children and Vulnerable Adults Policy.

## **14. Provision of Support to Perpetrators**

- 14.1** We understand that some tenants may be vulnerable and that this causes them to behave in an anti-social way. We are committed to working in partnership to reduce the impact of such behaviour and to help such people to sustain their tenancies.
- 14.2** We work with the East & Mid Devon Community Safety Partnership (CSP) and the tiered process adopted across the whole of Devon by all key partner organisations may involve referrals to key support organisations such as mental health teams, drugs and alcohol services and domestic abuse support services. In serious cases, we will ask the CSP to arrange a multi-agency meeting and other organisations, as appropriate, will be asked to attend.
- 14.3** We are also committed to supporting the Targeted Family Support scheme (the name of the Troubled Families initiative in Devon) and joint initiatives with other partners.

## **15. Sustainable Communities**

- 15.1** We use Devon Home Choice (DHC) to allocate our homes. This is a choice-based



lettings scheme operated in partnership by all the local authorities and registered providers (RPs) which work in Devon. In accordance with the provisions of the scheme, anyone with a proven history of ASB can be excluded from the scheme for a period and this means that they are unable to access social housing.

**15.2** Our Tenancy Policy sets out the circumstances in which we issue different types of tenancy. We use introductory tenancies for new tenants and monitor these. If they have not been adequately maintained, we will consider extending them. We also issue flexible tenancies in most cases.

**15.3** We will record every incident reported because this enables us to measure the nature and extent of ASB affecting the areas where we manage homes.

## **16. Confidentiality & Data Protection**

**16.1** We are committed to maintaining tenancy confidentiality and bound by legislation relating to data protection. We will respect the confidentiality of those who approach us to report ASB and also those we speak to, for whatever reason, regarding any incident or as part of our investigations.

**16.2** We will not usually exchange any information without the consent of the people involved or unless there are suspected safeguarding issues. In cases like this, we would refer to the relevant information sharing protocols. This is in accordance with the provisions of the Crime and Disorder Act 1998, which allows personal data to be exchanged in order to prevent or to detect crime.

**16.3** We will publicise positive action taken to resolve ASB, if possible. This will be done together with partners in order to demonstrate what can be achieved with the help of the local community.

## **17. Training & Support for our Officers**

**17.1** We are committed to ensuring that our officers have the necessary skills and knowledge to enable them to adequately manage any of the many and varied ASB issues which might arise on their patch. To this end, we provide training, as necessary, and have a supervision framework, which enables officers to raise queries or discuss action with their line manager.

**17.2** Our officers are trained to recognise ASB and how to respond to complaints made. We have an ongoing programme of training which gives them the understanding they need to recognise the seriousness of specific issues and how to respond in an appropriate and effective way. They are also given training to enable them to make best use of the tools and powers available when working to resolve ASB problems. We also provide training on how to respond to safeguarding issues.

**17.3** We will not tolerate ASB directed at our officers and will take appropriate action in response to any issues. In addition, we are committed to ensuring that the health and safety of the people who work for us is maintained and officers who go out to visit tenants and others as part of their daily activities are routinely trained on safe systems of working and how to respond to difficult situations. All housing services employees understand their responsibilities in terms of health and safety and are committed to ensuring that the risks to lone working colleagues are minimised as much as possible.

## **18. Performance Monitoring & Levels of Satisfaction**

**18.1** We will monitor the work that we do in response to complaints of ASB and also levels of satisfaction. We publish key performance information on a monthly basis which includes information on the numbers of new, open and closed cases and the percentage of those resolved.

**18.2** We are planning to increase the amount of information published to include types of cases and the range of actions taken.

**18.3** Senior Managers meet with the Cabinet Member for Housing on a monthly basis to discuss performance and a tenant rep also attends these Housing Performance & Improvement Board meetings. In addition, Tenants Together, our Scrutiny Group, reviews performance on a monthly basis.

## **19. Appeals & Complaints**

**19.1** If anyone wishes to appeal a decision made as part of the ongoing management of an ASB case, in the first instance, they should make their concerns known to the neighbourhood team and another manager will review the case to ensure that action has been taken in accordance with the appropriate policies and procedures.

**19.2** Any complaints relating to the general management of an ASB incident by the neighbourhood teams, which may include concerns about a general failure to address ASB issues reported, will be responded to in accordance with the Council's Compliments, Complaints and Feedback Policy.

## **20. Equality and Diversity**

**20.1** The Housing Service will tailor our service to meet the needs of individuals. We will foster good relations when providing our service to eliminate discrimination and promote opportunity of equality.

## **21. Legislation**

**21.1** This policy takes into account the following legislation but is not limited to:

- The ASB, Crime and Policing Act 2014
- Equalities Act 2010
- Children Act 2004
- ASB Act 2003
- Police Reform Act 2002
- Homelessness Act 2002
- Freedom of Information Act 2000
- Data Protection Act 1998 & 2003
- Human Rights Act 1998
- Crime & Disorder Act 1998
- Harassment Act 1997
- Housing Act 1996
- Disability Discrimination Act 1995
- Noise Nuisance Act 1993
- Environmental Protection Act 1990
- Children Act 1989
- Mental Health Act 1983 (amended 2007)
- Housing Act 1985
- Race Relations Act 1976

## **22. Consultation**

**22.1** The Police, the CSP, and other partner agencies including Devon Mediation Service, CHAT (Churches Housing Action Team) and the CAB (Citizens Advice Bureau) have been given an opportunity to comment on this policy. Our Tenants Together (tenant scrutiny) Group has also been consulted.

## **23. Review**

**23.1** This Policy has been written in line with and meets current relevant legislation. The policy and procedures will be reviewed and revised to reflect any legislation requirements and/or other guidance or good practice, in accordance with the provisions of the ASB Act 2003.

**Mid Devon District Council**

**Housing Services Anti-Social Behaviour Procedures**

Procedures Number: HSG v1.3

**June 2015**

## Version Control Sheet

*Title: Housing Service Anti-Social Behaviour Procedures*

*Purpose: To set out how the Housing Service will implement the Housing Service Anti-Social Behaviour policy and how it will prevent, investigate, respond to and monitor incidents of ASB.*

**Owner: Housing Services Manager**

**cfry@middevon.gov.uk**

**Telephone number 01884 234920**

**Date: June 2015**

*Version Number: v1.3*

*Status: Review of procedures*

*Review Frequency: As and when required and in accordance with changes in legislation and good practice.*

**Consultation This document was sent out for consultation to the following:**

Management Team

Cabinet Member

The Police

The East & Mid Devon Community Safety Partnership

Devon Mediation Service

CHAT (Churches Housing Action Team)

CAB (Citizen's Advice Bureau)

Age UK

## Document History

This document obtained the following approvals.

<b>Title</b>	<b>Date</b>	<b>Version Approved</b>
Head of Service		
Management Team		
PDG		
Cabinet		
Council		

## **1. Introduction**

The Anti-Social Behaviour Act 2003 placed a duty on all social landlords to prepare and publish policies and procedures relating to anti-social behaviour (ASB) and to ensure that they are available for inspection to any person who asks for sight of them. The Council is also obliged to publish a statement and summary of the policy and procedures. When preparing and reviewing the policy and procedures, the social landlord must take account of guidance issued by the government and by the regulator of social housing, currently the Homes and Communities Agency (HCA).

## **2. Scope**

The ASB procedures set out how the Housing Service will implement the ASB policy and therefore will explain how we will deliver the service to ensure that the commitment of the Council to prevent, investigate, respond to and monitor incidents of ASB reported will be met.

## **3. Related Documents**

These procedures link with the Housing Service ASB policy and the Council's corporate Anti-Social Behaviour (ASB) Policy. In addition, they refer to the Chartered Institute of Housing (CIH), Social Landlords Crime and Nuisance Group (SLCNG) and Housemark Respect ASB Charter for Housing.

## **4. Accountability, leadership & commitment**

- 4.1** Our policy details the Housing Service's approach to the prevention and management of ASB and acknowledges that it will reinforce our work to build sustainable communities. It states: "By being responsive to complaints, and tackling issues in a fair, consistent and proportionate way, we can provide safe and secure environments around our homes and neighbourhoods, where people want to live".
- 4.2** The Housing Service has generic Neighbourhood Teams which are responsible for dealing with all ASB complaints on their designated patches. They are based at the Council's Head Office in Phoenix House. The Neighbourhood Teams operate during the office hours of 9.00am to 5.00pm on Mondays to Thursdays, and 9.00am to 4.30pm on Fridays.
- 4.3** We are committed to ensuring our staff are trained in the complexities of housing legislation and the law relating to ASB and crime and disorder. They are trained to work with complainants, witnesses, perpetrators and partnership agencies. Staff attend accredited training courses with reviews of their skills and training needs undertaken as part of their annual appraisal. New staff members undergo a thorough induction programme.

