

HOUSING SERVICE HARASSMENT POLICY

Cabinet Member Cllr Ray Stanley
Responsible Officer Housing Services Manager

Reason for Report: The Housing Service is required to have policy and procedural commitments relating to the prevention and management of racial and other harassment and this policy has been drafted to complement the revised draft Anti-Social Behaviour (ASB) policy and procedures.

RECOMMENDATION(S): That the Cabinet recommends the adoption of the new harassment policy to the Council.

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 including harassment. The cost of legal action can sometimes be high but the Council is required to be pro-active about eliminating discrimination and harassment which will invariably mean that we need to take action against perpetrators from time to time.

Legal Implications: The Council has statutory obligations to promote good relations between people belonging to different sections of society and to tackling racial and other harassment.

Risk Assessment: Failure to promote good relations between people belonging to different groups and to address complaints of harassment could lead to problems escalating. This could lead to victims experiencing distress and to the Council being exposed to reputational risk.

1.0 Introduction

1.1 As a registered provider 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 anti-social behaviour (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 2004, the Government published a code of guidance for local authorities and housing action trusts relating to policy and procedures and ASB.
- 1.5 In accordance with this guidance, the Housing Service is expected to have policy and procedure for dealing with reported incidents of racial harassment and also 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
- 1.6 The Council has a Single Equality Scheme which sets out how we are working to implement the equality duties that are set out in the Equality Act 2010. This legislation describes nine protected characteristics:
- Disability (including people with learning disabilities, people with a mental illness, and people living with HIV and/or AIDS)
 - Gender reassignment
 - Marital status, family circumstances, or caring responsibilities
 - Pregnant women and mothers with young children (under 5's)
 - Race, including nationality, national or ethnic origin, being a traveller or gypsy
 - Religion or belief
 - Sex
 - Sexual orientation
- 1.7 The Council has a duty to promote equality and eradicate discrimination in relation to these nine protected characteristics outlined in the Equality Act 2010.

2.0 **The new policy**

2.1 The new policy contains definitions of the terms hate crime, racist incident and harassment. It also contains examples of harassment. This will provide guidance for Officers and clarity for service users. We have developed this separate draft policy relating to harassment to reinforce our commitment to tackling ASB in all its forms.

2.2 The new policy takes account of the regulatory requirements, Government guidance and relevant legislation including the Equality Act 2010. Approval of this policy, the revised policy setting out our approach to ASB and the new policy relating to domestic abuse is being sought separately. However, it is intended that all three policies and the ASB procedures should be complementary.

3.0 **Consultation**

3.1 The following organisations were given an opportunity to comment on the draft 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 None of these organisations suggested any amendments.

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 new 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: 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

Mid Devon District Council

Harassment Policy

Policy Number: HSG v0.4

June 2015

DRAFT

Version Control Sheet

Title: Harassment Policy

Purpose: To ensure that the Housing Service manages harassment in accordance with legislative and regulatory requirements, and good practice.

Owner: Housing Services Manager
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Telephone number 01884 234920

Date: **June 2015**

Version Number: v0.4

Status: New Policy

Review Frequency: **Every 4 years or sooner if required and in accordance with changes in good practice and legislation**

Next review date: **June 2019**

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

Cabinet Member

Staff

Tenants Together

The Police

The East & Mid Devon Community Safety Partnership

Devon Mediation

CHAT (Churches Housing Action Team)

CAB (Citizen's Advice Bureau)

Age UK

Management Team

PDG Decent & Affordable Homes

Document History

This document obtained the following approvals.

Title	Date	Version Approved
Cabinet Member	14/5/15	
Tenants Together	14/5/15	
Management Team		
PDG Decent & Affordable Homes		
Cabinet		
Police	6/5/15	
East & Mid Devon Community Safety Partnership	8/5/15	

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 harassment and to ensure that they are available for inspection to any person who asks for sight of them. When preparing and reviewing policies 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 can blight people's lives, destroy families and ruin communities if not dealt with effectively.

