

**DECENT & AFFORDABLE HOMES PDG
16 JUNE 2015**

HOUSING SERVICE DOMESTIC ABUSE 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 domestic abuse 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 policy relating to domestic abuse 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 domestic abuse.

Legal Implications: Government guidance states that landlords should have policies for dealing with complaints of domestic violence.

Risk Assessment: Failure to have robust policy and procedure setting out how the Council will respond to complaints of domestic abuse 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 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 This guidance stated that domestic violence committed by a tenant, family member or visitor in social housing could fall within the description of ASB.

Landlords are expected to reflect in their ASB policy and procedures their policies for dealing with complaints of domestic violence.

- 1.6 In accordance with the guidance, landlords need to be mindful of the need to ensure that the victim is supported in accessing remedies specifically designed to deal with domestic violence, such as non-molestation orders.
- 1.7 The guidance states that the use of measures designed to tackle ASB 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.
- 1.8 The guidance states that landlords may wish to make reference to separate policy documents on domestic violence in their statement of policy relating to ASB. Therefore, the revised ASB policy makes reference to this new domestic abuse policy.

2.0 **The new domestic abuse policy**

- 2.1 The new policy contains a section setting out a number of definitions. It also contains examples of each type of behaviour; for example, physical abuse is defined as slapping, pushing, kicking, punching and stabbing, or other physical assault. This will provide guidance for Officers and clarity for service users. We have developed this separate draft policy relating to domestic abuse to reinforce our commitment to tackling ASB in all its forms.
- 2.2 On the advice of the Police, the name of the new policy was changed from “The Housing Service Domestic Violence Policy” to “The Housing Service Domestic Abuse Policy”. This is to reflect the fact that society’s understanding of this type of ASB has changed and that humiliation, intimidation and other forms of controlling behaviour may have a strongly negative impact upon the victim even though they have not experienced any physical harm.
- 2.3 The policy contains a section entitled: “victim centred approach, advice and support”, which demonstrates the commitment of the housing service to supporting victims.
- 2.4 The new policy takes account of the regulatory requirements, Government guidance and relevant legislation including the Equality Act 2010. Approval of this policy, the policy setting out our approach to ASB and the new policy relating to harassment 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 new policy and procedures during April and May 2015:
 - East & Mid Devon Community Safety Partnership
 - 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 As stated, the Police suggested the use of the term “domestic abuse” instead of “domestic violence”. Otherwise, there was support for the approach set out in the new policy.

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 draft 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

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

Domestic abuse Policy

Policy Number: HSG v0.5

June 2015

DRAFT

Version Control Sheet

Title: Domestic abuse Policy

Purpose: To ensure that the Housing Service manages domestic abuse 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: v0.5

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		

1. Introduction

The Anti-Social Behaviour Act (ASB) 2003 placed a duty on all social landlords to prepare and publish policies and procedures relating to ASB and domestic abuse 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).

The Council, as a registered provider of social housing, is expected to have policies for dealing with domestic abuse.

2. Scope

This policy aims to promote an appropriate and efficient response to people who are experiencing domestic abuse. It also aims to support staff to recognise the early warning signs and take the most appropriate action to support the victim. It gives information on how the Housing Service will respond effectively to domestic abuse and the legal action that may be taken. This policy should be read in conjunction with the related documents stated in the Housing Services ASB policy and those highlighted below.

3. Related Documents

- a. Office of the Deputy Prime Minister: Anti-social Behaviour: Policy and Procedure, Code of Guidance
- b. Lone Working Procedures

4. Definitions

The following definitions apply to this policy:

- **Domestic abuse** is defined 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:
- **Physical** - slapping, pushing, kicking, punching, stabbing, or other physical assault
- **Sexual** - rape and non-consensual sex acts
- **Financial** - denial of rights or restriction of personal freedom for example, withholding money or medical help.
- **Emotional or psychological** - intimidation, isolation, verbal abuse, humiliation, degradation, not allowing friends or relatives to visit or phone.
- **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.