## **5. Making the service accessible**

### **5.1** Information regarding ASB can be found:

- In the Housing Service ASB Policy and also in the summary leaflet

- In the Housing Service tenancy agreements
- The Housing Service's Our Service Standards
- On our website
- In our newsletters, annual report and tenant handbook.

**5.2** You can report incidents of ASB to your Neighbourhood Officer using any of the following methods:

**Telephone:**

- 01884 255255 during normal working hours and also in emergencies through our out of hours standby service on the same telephone number.

**Write to:**

Housing Services  
Phoenix House  
Phoenix Lane  
Tiverton  
Devon EX16 6PP

**E-mail:** [htenancy@middevon.gov.uk](mailto:htenancy@middevon.gov.uk) or [customerservices@middevon.gov.uk](mailto:customerservices@middevon.gov.uk)

**In person:** 9.00am – 5.00pm Monday to Thursday and 9.00am - 4.30pm Friday at:

- Phoenix House, Tiverton
- Crediton Area Office Market Street, Crediton, Hayridge Centre, Cullompton (Monday and Thursday mornings only)

You can also report an incident through a third party, such as a local Councillor. In situations where there may be a threat to the health and safety of an individual, we advise dialling 999 to summon the Police.

## **6. What happens next?**

**6.1** All incidents of ASB are logged on our electronic housing management database. This helps us in the following ways as stated below:-

**6.2** **We have a permanent record of all incidents of ASB.** We can monitor the nature and extent of problems and identify hotspots. This enables us to work out priorities and to monitor the effectiveness of any initiatives or interventions.

**6.3** **We can check if the perpetrator:**

- is currently under investigation
- is the subject of an Injunction or a Court Order
- has known associates who are engaged in anti-social activity
- has caused ASB in the past.

**6.4** **We can check if the ASB is:**

- a one-off incident
- part of an on-going campaign against a specific individual
- concentrated in a specific area.

## **7. Confidentiality and Data Protection**

**7.1** Any information you give us will be treated in the strictest confidence. Your identity will not be divulged to the perpetrator of the ASB without your express permission. However, we may share information with:

- the Police - for the prevention and detection of crime and disorder and anti-social behaviour
- other local councils and registered social landlords (Housing Associations) about perpetrators of ASB
- Social Services, if this is relevant
- Fire Service
- Probation
- Health.

**7.2** Any exchange of information is strictly controlled and monitored through the use of established Information Exchange Protocols agreed between this Council, the Police, other local authorities and Housing Associations active in Mid Devon and the surrounding area.

**7.3** There are a number of areas of legislation that the Council complies with in relation to the sharing of personalised information including the:

- Data Protection Act 1998 (Section 29)
- Freedom of Information Act 2000
- Human Rights Act 1998
- Crime and Disorder Act 1998 (Section 115).

## **8. Our Response Times**

**8.1** We will acknowledge all complaints of ASB in writing or e-mail within five working days. We will respond to cases involving racial harassment, threats or actual violence within one working day – or on the same day if resources permit.

## **9. Complaints about ASB**

**9.1** When we receive a complaint, we will assess the type of ASB being complained about to determine how quickly we need to respond. We will complete a complainant risk assessment when speaking to you first about the incident and this will inform the decision relating to the category we decide to apply to it.

- Level one: High risk/urgent - response within one working day. This will apply where there is a serious risk to the complainant so will include race/ hate crime, threats or use of violence.
- Level two: Medium risk/persistent nuisance – response within five working days. This will apply where there is no immediate risk to the complainant and will include noise complaints, nuisance vehicles and ongoing issues relating to pets and animals.



- Level three: Low to no risk/non-urgent – response within five working days. This will include ball games which result in damage to property, issues arising from a clash of lifestyle and other ASB, such as neighbour disputes where there is no independent evidence, unlikely to cause harm in the short term. It will also include one-off complaints and incidents where there is not enough evidence to show that a nuisance exists at all. Most incidents judged to be low to no risk will be recorded only. Mediation will be offered but it is unlikely that there will be any further action.
- Anonymous complaints: Generally, these will be recorded for information only as we may not be able to gather all the evidence needed. In the event of serious allegations, where there are safeguarding or other such issues of concern, we will involve other partners in order to take appropriate action.

**9.2** We will develop an action plan immediately prior to investigating the incident. This will set out how we intend to proceed. We will also agree a level of support and contact as the case progresses. We will always offer mediation as a first step to resolve the issue being reported unless the case is high risk and falls into level one.

**9.3** We will issue diary sheets straight away but we understand that some people will be unable to complete these for whatever reason and we will work with them to enable them to record any ongoing issues. This may include the provision of a Dictaphone.

## **10. Investigation**

**10.1** Members of the Neighbourhood Teams have responsibility for investigating incidents on their patches. They are the first point of contact throughout the investigation. We will need all relevant information about the complaint and this will involve taking detailed statements, as necessary.

**10.2** The initial investigation should take no more than twenty working days depending on the complexity or severity of the complaint. Staff will maintain regular contact with you in the way and at the frequency agreed. They will review the action plan periodically as the case progresses so you are able to agree new methods of contact and amend the frequency of contact. You will be told if the investigation is delayed for any reason. You will also be told if, for whatever reason, we have to involve another Officer in the investigation, and we will make you aware of the name and contact details of the new Officer dealing with the case.

**10.3** We use a straightforward approach to tackling ASB:

- investigate the complaint;
- evaluate the evidence; and
- take appropriate action to resolve the issue.

**10.4** We use our electronic housing management system as an incident management tool and this enables us to be consistent.

**10.5** When gathering evidence, we will use all the tools available to us, which may include working with Environmental Health professionals in connection with the use of noise monitoring equipment, information exchange with other agencies such as the Police

and evidence from other potential witnesses, including neighbours. In serious cases, we would consider the use of professional witnesses especially where potential witnesses were fearful of reprisals and intimidation and not willing to give evidence in court proceedings.

## **11. Protecting communities through prompt and proactive actions**

**11.1** We will play a key role in preventing ASB from occurring and work in partnership with other agencies to jointly tackle problems as they arise. We work with the East & Mid Devon Community Safety Partnership (CSP) and other key support organisations such as mental health teams, drugs and alcohol services and domestic abuse support services.

**11.2** We will work in partnership with the Police and other agencies, where necessary, and make use of all the tools and powers available to tackle ASB, especially those arising from the ASB, Crime and Policing Act 2014. For example, we are able to accelerate enforcement action or to seek an absolute order for possession of a property through the Courts in response to incidents judged to be serious or life-threatening.

**11.3** We are also able to attach requirements to injunctions to assist with the rehabilitation of perpetrators. Therefore, we could require them to seek support for substance issues as part of a wider package of obligations.

**11.4** We continue to support tenant involvement initiatives within our neighbourhoods. We carry out two Neighbourhood Walkabouts each year on each estate and we encourage Councillors, tenants, Police Officers and other interested parties to accompany us.

## **12. Adopting a supportive approach to working with victims and witnesses**

**12.1** We can help and support you in a number of ways. We can:

- provide regular contact by telephone or home visit and will agree an action plan with you at the time that you report the incident. This will be amended to take account of your preferences as the investigation progresses
- refer you to counselling, victim support, and witness support services
- tailor our service to meet the needs of our tenants and liaise with appropriate support workers if you are physically or mentally vulnerable
- seek to provide appropriate support if you are hearing or visually impaired
- provide free transport to and from investigation meetings, court, and other venues
- assist with childcare/caring costs so that you can attend meetings
- provide victims and witnesses with an out of hours contact to respond to any issues which require an immediate response
- consider re-housing you on a temporary or permanent basis by way of a management move in serious ASB circumstances if supported by the Police or Health Officials although this will be a last resort
- continue to provide advice and support following court proceedings

- monitor the behaviour of the perpetrator following court proceedings to ensure that any order of the court is adhered to
- carry out a “risk assessment” of your home and install appropriate support measures such as CCTV cameras, alarms, extra locks or spy holes in your front door
- supply dictaphones or personal alarms
- in cases of domestic abuse, attend any Multi Agency Risk Assessment Conference (MARAC) meetings and arrange to have any recommended security measures put in place under the Sanctuary Scheme
- identify and minimise risks by continually reviewing risks during an investigation
- take a proactive approach to minimise all types of harassment
- make referrals to the Race Equality Council where there has been incidents of racial harassment, in order to obtain support for you
- ensure that all Officers are fully trained and able to signpost victims to support agencies.