2. Scope

Mid Devon District Council's (MDDC) Housing Service is committed to the development of sustainable communities. These will be safe and welcoming places. This policy sets out our principles for addressing and tackling harassment and hate crimes caused by Council tenants, members of their household or visitors to their property; and also for dealing with any such issues experienced by them. This policy should be read in conjunction with the related documents below.

3. Related Documents

- a. Office of the Deputy Prime Minister: Anti-social Behaviour: Policy and Procedure, Code of Guidance
- b. Equality Act Codes of Practice and Technical Guidance
- c. Allocations Policy
- d. Devon Home Choice Scheme
- e. Tenancy Agreements

4. Definitions

The following definitions apply to this policy:

- **Hate crime** is any incident, which constitutes a criminal offence, which is perceived by the victim or any other person as being motivated by prejudice or hate.
- **Racist incident** is any incident which is perceived to be racist by the victim or by any other person.
- **Harassment** is conduct directed at, or towards an individual by another which causes a victim to fear that violence may be used against them or another person or causes the victim to feel afraid, alarmed or distressed.

Harassment is a personalised form of anti-social behaviour, specifically aimed at a particular individual. Harassment may take a variety of forms and include:

- **Verbal abuse** – where threatening, abusive, or insulting words or behaviour are used within the sight or hearing of a person, with the intention of

harassing, alarming or distressing. This can include nuisance telephone calls or the distribution of inflammatory material.

- **Physical Abuse** – this is defined as a common assault and occurs where the perpetrator uses a degree of force, whether intentional or through carelessness, to the body of another person, without lawful excuse. Physical attacks range from common assault to manslaughter and murder.
- **Damage to Property** – this covers a wide range of behaviour. It may include graffiti, damage to property, and the dumping of rubbish and other material in gardens. It also covers the mis-use of letter boxes or the daubing of doors/windows.

Some forms of harassment may precede a hate crime which is motivated by prejudice or hatred based on race, sexuality, disability, mental health, gender identity or religion. There are specific incidents/behaviours under the broader headings of hate crime and harassment, these include:

- Racist incidents, sexual harassment, homophobic incidents, harassment against people on the basis of disability, harassment against people on the basis of mental health, religious harassment and other forms of harassment based on perceived differences; therefore, asylum seekers and refugees or economic immigrants with immigration status classed as A8 nationals, Gypsies and the travelling community and the elderly may all be victims of hate crime and/ or harassment.

5. Investigations

- 5.1** We have a statutory duty to eliminate unlawful discrimination and to promote equality of opportunity and good race relations. Harassment and hate crime is unacceptable and should not be tolerated and we encourage anyone experiencing this type of behaviour to report this to us. We will record and investigate any incidents reported to us.
- 5.2** When a complaint is received we will assess the type of ASB being complained about in order to decide what sort of response is needed. Harassment and hate crimes will be given high priority. We will also assess the risk to the person making the complaint.
- 5.3** We aim to respond to harassment and hate crimes within one working day. This will apply where there is a serious risk to the complainant; for example, where there is race/ hate crime, threats or use of violence.
- 5.4** 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 are safeguarding or other such issues of concern, we will involve other partners in order to take appropriate action.
- 5.5** We use our electronic housing management system as an incident management tool and this enables us to be consistent. All incidents reported will be recorded and monitored on this system. We will take all reports of ASB seriously and investigate

impartially.

5.6 The Housing Service has patch officers who work in Neighbourhood teams and they are responsible for housing management issues in a defined geographical area. They will be responsible for dealing with any ASB which occurs in the area for which they are responsible (their patch).

5.7 When gathering evidence, we will work with Environmental Health professionals in connection with the use of noise monitoring equipment, exchange information with other agencies such as the Police and collect evidence from other potential witnesses, including neighbours. In serious cases, we would look to use professional witnesses especially where potential witnesses were fearful of reprisals and intimidation and not willing to give evidence in court proceedings.