5. Investigations

- 5.1** When a complaint is received we will assess the type of ASB being complained about in order to decide what sort of response needed. Domestic abuse incidents will be given high priority. We will also assess the risk to the person making the complaint. We aim to respond to domestic abuse incidents within one working day. This will apply where there is a serious risk to the complainant, for example threats or use of violence.
- 5.2** Anonymous complaints: generally, these will be recorded for information only. This is because it is unlikely that we would be able to gather 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.
- 5.3** We use our electronic housing management system as an incident management tool and this enables us to be consistent. We will take all reports of ASB seriously and investigate impartially.
- 5.4** 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 may 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 customerservices@middevon.gov.uk. Alternatively, tenants and others can contact the appropriate Neighbourhood team directly using the same telephone number or by email at htenancy@middevon.gov.uk. Reports in person will be seen by the Neighbourhood Officer responsible for that patch or the Housing Duty Officer.
- 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.
- 6.3** We will attempt to make contact with the complainant/victim within one working day in all high priority cases. We understand how important it is to keep complainants/victims informed about progress in resolving issues 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.

7. Contact with Complainants

7.1 We will develop an action plan with the complainant as we speak to them setting out how we will investigate the issues reported and how we will support them. If there is evidence to support the need for further action, we will amend the action plan in agreement 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 in touch with us.

8. Victim centred approach, advice and support

8.1 We acknowledge that a person deciding to report any incidents may experience shame, guilt or embarrassment. We will take a non-judgemental and supportive approach.

8.2 When a victim reports an incident of domestic abuse this will be sufficient for them to 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.

8.3 We can provide advice to assist with accessing temporary accommodation especially if there is a threat to the victim's safety or to that of their children, if they remain at home. Emergency repairs needed to the home will be given priority. We may provide additional security measures such as door spyholes and windows locks, if the perpetrator has left the home.

8.4 Advice and support will be given to the victim, but evidence is required before any legal action can be taken. It is our responsibility to proactively support the victim and to collect the evidence from other agencies as necessary with the victim's consent.

8.5 Victims will be provided with an extensive list of specialist advice and referral agencies including the Police, Victim Support, Solicitors, Benefit Advisors, Citizens Advice Bureau, National Domestic Violence Helpline and other related agencies. The victim will be encouraged to seek legal aid if they can provide evidence that they or their children have been victims of domestic abuse or/and they are unable to afford to pay legal costs. We will liaise with Social Services where dependants are at risk.

8.6 We will discuss with the victim the possible effects that domestic abuse may have on their dependants.

8.7 Incidents will be investigated and a course of action established with the victim, whilst maintaining the safety of staff and victims. We will liaise closely with any referral or advice agencies and also provide support to the victim, as appropriate.

8.8 Victims will be signposted to agencies which can help them to explore any legal remedies available to them. This may include taking action to exclude the perpetrator from the home, where he or she is resident in the home, or from the

area, if he or she is not resident in the home. The victim's wishes and safety considerations will inform the advice given.

8.9 We will support victims of domestic abuse when they give evidence in court if necessary. It is a criminal offence if a person knowingly performs an act intended to intimidate another person who is or may be a witness in civil or criminal proceedings.

8.9 Every effort will be made to ensure that those subject to domestic abuse are dealt with in a sensitive and sympathetic manner. Key considerations include:

- The option to be interviewed by someone of the same sex
- To be interviewed in the location of their choice (subject to satisfying any concerns about staff safety)
- Not to be interviewed in the presence of their children
- Encouraging them to have a friend or advocate present at the interview.

9. Multi agency approach

9.1 We are committed to ensuring that everyone has a home which is free from abuse, but we recognise that some people may be subject to this type of behaviour within the home. We will positively assist and support victims but as a landlord, our assistance can only cover the housing aspect. We will take the strongest possible action against perpetrators of domestic abuse where we have the power to do so. All other issues will be dealt with by other specialist agencies including the Police and Social Services.

9.2 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. The Housing Service has a separate ASB policy and procedure, and this policy complements those documents. We operate a sanctuary scheme and this enables us to provide additional security to the victim's home to ensure that they can remain there, if they wish.

9.3 Managing reports of domestic abuse requires a multi-agency approach. We will ensure that victims are placed in contact with appropriate agencies for specialist advice and support with their consent.