### **13. Bringing communities together**

- 13.1** We want to build sustainable and safe neighbourhoods. We do this by:
- encouraging and developing tenant involvement by continuing to support tenants and residents groups and helping any new groups being formed
  - continuing to support existing estate tenant representatives and encouraging more to become involved and to attend Neighbourhood Walkabouts
  - by participating in joint community initiatives e.g. Community Action Days, Local Action Group meetings and resident involvement activities.

### **14. Prevention and early intervention**

- 14.1** We aim to take a straightforward approach to the management of ASB problems. We will always encourage complainants to consider mediation unless they are reporting a serious high risk incident. If, when we have investigated, we find that a particular complaint arises from a clash of lifestyle, we will only offer mediation. We recognise that in some cases, individuals must compromise and that it is not appropriate for the Council to take action. In such cases, we will make it clear that we expect all the parties involved to work together to find a way forward.
- 14.2** However, we have made a commitment to prevent, investigate, respond to and monitor incidents of ASB involving our tenants and to support the development of sustainable communities where people want to live. We will therefore use a wide range of all the tools and powers available in order to prevent the escalation of ASB. We aim to ensure that, where possible, perpetrators are given the opportunity to make the required changes to their behaviour and successfully re-integrate into the community.
- 14.3** We will consider any vulnerability or support needs and work with the individual to provide advice on accessing appropriate support by completing a risk assessment and continuing to review that.

## **15. How you can help us**

**15.1** In many instances, especially those that may involve legal action, we will need your help to build our case against a perpetrator of ASB. You will be asked to keep a regular diary of events. You may be asked to:

- allow noise monitoring or video equipment to be installed in your home
- allow professional witnesses, the Police and/or Council staff to use your home for surveillance purposes
- encourage other witnesses to come forward
- report incidents to the Police, always requesting a log number
- attend meetings with witnesses and with our legal representatives
- attend court and give evidence to support the Council's case or if you do not feel able to do this then provide us with an Impact Statement
- monitor the behaviour of the perpetrator following court proceedings to ensure that any order of the court is kept to.

**15.2** Your help and assistance is vital and is greatly appreciated.

## **16. Our approach to tackling ASB**

Our intentions are to:

- deal firmly but fairly with perpetrators
- deter ASB and prevent future occurrences
- encourage complainants and witnesses to come forward.

When evaluating the evidence collected, we will consider the most appropriate course of action. We will also try to ensure that the response to the issues reported is both reasonable and proportionate. We will use a variety of different remedies in order to encourage perpetrators to modify their behaviour.

### **16.1 Partnership Approach**

We work in partnership with various agencies including:

- Citizens Advice Bureau (CAB) – for general tenancy advice
- Police – for criminal activities
- Environmental Health - for noise nuisance
- District Officers - for abandoned vehicles and dogs.

### **16.2 Troubled Families Support Programme**

This initiative is aimed at families who have complex needs with the intention of:

- getting children back into school – attendance issues
- reducing youth crime and ASB
- enabling adults to get back to work
- reducing the costs to the public sector that are associated with these families – such as health.

We will adopt a partnership approach whereby all the different agencies will work

together to provide support for such families. We will continue to support families with any new initiatives introduced by the programme.

### **16.3 Tenant obligations**

All Council tenants are subject to the Council's Terms and Conditions of Tenancy. All tenants are provided with a copy of these at the start of their tenancy and the most important clauses relating to ASB are explained in detail. Tenants are responsible for the behaviour of other household members and visitors and this is made clear to them at the start of their tenancy.

### **16.4 Cross-tenure Issues**

The Council recognises that the powers and responsibilities it has as a social landlord extend beyond its own sector and housing stock. The Council will act to protect owner-occupiers or those of other housing tenures from the actions of Council tenants, and equally, may take action against perpetrators of ASB in other tenures to protect its tenants.

### **16.5 Mediation**

The Council works with the Devon Mediation Service, an independent local voluntary organisation. We will always offer mediation unless the case is deemed to be high risk as it can be used successfully to resolve neighbour disputes at an early stage. It is useful because the mediator is an impartial independent person who helps both parties to develop a solution to their difficulties. We work with the CSP and will usually work in partnership with other agencies to decide the way forward in more serious cases. There is an escalation process and this will be used if mediation is not appropriate.

### **16.6 Acceptable Behaviour Contracts (ABCs)**

ABCs attempt to modify the perpetrator's behaviour before formal legal action is started. Perpetrators are encouraged to agree to the conditions set. ABCs are voluntary contracts which are effective as warnings for perpetrators whose continued unrestrained activities would lead to the obtaining of Criminal Behaviour Orders, injunctions or possession orders.

### **16.7 Parenting Contracts and Orders**

This is a Court Order which is designed to give you support and guidance. It aims to help you prevent your child from committing ASB, to ensure they attend school every day and to address issues of behaviour at school if they have been excluded.

### **16.8 Demotion Orders**

The Council can ask a County Court to "demote" a secure or flexible tenant to a lesser form of tenancy for 1 year (similar to an introductory tenancy). Repossession becomes easier during that year for on-going acts of ASB or for rent arrears.

## **16.9 Legal action under the Environmental Protection Act 1990 or the Noise Act 1996 *Statutory nuisance***

The Housing Service can work in partnership with Environmental Health Officers who can serve Noise Abatement Notices, take legal action in the Magistrates Court and seize equipment in cases of extreme noise where the noise coming from a property is “prejudicial to health or a nuisance”.

Formal action would only be commenced where informal action had failed to resolve the matter. If an abatement notice is served, the person responsible for the problem is expected to live within the terms of the Order. Failure to comply with an abatement notice is a criminal offence, and could result in a fine being payable following a successful prosecution for contravention or non-compliance with any requirement of the notice. The Court can also order the seizure and potential forfeiture of equipment.

## **16.10 Possession Orders (Housing Act 1985)**

The Council can apply to the County Court for an order for possession that will lead to eviction of a Council tenant where nuisance or ASB is seriously and/or constantly affecting the locality. A tenant who is evicted on nuisance grounds could be found intentionally homeless even if they are in housing need.

The Council takes breaches of the terms and conditions of Tenancy relating to nuisance and ASB very seriously, and will take action to ensure that tenants comply with their tenancy agreements. However, any enforcement action must be reasonable and proportionate and if legal action is to be considered as a way forward, it will be recognised that eviction is a last resort, especially if there are children involved.

## **16.11 Termination of Introductory Tenancy**

Introductory tenancies enable the Council to repossess homes more easily during the first twelve months of a tenancy where there are grounds for eviction (for example, ASB or rent arrears).

## **16.12 Termination of a Flexible Tenancy**

The Council uses flexible tenancies, and has discretion as to whether to renew or revoke a tenancy at the end of a fixed term should there be sufficient grounds for eviction (for example, ASB or rent arrears).

## **16.13 Extension of an Introductory Tenancy**

The Housing Service can, under certain circumstances, extend an Introductory Tenancy for a period of six months by serving a Notice of Extension on the tenant at least eight weeks before the tenancy either would normally have been made secure or became flexible. This has to be agreed by independent officers not involved in the appeal review.



## **17. New tools and powers**

The ASB, Crime and Policing Act 2014 introduced simpler, more effective powers to tackle ASB that provides better protection for victims and communities.

### **17.1 Community Trigger**

This gives victims and communities the right to request a review of their case and bring agencies together to take a joined up approach to find a solution. The trigger will apply in Mid Devon when there have been three complaints about ASB in the last 6 months (if there are 3 complaints about 1 incident this will also count) with the most recent complaint having occurred within the last month. Complaints can be made to any partner agency.

As a result of any review, the agencies involved will share information, review what action has taken place and decide whether any additional actions have been missed. Any review will take into account the persistence of the ASB, any harm or potential harm caused by the ASB and the adequacy of response to the ASB. The victim of the ASB can use the community trigger and also other people acting on their behalf such as a local Councillor, the local MP, a family member or other advocate. The trigger will be activated even if a business or community group makes the complaint.

