

**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**

**cfry@middevon.gov.uk**

**Telephone number 01884 234920**

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*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>
Cabinet Member	05/2015	
Tenants Together	14/05/15	
Management Team	02/06/15	
PDG Decent & Affordable Homes	16/06/15	
Cabinet	N/A	

## 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.