6. Reporting incidents

6.1 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 customerfirst@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.

6.2 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. Reports in person will be seen by the Neighbourhood Officer responsible for that patch or the Housing Duty Officer.

6.3 Every attempt will be made to contact a victim of harassment or hate crime within one working day. We understand how important it is to keep victims 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.

6.4 We recognise that people experiencing harassment or hate crime may sometimes be reluctant to contact the police or us directly to report incidents. Also, sometimes it may be that victims may not necessarily identify an incident as being hate crime related. All staff are trained to understand and identify hate crime and harassment and will investigate any complaints involving issues of this nature in a sensitive way.

7. Contact with the victim

7.1 We will develop an action plan immediately prior to investigating the incident. If there is evidence to support the need for further action, we will amend the action plan in agreement with the victim 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 victims 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 and keeping in touch with us.

7.2 When a victim reports an incident of harassment or hate crime they will be given

advice and assistance as a matter of priority by staff. However, where re-housing or legal action is required, supplementary evidence may be requested before further action. The victim may not wish for any contact with the perpetrator and this will be respected.

7.3 Our tenancy agreements specifically prohibit harassment of any kind. Where a tenant, a member of their household or a visitor to their home, perpetrates racial or other hate based harassment, we will consider action for breach of their tenancy. We will work in partnership with local agencies including the police to pursue legal action which may include starting possession proceedings, obtaining injunctions or the issue of acceptable behaviour contracts. This will depend on the nature of the incident.

8. Supporting victims and witnesses

8.1 We involve the victims in decision-making regarding the investigation and the management of cases involving hate crime and harassment. The starting point for all investigations is to acknowledge the accounts of victims, witnesses or other persons reporting the incident and to agree a course of action.

8.2 It is recognised that hate crime and harassment can have an enormous impact on victims, their family, friends and witnesses. We will work closely with the victim throughout all stages of the procedure, to ensure that they are aware of actions being taken.

8.3 Victims and their families will be supported to remain in their homes safely. However, if the evidence available shows that it would be unsafe for them to do so, we will work in partnership to relocate the victim and their family. This will be dealt with in accordance within the provisions of the Housing Services Allocations Policy and the Devon Home Choice Scheme.

8.4 Where appropriate we will also arrange:

- Referrals to witness support and other support agencies, as appropriate
- Crime prevention advice
- Safety and security improvements
- Liaison with schools and other relevant agencies, where necessary.

8.5 Any damage to property (including graffiti) will be treated as an emergency repair with a target for completion of one working day.

8.6 We will report all racial incidents to the Plymouth & Devon Race Equality Council within one working day.

8.7 We will make every effort to protect and support witnesses. This may include meeting them at court if proceedings are started and ensuring that they feel safe whilst the hearing progresses.

9. Multi agency approach

9.1 We are committed to working in partnership with other agencies, as appropriate, to resolve the issues. This will include the Police and the Community Safety Partnership. The Housing Service has a separate Anti-social behaviour policy and procedure and this policy complements these.

9.2 Neighbourhood Officers and other relevant staff will work closely with our partner agencies (for example, the Police, Social Services, local non-statutory agencies) to support the victims of hate crime and harassment and to ensure a consistent response to perpetrators. The police will be the lead agency on dealing with criminal offences, including hate crime.

10. Signposting and supporting alleged perpetrators

10.1 We understand that there are many factors which can cause people to act in an anti-social or disruptive way and these may include drug and alcohol use, mental health issues and depression. Other issues such as poor education and job prospects, debt and poor health can also contribute to the way people behave.

10.2 We may direct perpetrators to Drug and Alcohol Misuse Support, mental health teams and advocacy groups but this is not a definitive list. The support options available will vary depending on locally available services and we will follow up referrals where data protection allows us to. By directing perpetrators to additional services, we may be able to prevent ASB and/or harassment and in some cases, to help the individual.