### **17.2 Community Remedy**

This gives victims a chance to influence the type of punishment given out to perpetrators of low-level crime and ASB.

### **17.3 Civil Injunction**

The purpose of the civil injunction is to stop or prevent anyone behaving in an anti-social way quickly. It is there to prevent an escalation of any problems. The Council, other registered providers of social housing, the Police and other agencies including the Environment Agency, can apply one of these injunctions. If the Housing Service is to apply for an injunction, there must be a good chance that the behaviour is likely to be capable of causing nuisance and annoyance and that it would be just and convenient to grant the injunction to prevent ASB.

The injunction will include prohibitions and may include positive requirements to help the perpetrator to address the underlying causes of their ASB. If the perpetrator is under 18, the agencies involved must consult the local Youth Offending Team (YOT). A breach of the injunction is not a criminal offence. If there is a breach, it must be proved to the criminal standard which means that there needs to be evidence which demonstrates that there is no reasonable doubt about what happened.

If the perpetrator is over 18, they may be given an unlimited fine or sentenced to up to two years in prison.

If they are under 18, they may be given a supervision order or, as a very last resort, a civil detention order of up to three months for those aged 14 to 17.

## 17.4 Criminal Behaviour Order

This can be issued by any criminal court against a person if they have been convicted of an offence. An Order will be made if the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person and the court considers that making the order will help prevent the offender from engaging in such behaviour.

The aim of this new Order is to make it easier to deal with those who continue with anti-social activity and also engage in criminal activity. The ASB does not need to be part of the criminal offence. The Order will include prohibitions to stop the ASB but it can also include positive requirements. The aim of this is to give the offender an opportunity to deal with the causes underlying their criminal behaviour. If the offender is under 18, then the YOT must be consulted about any applications for Orders.

A breach of an Order will be a criminal offence and therefore there needs to be evidence showing that what is alleged can be proved beyond reasonable doubt. Offenders over the age of 18 can be sentenced to prison. However, they could also be liable to pay a fine or they may be sent to prison and ordered to pay a fine, as well.

For those offenders under the age of 18, the sentencing powers in the Youth Court apply.

## 17.5 Dispersal Power

The Police can require a person committing or likely to commit ASB, crime or disorder to leave an area for up to 48 hours. This power can be used when members of the public in an area are being harassed, alarmed or distressed, or are likely to be by ASB, or by crime and disorder. The Police must specify the area to which the power will relate and can also specify the time and the route that must be used to leave the area.

The Police can also confiscate any item that could be used to commit ASB, crime or disorder. A direction can be given to anyone who is, or who appears to be, over the age of 10. Anyone under the age of 16 can be taken home or to a place of safety.

A breach of this power is a criminal offence. Failure to comply with a direction to leave can result in a fine and/or up to three months in prison although those under 18 cannot be imprisoned. Fines can also be applied if someone fails to hand over items.

## 17.6 Community Protection Notice (CPN)

This has been introduced to stop anyone aged 16 or over, or a business, or other organisation, committing ASB which spoils the quality of life of a community. The new notices can be issued by Council Officers, the Police or social landlords, under certain circumstances. They can be issued in response to a wide range of



behaviours including noise nuisance, and litter on private land such as a garden belonging to an owner occupier.

The behaviour has to have a detrimental impact upon the quality of life in an area, and also be unreasonable. In addition, it must be persistent or continuing. The perpetrators will be issued with a written warning making them aware of the issue and requesting that they stop. It will also set out the consequences of continuing the ASB. The notice will require the perpetrator to stop the behaviour, or set out what they can do to put things right. If someone fails to do what they are required to do, then the Council can carry out the works on their behalf and recharge the perpetrator for the cost of doing so.

A breach of a CPN is a criminal offence. A fixed penalty notice may be issued and this will require a payment of £100 by the perpetrator. Alternatively a fine can be levied which can be up to £2,500 for individuals and up to £20,000 for businesses.

### **17.7 Public Spaces Protection Order (PSPO)**

Such an Order can be issued by Councils after consultation with the Police, the Police and Crime Commissioner and other relevant bodies if there is ASB being committed in a public space. The ASB must be having, or be likely to have, a detrimental impact on the quality of life of those in the local area. It must also be persistent and unreasonable.

The Council can put in place restrictions and requirements as part of a PSPO and these can be blanket restrictions, or they can be targeted to tackle certain behaviours by certain groups at certain times. A PSPO can restrict access to public spaces where that route is being used to commit ASB. A breach of a PSPO is a criminal offence and Council and Police Officers can issue a fixed penalty notice of up to £100, if appropriate. If there is a prosecution, the perpetrator may be fined. More than one restriction can be added to the same PSPO.

### **17.8 Closure Power**

The Council or the Police can apply to close premises if they are being used, or are likely to be used, to commit nuisance or disorder. A Closure Notice may be issued for up to 48 hours. It may be issued out of Court. After this, a Closure Order can be sought through the courts. If there has been a Closure Notice, the owner or those who live at the premises must be able to access them. A Closure Order can be used to close premises for up to 6 months and can restrict all access to the property.

A Closure Notice can be issued if there is nuisance to the public or disorder near the premises. A Closure Order can be sought if there is disorderly, offensive or criminal behaviour; or serious nuisance to the public; or if there is disorder near the premises.

Both the Closure Notice and the Closure Order can be used to manage issues relating to any land or other place, whether enclosed or not including residential, business, non-business and licenced premises.

A breach of a Closure Power is a criminal offence. Breach of a Closure Notice could result in up to three months in prison. Breach of a closure order could result in up to six months in prison. Breaches of both could result in an unlimited fine for both residential and non-residential premises.

## **17.9 The New Absolute Ground for Possession**

Landlords can now evict tenants if they, a member of their household or a visitor has been found guilty of ASB. The aim of this is to improve the situation for victims. The ASB or criminality must have been already proved in another court and the tenant, a member of their household or a visitor must have met one of the following conditions:

- They have been convicted of a serious offence (as specified in schedule 2A to the Housing Act 1985);
- They have been found by a court to have breached a civil injunction ;
- They have been convicted for breaching a Criminal Behaviour Order (CBO);
- They have been convicted for breaching a Noise Abatement Notice; or
- The tenant's property has been closed for more than 48 hours under a Closure Order for ASB.

The offence or the breach needs to have occurred in the locality of the property or affected a person with a right to live in the locality. Alternatively it needs to have affected the landlord or a member of staff or one of their contractors.

Council tenants with secure tenancies will have the right to request a review of the landlord's decision to seek possession.

If one or more of the conditions detailed is met, the court must grant a Possession Order if the correct procedure has been followed but tenants can raise a human rights defence and may argue that the action taken is not proportionate.

The landlord will not be required to demonstrate that the action being taken is reasonable. Once an order is made, the Court cannot postpone possession to a date later than 14 days after the making of the order except in exceptional circumstances, and will not be able to postpone for later than six weeks in any event.

## **18. Other legislation**

Other legislation we use to help us respond to issues related to ASB include:-

### **18.1 Protection from Harassment Act 1997**

This legislation provides a power of arrest and the possibility of a restraining order obtained in the Magistrates Court that could carry a penalty of up to 5 years' imprisonment. The intention is to prevent a perpetrator from entering certain areas and harassing others.

## **18.2 Civil Evidence Act 1995**

Hearsay evidence is admissible in civil proceedings in County or Magistrates Courts. This allows Council officers and other professional witnesses to give evidence when a complainant or witness is too frightened to give evidence personally.

## **18.3 CCTV and Surveillance Measures**

The Council will use these where appropriate and proportionate to the ASB complaint. Where these measures are used they will be in conjunction with other agencies and will comply with the Regulation of Investigation Powers Act 2000 (RIPA)

## **19. Offering a value for money service**

**19.1** We regularly monitor performance in tackling ASB. We have a range of methods in which we do this by:

- conducting resident satisfaction surveys
- using dedicated ASB computer software system which estimates the cost of each ASB case
- benchmarking against other Housing Providers
- pooling resources and using a multi-agency approach where ASB hotspots are identified
- continually evaluating our performance

## **20. Confidentiality & Data Protection**

**20.1** We are committed to maintaining tenancy confidentiality and bound by legislation relating to data protection. We will respect the confidentiality of those who approach us to report ASB and also those we speak to, for whatever reason, regarding any incident or as part of our investigations.