10. Confidentiality and Data Protection

10.1 Maintaining strict confidentiality is central to our handling of reports of domestic abuse. We understand that residents must feel assured that the perpetrator will not become aware of their whereabouts if they decide to leave the relationship or that they have been obtaining advice and support if they are still living with the perpetrator. We will not give out information about anyone to a third party without their written consent, and we will not contact the victim to follow up contact made with us, unless they give us permission to do so.

10.2 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.

10.3 In the case of joint tenancies, the perpetrator may have the right to access the contents of the tenancy file. Staff will ensure that it is not possible for confidential information from the victim to be seen by the perpetrator.

10.4 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.

11. Legal action

11.1 Possession action may be taken against a tenant who has been proven to have perpetrated domestic abuse. The Housing Act 1996 contains specific remedies for domestic violence and this is supported by the Housing Services tenancy agreements.

11.2 All appropriate action will be taken against perpetrators of domestic abuse. This may involve:

- Applying for a possession order to evict a tenant who has perpetrated or threatened violence against a person living with them. This applies where the household is occupied by a couple related to each other by marriage or civil partnership or a couple who are living together as a married couple
- Advising the victim to seek legal advice
- Involving the Police if the victim gives their consent.
- Working with the Local Authority to ensure that perpetrators are not re-housed following eviction.

11.3 It is our policy, where the victim is the tenant's partner and a member of the household, but not a tenant themselves, where evidence supports the severity of the violence, to commence possession proceedings against the tenant and where possible to assist the victim to enable them to resolve their housing needs.

11.4 The Family Law Act 1996 allows for additional legal remedies which includes the issue of orders and injunctions. There are two types of orders/injunctions under the Act which include:

- **Non molestation orders** – orders the perpetrator not to assault, molest or harass another person or any “relevant children”
Note: Molestation can take the form of physical violence and can include harassment, such as sending threatening letters. Orders can be made for any specified period but in family cases the order will finish if the case is withdrawn or dismissed.
- **Occupation orders** are temporary court orders relating to the occupation of the home and determine who should live in the home until a final decision is made.

11.5 A court can grant orders “ex parte”. This means that the perpetrator does not have to be told of the court hearing in advance where the victim or child is at significant risk. The court will usually set a hearing date for a full hearing.

11.6 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 with the Police to provide them with any evidence that will support them to obtain a Domestic Violence Protection Notice or Order. An Order will allow the removal of the perpetrator from the property for up to 28 days allowing the victim time to make alternative housing arrangements where necessary.

11.7 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 the Absolute ground for possession.

12. Repairs and security

12.1 We will carry out repairs and implement any recommendations made through the sanctuary scheme, which are required as a result of violent incidents. Where practicable, these works will be carried out as emergency works (within 24 hours). Where this is not practicable, they will be carried out as soon as possible and this will be communicated clearly to the individual or to their support agency (if appropriate).

13. Temporary accommodation/re-housing

13.1 It may be necessary in cases of domestic abuse to re-house the person fleeing violence and then take action against the perpetrator to regain possession of the home.

13.2 If the victim wants to leave their home due to domestic abuse, the Council's Housing Options team will consider them as being homeless. We will work with the Housing Options Team to organise emergency accommodation if they do not want to return to the property due to fear for their own safety. It is our policy to support victims even if they are not our tenants and for them not to lose their homes. We will assist such victims to remain in their own homes, wherever possible.

14. Staff awareness

14.1 It is recognised that the Housing Service may be a victim's first point of contact regarding domestic abuse. With this in mind, we will work to ensure that Officers have the skills and knowledge to effectively manage reports of domestic abuse and to recognise signs suggesting that a victim may be suffering from it.

15. Health and safety

15.1 Officers will follow the Housing Services Lone Working Procedures at all times when managing reports of domestic abuse. They will also consider the health and safety of all parties involved in any one case and the wider community.

16. Appeals & Complaints

16.1 If anyone wishes to appeal a decision made as part of the ongoing management of a domestic abuse 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.

- 16.2** Any complaints relating to the general management of a domestic abuse 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 Complaints and Feedback Policy.

17. References

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

18. Equality and Diversity

- 18.1** The Housing Service will tailor its services to meet the diverse needs of individuals. They will foster good relations with people when providing services to eliminate discrimination and to promote equality of opportunity.

19. Review

- 19.1** 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.