

**Mid Devon District Council**

**Harassment Policy**

Policy Number: HSG v2

**October 2019**

## 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:* **Group Manager for Housing Services**

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*Status:* Review

*Review Frequency:* **Every 10 years or sooner if required and in accordance with changes in good practice and legislation**

*Next review date:* **October 2029**

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

Cabinet Member

Staff

Tenants Together

The Police

Devon Mediation

CHAT (Churches Housing Action Team)

CAB (Citizen's Advice Bureau)

Age UK

Leadership Team

Homes Policy Development Group

## Document History

This document obtained the following approvals.

Title	Date	Version Approved
Cabinet Member		
Tenants Together		
Police		
Leadership Team	17 September 2019	
Homes PDG	1 October 2019	
Cabinet	17 October 2019	
Full 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 harassment and to ensure that they are available for inspection to any person who asks to read 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, which operates the Regulatory Framework for Social Housing. The Neighbourhood and Community Standard states that Registered Providers of social housing including the Council shall work in partnership with other agencies to prevent and tackle ASB in the neighbourhoods where they have homes. Landlords are expected to provide strong leadership, commitment and accountability on preventing and tackling ASB. In addition, they must demonstrate prompt, appropriate and decisive action is taken to deal with the ASB before it escalates.

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

Our corporate Single Equality Scheme refers to section 149 of the Equality Act 2010 which imposes a duty on "public authorities", including the Council, which states that they must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Act, when exercising our public functions.

## 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. Anti-Social Behaviour, Crime & Policing Act 2014
- b. The Stalking Protection Act 2019
- c. Equality Act 2010
- d. Neighbourhood and Equality Standard
- e. Single Equality Scheme
- f. ASB Policy
- g. ASB Procedures
- h. Allocations Policy
- i. Devon Home Choice Scheme
- j. Tenancy Agreements

## 4. Definitions

The following definitions apply to this policy:

- **Hate crime** is 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.
- **Racist incident** is any incident which is perceived to be racist by the victim or any other person.
- **Harassment** is a 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 includes:

- **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 defacing of doors/windows using paint or any other sticky substance.
- **Stalking** – persistent and unwanted attention that makes a person feel pestered and harassed. It includes behaviour which happens on at least two occasions or more which is directed at, or towards a person by another person. It is likely to cause the victim to feel alarmed or distressed, or to fear that violence might be used against them.

Some forms of harassment may precede a hate crime which is motivated by prejudice. 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** In accordance with the provisions of our ASB policy, 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 or 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 the 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 who are responsible for estate 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 appropriate 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](mailto:customerfirst@middevon.gov.uk). Alternatively, tenants and others can contact the appropriate Neighbourhood Officer directly using the same telephone number or by email on [htenancy@middevon.gov.uk](mailto:htenancy@middevon.gov.uk).
- 6.2** We will also accept complaints made by letter, by a personal visit 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 a colleague.
- 6.3** Every attempt will be made to contact a victim of harassment or hate crime within one working day in order to minimise the risk to the victim, in accordance with our ASB policy. 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 with the victim 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 can be pursued. 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 and seriousness 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 Service 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** We will aim to make good any damage to property which has arisen as a result of harassment within one working day. This will include offensive graffiti. Such repairs will be categorised as being emergency repairs.
- 8.6** We will report all racial incidents to Plymouth & Devon Race Equality Council.

**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. Our Legal Service provides advice and support to the Neighbourhood team and will seek a legal remedy using relevant Housing legislation if it is an option. The police will be the lead agency on dealing with criminal offences, including hate crime and harassment.

## **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 will vary depending on availability of the services locally and we will follow up referrals where data protection allows us to. By directing perpetrators to additional services, we may be able to prevent further 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 to a protected characteristic 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 Neighbourhood 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
- Ensuring that the perpetrator is being supported to change their behaviour

## **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 or ASB with local authority partners, which may result in applications to alternative accommodation 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 1998, 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. All other information would be handled in accordance with current data protection legislation.

## **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 Service's ASB policy.
- 14.2** The ASB, Crime and Policing Act 2014 provides additional tools and powers to exclude a person from home in cases where there is the use or threatened use of violence or risk of harm. We will work closely with the Police and also with our own Legal Service 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.
- 16.2** Our tenancy agreement contains a clause relating to harassment. In accordance with this, tenants must not harass or threaten to harass on any grounds which may interfere with the peace and comfort of anyone living, visiting or working in the neighbourhood. This includes other tenants and our employees and contractors. The clause also prohibits harassment which may be perpetrated at our offices. Tenants must also take steps to prevent any members of their households and visitors, from behaving in this way; nor inciting others to harass or to threaten to harass anyone else.

## **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 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 Service's 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. This policy will be reviewed and revised to reflect any legislative requirements and/or other guidance or good practice. The next scheduled review of policy is due in October 2029 and every 10 years thereafter.