**20.2** Officers are expected to undergo regular training to ensure that they understand their responsibilities with regard to data protection and the importance of maintaining confidentiality.

**20.3** We will not usually exchange any information without the consent of the people involved or unless there are suspected safeguarding issues. In cases of this nature, we would refer to the relevant information sharing protocols. This is in accordance with the provisions of the Crime and Disorder Act 1998, which allows personal data to be exchanged in order to prevent or to detect crime.

**20.4** We may publicise positive action taken to resolve ASB, if possible. This will be done in conjunction with partners in order to demonstrate what can be achieved with the help of the local community.

## **21. Monitoring our performance**

**21.1** We record all incidents reported using our electronic housing management system.

We record all relevant information regarding complainants, witnesses and perpetrators including their names, addresses, contact details and information regarding their diversity.

- 21.2** Our system provides a management tool which prompts Officers in the Neighbourhood Teams to take action in accordance with policy and procedure. All action taken in connection with an investigation and in response to complaints of ASB will be recorded and this enables Managers to monitor performance and to ensure that targets are met.
- 21.3** Our system enables us to identify trends and hotspots. We can also monitor whether or not specific initiatives or actions have had an impact.
- 21.4** We monitor levels of satisfaction too. We publish key performance information on a monthly basis and this includes information on the numbers of new, open and closed cases and the percentage of those resolved. We are planning to increase the amount of information published to include information on types of cases and the range of action taken.
- 21.5** Senior Managers meet with the Cabinet Member for Housing on a monthly basis to discuss performance and a tenant representative also attends these Housing Performance & Improvement Board meetings. In addition, Tenants Together, our Scrutiny Group, reviews performance on a monthly basis.
- 21.6** We also subscribe to the Housemark benchmarking service which enables us to compare costs and other indicators to ensure that our service is delivering value for money.



Office of the  
Deputy Prime Minister  

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Creating sustainable communities

# Anti-social Behaviour: Policy and Procedure

Code of guidance for  
local housing authorities  
and housing action trusts

August 2004

# housing



Office of the  
Deputy Prime Minister  

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Creating sustainable communities

# *Anti-social Behaviour: Policy and Procedure*

*Code of guidance for local housing  
authorities and housing action trusts*

August 2004

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## Ministerial Foreword

No one should underestimate the sheer misery and disruption that the abusive and destructive behaviour of a small minority can wreak on individuals and the wider community. Tackling anti-social behaviour is a key part of delivering the Sustainable Communities Plan, which seeks to improve the quality of life of people by providing better places to live, with the right homes, jobs and services. Renewing our housing and improving services will not be enough if some people continue to feel threatened in those homes or intimidated on the streets.

We all have to be prepared to adopt new approaches and learn from each other and the communities we serve if we are to strengthen neighbourhoods and help people living within them feel more secure. Local housing authorities and Housing Action trusts, working in partnership with tenants and other agencies, play a vital role in creating and sustaining communities in which everyone can be proud.

The Government has worked to ensure that social landlords and the agencies with which they work have the necessary powers and tools to deal swiftly and effectively with anti-social behaviour. Landlords and agencies have a key role in identifying the nature of problems their tenants face and must use the tools they have been provided with to counter those problems effectively.

Across the country, a wide range of innovative approaches are being deployed to tackle a diverse and complex range of problems, involving a mixture of prevention, enforcement and support. The challenge is to build on this and ensure that the benefits that multi-agency partnerships bring are maximised and that tenants and the wider community understand what you as social landlords can do to help them.

The preparation and publishing of your policies and procedures should provide an opportunity to explore those new approaches, review old ones and to demonstrate how you are working to tackle anti-social behaviour, so that people feel increasingly empowered to 'take a stand' with you to improve their own quality of life and that of their community.

A handwritten signature in black ink, appearing to read 'Keith Hill'.

Rt. Hon. Keith Hill MP  
Minister of State for Housing and Planning

# CHAPTER 1

## Introduction

### Purpose of the Code

1.1 The First Secretary of State is issuing this Code of Guidance to local housing authorities and Housing Action Trusts (HATs) in England for the purposes of Section 218A(7) of the Housing Act 1996 ('the 1996 Act').

1.2 Section 218A of the 1996 Act was inserted by Section 12 of the Anti-Social Behaviour Act 2003 ('the 2003 Act'). It requires landlords that are local housing authorities, HATs and registered social landlords (collectively referred to as 'social landlords') to prepare and publish policies and procedures in relation to anti-social behaviour ('ASB').

1.3 Each social landlord must publish a Statement of their policies and procedures, and an associated Summary not later than 6 months after the commencement of Section 12 of the 2003 Act – this means by 30 December 2004.

1.4 Guidance under s.218A(7)(a) may be issued to local housing authorities in Wales by the National Assembly for Wales.

1.5 S218A(7)(b) requires registered social landlords to have regard to guidance issued to them in England by the Housing Corporation and in Wales by the National Assembly for Wales.

1.6 This Code gives guidance on how local housing authorities and HATs ('landlords') in England should prepare and review their policies and procedures in relation to anti-social behaviour. Landlords must have regard to this guidance in accordance with s218A(7) of the 1996 Act. In so far as it comments on the law it can only reflect the Department's understanding at the time of issue.

### Who is the code for?

1.7 The Code is issued specifically for local housing authorities, HATs and their staff. It will also be relevant to any person or organisation such as an Arms Length Management Organisation (ALMO) or Tenant Management Organisation (TMO) managing housing stock on behalf of a local housing authority.

1.8 The Housing Corporation issues separate guidance on the publication of Anti-social behaviour policies and procedures for Registered Social Landlords in England. The National Assembly for Wales issues guidance for social landlords in Wales.

## The legislation in context

1.9 The Anti-social Behaviour Act 2003 was designed to extend powers to tackle ASB in local communities. Part 2 deals specifically with social housing. It includes measures developing the use of injunctions, and introduces demoted tenancies.

1.10 In addition to Part 2 of the Anti-social Behaviour Act 2003 local housing authorities and HATs should also ensure that their policies and procedures are compatible with obligations imposed on them by other existing legislation, including, but not limited to:

- Children Act 1989 (in particular S.27)
- Crime and Disorder Act 1998
- Disability Discrimination Act 1995 (in particular S.2)
- Homelessness Act 2002
- Race Relations Act 1976 (in particular s71)
- Human Rights Act 1998.

1.11 The policies and procedures which local housing authorities and HATs produce should be seen in the context of their overall responsibilities.

1.12 The Statement of Policy and Procedures should be compatible with the local housing authority's homelessness strategy (see Section 1 of the Homelessness Act 2002). It should also be compatible with the local housing authority's housing strategy, produced under s87 of the Local Government Act 2003.

1.13 Local authorities, and other responsible authorities, have a duty to publish a strategy for addressing crime and disorder. They also have a duty to combat the misuse of drugs in the locality. These duties are detailed under section 6 of the Crime and Disorder Act 1998. The landlord's Statement of Policy and Procedures on ASB should acknowledge and complement the priorities of the local strategy.

1.14 Section 71 of the Race Relations Act 1976 requires local authorities and housing action trusts to have due regard to the need to eliminate unlawful racial discrimination, promote equality of opportunity and promote good relations between people of different racial groups. The aim of this provision is to make the promotion of racial equality central to the way relevant services are designed and delivered. Local authorities and housing action trusts are also required to publish a race equality scheme every three years. Any policy and procedure on ASB should have regard both to the wider duties imposed on public bodies in terms of race relations, and to the landlord's own race equality schemes.

# CHAPTER 2

## Landlord's obligations under s.218A Housing Act 1996, as introduced by s.12 Anti-social Behaviour Act 2003

### Introduction

2.1 This chapter sets out the statutory obligations which are laid on local housing authorities and HATs under s.218A Housing Act 1996, as introduced by s.12 Anti-social Behaviour Act 2003. It provides information on the way in which those obligations should be discharged.

### What kind of behaviour is covered?

2.2 For the purposes of the duties imposed by section 218A of the Housing Act 1996, anti-social behaviour is any conduct to which sections 153A(1) and 153B(2) of the 1996 Act apply. These sections apply to conduct which:

- is capable of causing nuisance or annoyance to any person; and
- directly or indirectly relates to or affects the housing management functions of a relevant landlord; or
- consists of or involves using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose.

2.3 This definition is contained in section 218A(8) of the Housing Act 1996 inserted by the Anti-social behaviour Act 2003. It is wide enough to encompass most landlords' own understanding of anti-social behaviour.