10.3 We recognise the need to support tenants who may have difficulty in managing their tenancy. Where we are considering legal action, we will take reasonable steps to ensure we are not discriminating against the alleged perpetrator due a disability in accordance with the Equality Act 2010.

10.4 We are committed to preventing unnecessary evictions. If a tenant is considered vulnerable then we must take extra care to ensure that seeking possession is a proportionate means of achieving a legitimate aim. The Neighbour Officer should consider whether the tenant needs any extra help or support to resolve the situation or to find alternative accommodation. This may include, but is not limited to:

- Alternative methods of communication, for example explaining the situation on the phone as well as by letter or using a translation service
- Contacting any support workers
- Offering advice or signposting to advice agencies
- Allowing extra time for the perpetrator to put the situation right.

11. Management moves and transfers

11.1 In severe cases, for example where physical violence has been experienced, we may consider whether a voluntary move on management grounds would be appropriate (for anyone considered to be at high risk). This will be dealt with in

accordance with the Housing Services Allocation Policy and Devon Home Choice Scheme.

- 11.2** In line with our information-sharing agreements, we will share any complaints of anti-social behaviour with local authority partners, which may result in applications to alternative accommodation transfer applications being suspended.

12. Prevention

- 12.1** We are committed to the prevention of harassment and hate crime incidents. This is necessary to make our neighbourhoods safer places. However, by preventing homelessness and avoiding potential costly and lengthy court cases, we can also deliver added value and cost effectiveness. We will ensure that tenants are made aware of their responsibilities as a tenant with regards to preventing harassment and hate crime incidents.

13. Confidentiality and Data Protection

- 13.1** Maintaining strict confidentiality is central to our handling of reports of harassment and hate crime. We will not usually exchange any information without the consent of the people involved 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, which allows personal data to be exchanged in order to prevent or to detect crime.
- 13.2** No contact will be made with the perpetrator unless the victim has given us consent to do so. If contact has been agreed, the victim must be informed of our intention to make contact before doing so on every occasion.

14. Legal action

- 14.1** We will decide what enforcement action is most appropriate on a case by case basis and the decision will be taken in accordance with the provisions of the Housing Services ASB policy.
- 14.2** The ASB, Crime and Policing Act 2014 provides additional tools and powers to exclude a person from a home in cases of violence or risk of harm. We will work closely with the Police to provide additional evidence to support any legal action. Where appropriate, we will work in partnership with other agencies to enable a joint approach when seeking a legal remedy, for example when obtaining civil injunctions, criminal behaviour orders or Absolute ground for possession.

15. Staff awareness/training

- 15.1** It is recognised that the Housing Service may be a victim's first point of contact regarding harassment or hate crime of any kind; with this in mind, we will work to ensure that Officers have the skills and knowledge to effectively manage reports of harassment or hate crime and to recognise signs suggesting that a victim may be suffering.

16. Health and safety

- 16.1** Officers will follow the Housing Services Lone Working Procedures at all times when managing reports of harassment or hate crime. They will also consider the health and safety of all parties involved in any one case and the wider community.

17. Appeals & Complaints

- 17.1** If anyone wishes to appeal a decision made as part of the ongoing management of a harassment or hate crime 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.

- 17.2** Any complaints relating to the general management of a harassment or hate crime 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 corporate Compliments, Complaints and Feedback Policy.

18. References

This policy takes into account legislation listed in the Housing Services ASB policy.

19. Equality and Diversity

- 19.1** The Housing Service will tailor its services to meet the diverse needs of individuals. The aim will be to foster good relations with people when providing services to eliminate discrimination and to promote opportunity of equality. All action taken by us will be in accordance with the requirements of current legislation.

20. Review

- 20.1** This Policy has been written in line with current relevant legislation. The policy will be reviewed and revised to reflect any legislation requirements and/or other guidance or good practice. The next review of this Policy is due June 2019 and every four years thereafter.