2.4 Those persons to whom the conduct may cause annoyance or nuisance include anyone who has a right to live in property owned or managed by the landlord, those living in any other property in the neighbourhood (for example owner occupiers, tenants of other landlords) and anyone else lawfully in such property or in the locality, for example working or using local facilities.

2.5 The housing management function of the landlord covers any activity that the landlord would undertake in the day to day and strategic management of the stock. Examples include tenant and community participation, maintenance and repairs, rent and rent arrears collection, neighbourhood management and dispute resolution. Matters which 'indirectly affect' the housing management function could be said to include social care and housing support, environmental health and refuse collection and other services provided that enable the efficient operation of the landlord function.

## Statement and Summary of Policies and Procedures on ASB

2.6 S218A of the 1996 Act requires local housing authorities and HATs ('the landlord') to prepare a policy and procedure on ASB and publish the following documents:

- Statement of Policy and Procedures on ASB ('the statement'); and
- Summary of current policy and procedures on ASB ('the summary').

(a) The Statement of Policies should outline the landlord's general approach to ASB and also include specific policies. For example, these could relate to the landlord's commitment to eradicating ASB, the obligations of tenants, support for witnesses of ASB, racial harassment, domestic violence, multi-agency partnerships and the use of available legal remedies.

(b) The Statement of Procedures should outline the landlord's procedures when dealing with occurrences of ASB. For example, it could include information on how and to whom a complaint of ASB should be made, how contact will be maintained with the complainant, and how the progress of the case will be monitored. It should contain sufficient information to enable a tenant to understand how the landlord will deal with a complaint of ASB and what is expected of the tenant.

## Publishing and reviewing the Statement and Summary

2.7 Landlords are required to publish the Statement and the Summary within 6 months of the commencement of section 12 of the 2003 Act, that is, 30 December 2004. Further details on the requirements to publish the Statement and Summary are outlined in paragraphs 5.2 to 5.3 below.

2.8 Publication may be in a variety of formats, including publication on a website, at the landlord's discretion. However, the Statement must also be available in printed hard copy form and should also be available in translation and alternative formats (for example in Braille and large print).

2.9 The landlord is required to review the Statement and when it thinks appropriate, revise the Statement. It is up to the Landlord when the Statement is reviewed, however annual reviews are suggested. The Statement and the Summary should be re-published whenever they become outdated.

2.10 Revisions to the statement may be by way of supplements, updates or corrections to the published version. However, landlords must ensure that the Statement is at all times comprehensive, clear and accessible to readers.

## Consultation

2.11 Section 218A does not specifically refer to consultation in connection with landlords' policies and procedures on ASB. However under s.105 of the Housing Act 1985 (the 1985 Act), landlords are required to consult their secure and demoted tenants about matters of housing management, and changes in the practice or policy of the authority. This will include the management of anti-social behaviour which directly or indirectly affects the landlord's management of its stock, and therefore the production of policies and procedures under s.218A of the 1996 Act. Similar provisions apply to introductory tenants by virtue of s.137 of the 1996 Act.

2.12 If a review of the Statement under 218A(4) results in proposed changes to the policies and procedures, these will also be subject to consultation under 105(3)(b) of the 1985 Act and s.137 of the 1996 Act. There is no requirement to consult on changes to the Summary resulting from changes to the Statement, however it is good practice to involve the community in any changes that might be made.

2.13 A collaborative approach to the preparation of the policies and procedures on anti-social behaviour is encouraged and this can be achieved through consultation. Local housing authorities should consult tenants in line with arrangements established by Tenant Participation Compacts. It is suggested that, in addition to their tenants, landlords may like to consult the following:

- Tenants' groups or other participation structures
- Tenant Management Organisations (TMOs)
- Their staff and other housing management organisations
- The wider local community, including the business community
- Stakeholder groups, including organisations representing young people, the elderly, Black and ethnic minority communities, lesbians and gay men, people with disabilities and any other significant local communities
- Other agencies or services, including social services, education services, youth offending teams, health services and the police
- Local housing advice centres and the Citizens Advice Bureau
- Local leisure facilities, e.g. sports centres, parks, open spaces.

# CHAPTER 3

## Content of Statement of Policies

### Definition of anti-social behaviour

3.1 The Statement should include a description of the type of conduct that can amount to anti-social behaviour (ASB). It is suggested that examples of behaviour that would fall within the definition of ASB (see paragraph 2.2 above) are included.

3.2 A non-exhaustive list of examples could include:

- noise nuisance (for example, loud parties, shouting, noise from TVs, radios, Hi-fi's and burglar alarms);
- intimidation and harassment;
- local environmental quality issues (for example, litter, dog fouling, graffiti, fly tipping and nuisance vehicles);
- aggressive and threatening language and behaviour;
- actual violence against people and property;
- hate behaviour that targets members of identified groups because of their perceived differences (for example, race and ethnicity, gender, age, religion, sexual orientation, mental health or disability); and
- using housing accommodation to sell drugs, or for other unlawful purposes.

3.3 Anti-social behaviour may or may not constitute criminal activity. The key determinant in deciding whether particular behaviour is anti-social or not should be the impact of the behaviour on others.

3.4 The landlord may wish to give further examples of the types of behaviour that could constitute ASB and to include the classification of incidents it uses in monitoring ASB. This will help to establish for the reader what types of behaviour the landlord considers to be anti-social. The Statement should assist readers in establishing whether the behaviour they are complaining of, or are engaging in, is likely to constitute ASB.

### General policy statement of approach to anti-social behaviour

3.5 This should set out the landlord's aims, attitude and general approach to anti-social behaviour, for example to communicate clearly what standards of behaviour are acceptable. It could also identify what specific commitments the landlord is making to its tenants or the wider community in terms of dealing with ASB, and what service standards can be expected.

3.6 Landlords should describe the range of services that they offer on ASB, and how these will deliver a proportionate and flexible response to challenges that ASB presents. They should also explain how these services fit within the landlord's organisational structure.

## **The strategic context**

3.7 The Statement should set out the strategic context of the landlord's policies and procedures on ASB, and how they relate to existing statutory obligations (see paragraphs 1.9 to 1.14). This should include the relationship between the landlord's policies and procedures in relation to ASB and the strategic priorities established by the relevant Crime and Disorder Partnership.

## **Obligations of tenants**

3.8 Landlords should set out the standards of behaviour that are expected of tenants, those who live with them, and their visitors. The tenant's responsibility for the behaviour of people who live with them and visit them should be made clear. Reference should be made to any tenancy clauses relating to ASB or nuisance.

## **Specific policies to be included in the Statement of Policy**

3.9 Specific policies that have been adopted by the landlord to deal with ASB should be outlined in detail in the Statement of Policy. Examples of the types of policy landlords should consider including are set out below.

### *Support of complainants and witnesses*

3.10 In the First Secretary of State's view landlords should support complainants by dealing with their complaint promptly, keeping them informed of any developments relating to their complaint and referring them to appropriate support services, where necessary. The Landlords' policies to support complainants should be included in their Statement of Policies.

3.11 Effective witness support is about setting up systems and adopting approaches that seek to improve success rates in tackling cases of anti-social behaviour, whilst boosting the morale and confidence of the witness, the agencies involved and the wider community. In doing so, the safety and well being of victims and witnesses must come first.

3.12 The Statement of Policy should set out the landlord's policy on the provision of support to complainants and witnesses throughout all stages of the process from report, to court, remedy and beyond; for example, this might include:

- Being clear about how incidents of anti-social behaviour can be reported
- Making reporting channels as simple as possible
- Discussing and planning every stage of any legal action with witnesses



- Providing details of an emergency out of hours contact
- Informing relevant officers, (caretakers, wardens etc) so they can keep a 'look out'
- Risk assessment of the witnesses home environment and provision of protection measures (installation of new locks, panic buttons etc)
- Facilitation of transport and accompaniment/escort to court
- Provision of support at court
- Provision of ongoing support following resolution of legal action or other measures.

### *Professional witness schemes*

3.13 These are innovative schemes involving the use of trained volunteers from staff and partnership contacts to gather evidence of ASB that they have witnessed and to support witnesses. The schemes allow greater flexibility in the gathering of evidence in court cases, especially when witnesses of ASB are reluctant to provide evidence in court proceedings. If a landlord has a professional witness scheme, then policies relating to the scheme should be included in the Statement of Policy.

### *Racial and other harassment policies*

3.14 Incidents of harassment could fall within the description of ASB (see paragraph 2.2) and should be addressed by landlords in the policy statement.

3.15 Local housing authorities are required to publish Race Equality Schemes. Policies on ASB and should have regard to the duty to promote race equality (see paragraph 1.14).

3.16 The First Secretary of State would anticipate that housing authorities reflect in their Statement of Policies and Procedures their policies for dealing with reported incidents of racial harassment, and have policy and procedural commitments to:

- Eliminate unlawful discrimination and harassment;
- Promote good relations between people of different racial groups;
- Maximise the reporting of incidents that are racially motivated;
- Support complainant's and their families; and
- Take action against perpetrators.

### *Domestic violence policy*

3.17 Domestic violence committed by a tenant, family member or visitor in social housing could fall within the description of ASB outlined in paragraph 2.2. Landlords should reflect in their Statement of Policies and Procedures their policies for dealing with complaints of domestic violence. In doing so, landlords should be mindful of the need to ensure that the victim is supported in accessing remedies specifically designed to deal with domestic violence (for example, non-molestation orders). The use of measures designed to tackle ASB (for example ASBOs), should normally only be used where the relevant Police Domestic Violence Unit has been consulted and there is no other option available in order to provide protection and prevent the impact on the wider community.

3.18 When including in their statement their policies on complaints of domestic violence, landlords may wish to make reference to separate policy documents on domestic violence.

### *Prevention of ASB*

3.19 Prevention should be an essential part of the landlord's approach to ASB. Many landlords are already involved in initiatives that focus on prevention of ASB. Where these exist, the Statement of Policies should set out the range of initiatives and the general purpose of those initiatives.

3.20 Examples of such measures include the following:

- Mediation services provided directly by the landlord or in conjunction with another agency;
- Uniformed warden patrols;
- Diversionary projects for youths such as football clubs or IT drop-in centres;
- Reward schemes for tenants with a record of a well conducted tenancy;
- Structured interviewing of juveniles to establish ways forward in tackling their behaviour;
- Use of Acceptable Behaviour Contracts;
- Multi-agency partnerships (see paragraphs 3.28 to 3.32 below); and
- Floating support/tenancy support schemes.
- Designing out Crime.

3.21 Further information on preventative measures as well as a collection of best practice in tackling anti-social behaviour can be found at [www.together.gov.uk](http://www.together.gov.uk). Practitioners may also wish to contact the Together Actionline (0870 220 2000), which can provide advice across the range of anti-social behaviour issues.

### *Rehabilitation of perpetrators and support for vulnerable groups*

3.22 In considering the most effective options for the protection of tenants and the wider community from ASB landlords should consider the positive impact that support might have on perpetrators. The provision of support will be particularly relevant when considering issues of ASB that are a consequence directly or indirectly of one or more of the following factors:

- Drug use
- Alcohol use
- Mental health
- Disability.

3.23 It is important to note that the majority of people who fall within these vulnerable groups are not perpetrators of ASB and may also be victims of ASB.

3.24 Tenants whose anti-social conduct is a consequence of one or more of the issues listed above may sometimes require support in maintaining their tenancies. Adopting effective interventions by specialist agencies can help ensure that key professionals are involved at the earliest possible stage to prevent or manage issues as they arise. Specialist agencies may include, but are not limited to, the local community health team, drug action teams and community-based organisations such as drug and alcohol support and mental health services. The Statement of Policy should set out the landlord's policy on the provision of support to perpetrators. This might include:

- The role of multi-agency partnerships [See paragraphs 3.28–3.32]
- Delineation of key roles and responsibilities
- Protocols and planning

3.25 Landlords should consider what actions they can take to achieve long-term changes in the behaviour of perpetrators, and to prevent displacement of anti-social behaviour.

3.26 Some landlords and other agencies have developed rehabilitation projects that attempt to engage tenants whose behaviour has not been successfully changed by preventative work and enforcement action.

3.27 Juvenile perpetrators often experience problems with their family and school. The landlord should try to ascertain the causes of the juvenile's ASB and consider involving their parents/guardians, if appropriate, and possibly obtaining information from their school or other appropriate agencies, for example, Youth Offending Teams. Landlords should ensure that the local social services department carry out an assessment pursuant to s17 of the Children Act 1989 to identify whether a child is a 'child in need' necessitating the provision of services to that child and/or his/her family to meet those needs. This assessment should normally be carried out before any specific enforcement action is taken against the young person (e.g. an application for an ASBO). Landlords are encouraged to use acceptable behaviour contracts with juvenile perpetrators, as they can be particularly effective. The landlord's policy to support juvenile perpetrators should be included in the Statement of Policy.

### *Multi-agency partnerships*

3.28 Landlords do not operate in isolation. They are part of a wider community, and will share the problems and challenges of that wider community. ASB is a complex phenomenon, and it is unlikely that the causes or solutions to it will lie solely within the remit of a single organisation.

3.29 Multi-agency partnerships involve landlords working with residents and local agencies such as the police, neighbourhood wardens, youth offending teams, schools, health services, drug action teams, social services and probation services. The development of multi-agency partnerships can be an effective way to prevent and combat ASB. Landlords may also wish to include coverage of any partnership arrangements with private landlords in order to tackle ASB across tenures.

3.30 A co-ordinated approach by specialist agencies to provide perpetrators of ASB with the support that they may need can assist in their rehabilitation. Effective interventions by specialist agencies can prevent landlords from having to take legal action in relation to ASB.

3.31 The First Secretary of State encourages the development of multi agency partnerships by landlords as they have proven to be an effective tool against ASB.

3.32 A summary of the landlord's policies on multi-agency working and the extent of the landlord's work with other agencies in relation to ASB should be set out in their statement of policy, along with details of any relevant organisations of which the landlord is a member.

### *Working with other organisations managing local authority housing*

3.33 ALMOs, TMOs or housing management contractors (including PFI contractors) may be managing some or all of the landlord's housing. They should be involved in the preparation of the authority's policies and procedures as these may have implications for the housing management responsibilities they carry out under their management agreement with the authority.

3.34 It is important that housing management service providers are clear about their roles and responsibilities under the authority's Statement of Policies and Procedures, and there are robust working arrangements in place covering procedures for information sharing, handling and monitoring complaints and dealing with perpetrators.

### *Data protection and information exchange*

3.35 Tackling ASB depends upon robust information exchange between all agencies (both statutory and non-statutory) involved. Whilst landlords should be mindful of their responsibilities under Data Protection Act 1998 it should not be seen as a complete barrier to sharing any information. If landlords are unclear about their obligations and responsibilities under the Act they should contact the Information Commissioner, [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk).

3.36 The Statement of Policy should outline what protocols the landlord has in place for sharing information with other agencies. It should make clear what type of information might be shared, with whom, and for what purposes.

### *Sharing information with tenants and the wider community*

3.37 Publicity may take the form of local media coverage or targeted leafleting. Publicity can assist landlords and the agencies with which they work in reassuring their tenants and the wider community that action is being taken to tackle ASB, through, for example, the publicising of successful resolution of cases. This may also act as a deterrent to others whose nuisance behaviour impinges on the quality of life of others. It can also provide tenants with the information they require to enable them to report any breaches of injunctive measures which may have been served upon perpetrators (where the court has not imposed reporting restrictions). The Statement of Policy should set out the landlord's policy on publicity where relevant.

### *Confidentiality*

3.38 Complainants may well be concerned that their complaint could lead to retaliation by the perpetrator and may provide information to the landlord on the basis that it is confidential. The Statement of Policy should set out the landlord's policy on confidentiality, particularly in relation to the identity of complainants and whether their permission will be sought prior to the disclosure of information to the perpetrator, legal representatives or other interested parties.

3.39 Information relating to complainants and perpetrators may be shared with other agencies for the purpose of the preventing ASB or crime. Where protocols on information sharing exist, the implications on confidentiality of information should be clearly explained in the Statement of Policy.

### *Cross-tenure issues*

3.40 The powers and responsibilities that landlords have to tackle ASB extend beyond their own sector and housing stock. Landlords may act to protect owner-occupiers or those in other tenures from the actions of tenants, and equally, may take action against people in other tenures to protect their tenants.

3.41 Landlords can contribute to cross-tenure approaches at a strategic level, for example through their involvement in Crime and Disorder Reduction partnerships (CDRPs), multi-agency partnerships and sharing information with other agencies or landlords. The Statement of Policy should reflect their strategic and operational involvement in such cross tenure approaches.

### *Protection of staff*

3.42 Unfortunately employees of the landlord or others not directly employed but who may be employed in connection with the exercise of the relevant landlord's housing management functions, may from time to time be threatened, abused or harmed in the course of their normal duties or when specifically tackling ASB. The Statement of Policy should provide details of the landlord's policy on the protection of staff and the legal remedies which the landlord may use to protect them.

### *Training of staff in dealing with ASB*

3.43 In tackling anti-social behaviour it is important that practitioners have the confidence and knowledge to identify and investigate incidents and reports of anti-social behaviour and are equipped to take appropriate action. The Statement of Policy should provide details of landlord's training programmes in respect of ASB, this might also include broader 'awareness raising' work with tenants.

### *Information on other relevant policies*

3.44 The Statement of Policy should include reference to any other relevant landlord policies, including:

- related policies, such as how the authority proposes to take into account 'unacceptable behaviour' in allocating its property, or
- other policies, which do not specifically relate to ASB, for example, equal opportunities policies, tenant participation and consultation strategies.

# CHAPTER 4

## Content of Statement of Procedures

### Information to be contained in the Statement of Procedures

4.1 The Statement of Procedures should include the operational procedures introduced by the landlord to implement their policies on ASB. The level of detail in the Statement of Procedures is a matter for the landlord, however it is expected that relevant procedures will be broadly outlined so that tenants know how the landlord is likely to deal with a complaint of ASB.

4.2 The Statement of Procedures will vary according to the policies that have been adopted by the landlord. The Statement of Procedures should, regardless of the policies adopted, address the making of a complaint, the processing of a complaint, the provision of support to complainants, the use of enforcement action, support in respect of the perpetrator and monitoring complaints of ASB. Additionally, any relevant procedures relating to multi-agency partnerships and professional witness schemes should also be included.

4.3 Where ALMOs, TMOs or other housing management contractors (including PFI contractors) are managing some or all of the landlord's housing, the Statement of Procedures should make clear to residents the respective responsibilities of the local housing authority and housing management service providers in tackling ASB.

### Making a complaint of ASB

4.4 Information on how and to whom the initial complaint of ASB should be made should be included in the Statement of Procedures with contact details. It would also be helpful if some guidance were provided on when it might be appropriate for a complainant to contact other agencies, such as the police.

### Processing a complaint of ASB

4.5 Early responses to complaints and action plans agreed between the landlord and the complainant, where appropriate, can be vital to effectively deal with ASB, helping to build trust and confidence. Effectively processing a complaint of ASB gives credibility to the landlord's ASB service and assists the relationship between the complainant and the landlord.

4.6 Landlords are encouraged to develop clear lines of communication between the complainant and the landlord. These should be established at the earliest opportunity. The contact point or points for complaints of ASB should be set out in the procedures. Ideally each complainant would have access to a named officer to discuss their case, and any changes in personnel should be communicated to the complainant as soon as possible. It is important that landlords keep a complainant informed, as far as permissible, about the progress of their case.

4.7 The landlord should encourage the involvement of the complainant in the progress of the complaint. The Statement of Procedures could include the following:

- the information and advice that will be provided to the complainant when they make a complaint;
- how clear lines of communication between the landlord and the complainant will be established;
- how the complainant will be kept informed of the progress of the case; and
- the role of the complainant in the determination of an action plan;
- what the complainant can do if they are unhappy with the service they have received. Reference should be made to internal and external complaint procedures;
- escort to Court; and
- support beyond any court proceedings.

## Supporting complainants

4.8 Landlords should consider the support needs of complainants, including how best to assess and meet their needs. The methods of, and triggers for, referring complainants to external sources of support, may also be included in the Statement of Procedures with a list of the available support services. The support mechanisms provided by the landlord to the complainant may include:

- risk assessment of home environment, installation of appropriate witness protection measures, alarms, new locks, panic buttons etc;
- access to counselling services;
- allocations and lettings policies that are both sympathetic to complainants and effective, where it is appropriate to do so, providing temporary and/or permanent rehousing;
- witness support;
- access to telephone and/or face-to-face interpreters; and
- regular visits or patrols by housing officers, community support workers or neighbourhood wardens.

4.9 Other departments and agencies will be able to provide varying degrees of additional practical, specialist or emotional support and advice to complainants. This support may be as diverse as target hardening schemes, translation services or 'buddy schemes'.



## Options available to landlords

4.10 The Statement of Procedures should include the types of legal and non-legal actions a landlord could take and explain the circumstances in which each might be appropriate. These could include, but are not limited to:

- Mediation
- Acceptable Behaviour Contracts
- Anti-Social Behaviour Orders
- Injunctions and exclusions orders under sections 153A, 153B, 153C or 153D of the 1996 Act
- Injunctions under section 222 of the Local Government Act 1972
- In connection with any of the injunctions above, applications for powers of arrest
- Possession proceedings
- Demoted tenancies
- Any other legal action which could be taken with the support of the police or local authority, for example, Environmental Protection Act (1990) action or criminal prosecution.

4.11 Further information on these actions as well as a collection of best practice in tackling anti-social behaviour can be found at [www.together.gov.uk](http://www.together.gov.uk). Practitioners may also wish to contact the Together Actionline (0870 220 2000), which can provide advice across the range of anti-social behaviour issues.

## Monitoring ASB and the service

4.12 Landlords are encouraged to monitor ASB and the service they provide to tackle it. This will assist the landlord to:

- evaluate the effectiveness of specific ASB initiatives;
- identify key priorities and issues;
- understand the nature and location of areas where ASB is prevalent; and
- distinguish between different types of behaviour, which could be categorised as ASB.

4.13 The Statement of Procedures should identify what internal and external monitoring of the service is carried out, if any, and the performance indicators that are used to assess the service.

4.14 Landlords may wish to consider the following when developing monitoring mechanisms:

- The current best value indicator for compliance with the Commission for Racial Equality guidance on dealing with racial harassment
- Appropriate local indicators as outlined in the Audit Commission's library of indicators
- Local Indicators developed by the landlord to measure the performance and effectiveness of the service(s) provided by them and other providers
- Local indicators agreed by the landlord to assist in the delivery of other strategies, for example the local Crime and Disorder Strategy.

## Data collection

4.15 The ODPM publication '*Tackling Anti-Social Behaviour in Mixed Tenure Areas*' (March 2003) identified a number of areas where effective data collection is used, some of which are of direct relevance to a landlord:

- evaluating the effectiveness or otherwise of particular initiatives;
- identifying key priorities and issues of concern;
- helping understand the nature and location of problems and hot spots; and
- distinguishing between different types of behaviour.

4.16 The landlord's Statement should identify:

- how incidents are categorised;
- what data will be collected;
- how it will be collected; and
- to what uses it will be put.

# CHAPTER 5

## Content of summary and publication of Statement and Summary

### Availability of the Statement and charges

5.1 Landlords must have available for inspection the Statement of Policy and procedures and provide copies (for which a reasonable fee may be charged) at their principal office (see s.218A (5)(a) and (b) of the 1996 Act).

5.2 Landlords must be able to produce the Statement if requested without undue delay, and in a clear and up-to-date form. When requested, a copy should similarly be made available without undue delay. Any fee charged should not be higher than necessary to cover the costs of producing the copy.

### Preparation and provision of Summary

5.3 Local housing authorities and HATs must prepare a summary of their current policy and procedure, and provide a copy to any person who requests it. It would be good practice to distribute this widely (for example distribution to tenants groups or coverage in newsletters). No charge may be made for this (see s.218A (6)(a) and (b) of the 1996 Act). It would also be good practice to explain the principles of the policy and procedure with new tenants at the time of their signing up for a new tenancy.

5.4 The purpose of the summary is to provide information to tenants, residents and other interested parties on the landlord's anti-social behaviour policies and procedures in a clear and accessible format.

5.5 The summary should cover the policies and procedures outlined in the Statement. It should be published to the same timetable as the Statement.

5.6 As the summary must reflect current policies and procedures, it will be necessary to review the summary every time the Statement is revised.

5.7 Publication may be in a variety of formats, including to a website, at the landlord's discretion. However, the summary must be available in printed hard copy form and should be available in translation and other alternative formats (Braille, large print, and audiotape).

5.8 It is open to landlords to supplement both the Statement and Summary with a range of information leaflets.