

# POLICY: ANTI SOCIAL BEHAVIOUR

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## 1.0 Introduction

- 1.1 Dealing with reports of anti-social behaviour (ASB) is of significant importance to our customers.
  - 1.2 Thames Valley Housing (TVH) is committed to working to prevent and where possible, resolve cases of ASB in a robust and effective manner.
  - 1.3 Our aim is to ensure our customers and staff can enjoy a peaceful and safe environment in which to live, work and play.
  - 1.4 The Anti-Social Behaviour Crime and Policing Act 2014 came into force in various stages in 2014 and 2015. This Act is aimed to simplify powers of enforcement for Registered Providers, the Police and Local Authorities and is incorporated within this Policy.
  - 1.5 This Policy describes the framework for managing anti-social behaviour (ASB) across our housing stock and includes measures introduced by this new Act.
  - 1.6 TVHA support the Respect ASB Charter for Housing and are committed to tackling ASB and promoting a culture of respect in the communities where we work. We aim to:
    - tackle the causes of ASB and prevent incidents of ASB from arising
    - prevent incidents of ASB from escalating, where they do arise
    - take the necessary management intervention and legal action to deal with perpetrators of ASB
- provide customers with appropriate advice and assistance
  - work in partnership with other specialist agencies where appropriate
  - support staff to tackle ASB
  - support customers and sustain tenancies

## 2.0 Background legislation

- The Housing Act 1988 (as amended)
- The Housing Act 1985 (as amended)
- Anti-Social Behaviour Crime and Policing Act 2014
- Crime and Disorder Act 1998
- Anti-social Behaviour Act 2003
- Data Protection Act 1998
- Equality Act 2010

## 3.0 Definitions

- 3.1 ASB is defined in the Anti-Social Behaviour Crime and Policing Act 2014 as
  - *“Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,*

- *Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or*
- *Conduct capable of causing housing-related nuisance or annoyance to any person."*

3.2 ASB is defined in the Housing Act 1985 and Housing Act 1988 as

- *"Conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality"*

When it comes to evidencing ASB, different tools available will have different legal 'tests' to satisfy. This is usually dependent on the burden of proof required by the relevant Court to which an application is made.

## 4.0 Policy aims

- 4.1 To ensure relevant employees of TVH are trained and equipped to respond quickly and effectively to reports of ASB and where possible to prevent reports escalating into more serious incidents.
- 4.2 To ensure steps are taken to deal with ASB where it affects TVH tenants, TVH leaseholders, TVH staff, TVH contractors or otherwise affects our housing management functions and it is appropriate for TVH to act.
- 4.3 To raise awareness amongst residents, staff and other relevant stakeholders of the tools and powers available to tackle ASB.
- 4.4 To minimise the frequency of ASB through preventative actions, community cohesion activities and partnership working.
- 4.5 To develop and maintain effective partnerships with statutory and voluntary agencies with whom we can collaborate in tackling ASB.
- 4.6 To support tenants, leaseholders and staff to address any form of nuisance which may lead to ASB.

## 5.0 Our service promise

- To ensure a service for reporting ASB is available and accessible for all customers, staff, partner agencies and members of the public
- To provide a facility out of normal office hours for reporting of ASB
- To respond to reports of ASB in a timely manner, including a 24 and 48 hour response timeframe, based on the level of risk of harm identified using a risk assessment. To carry out risk assessments for vulnerable victims where appropriate, taking into account the individual needs of the person
- To liaise with partner organisations to share information, to investigate and work together to find solutions
- To stay in contact with victims and witnesses, keeping them informed of progress along the way

- To use our professional judgement as to whether reports of ASB can be realistically investigated and resolved. We may not deal with matters which we consider to be personal disputes, which are not supported by evidence or where the responsibility to take action is with another service e.g. the Police or Local Authority
- To use our professional judgement as to whether the behaviour reported is anti-social behaviour which requires action to be taken. We will generally not take action against behaviour which is a difference in lifestyle, everyday living noise and which is reasonable e.g. everyday household noise such as hoovering, babies crying, cooking smells etc.
- To undertake action that is reasonable and proportionate to deal with all cases effectively
- To target resources towards prevention and diversionary activities
- To be clear with customers on the range of interventions and solutions available
- To carry out sensitive lettings in areas where there are serious cases of ASB

## 6.0 Resident responsibilities

6.1 We expect our residents to show consideration to their neighbours and their community, and not to commit, or allow their family or visitors to commit acts of ASB. This includes harassment, noise nuisance, annoyance or disturbance, whether to other residents, their visitors or other people in the area, including staff and contractors.

6.2 In addition to the legal responsibilities set out in their tenancy agreement or lease, we will encourage residents to:

- Report all incidents of ASB, harassment and domestic abuse to TVH and the relevant statutory agencies
- Report all crimes, including threats or acts of violence, to the Police.
- Take responsibility for minor personal disputes with their neighbours and to try to resolve such problems themselves in a reasonable manner.
- Respect other peoples' right to their chosen lifestyle and everyday reasonable level of disturbance.
- Work with us to resolve disputes/issues, for example by reporting incidents, providing witness statements, attending court etc.

## 7.0 Prevention

One of our aims is to prevent ASB wherever possible before it can escalate and therefore make use of the following tools where appropriate:

### 7.1 Design out anti-social behaviour risks wherever possible at design and planning stage

We have a robust and involved design and planning process for new development opportunities including cross departmental meetings to discuss pre and post-planning scheme requirements. In this way, staff who have experience of managing our existing portfolio of property are able to influence aspects of the plan and design for new schemes

which may contribute to potential ASB such as communal garden design, parking provision, storage, play area design, roof terraces, and lighting.

#### 7.2 Lettings and Allocations

- TVH has a thorough application and interview process for potential new tenants nominated by Local Authorities. When required we are able to utilise the information sharing protocols we have in place to conduct information checks and risk assessments with other statutory agencies such as the Police and Social Services before making an offer of accommodation. In certain circumstances our Lettings Policy supports us to be able to refuse unsuitable applicants based on their personal circumstances or those of their household members.
- On schemes where we have recently resolved a serious case of ASB we will notify the Local Authority and can ask for sensitivity when nominating a new resident to the scheme. This approach supports one of TVH's primary aims which are to provide homes in communities that are sustainable and balanced and where people want to live.
- Where there is a potential for a high density of particular units types, TVH are also able to develop in conjunction with Local Authorities, local lettings plans to ensure we can create sustainable, thriving and balanced communities.

#### 7.3 Community Investment is targeted to encourage community cohesion and make use of diversionary tactics to prevent ASB from occurring

- TVH has a well-established and successful approach to community cohesion via a plethora of resident involvement and community investment activity. Utilising a range of resident profiling and satisfaction data, we are able to develop meaningful strategies aimed at improving the quality of life and creating new opportunities for our residents.
- Targeted activity coordinated by our Resident Involvement and Housing Management Teams may include diversionary activities for young people in areas with higher levels of ASB or the provision of funding to coordinate improvements to common areas where ASB can be more prolific. We may also consider security enhancements such as additional lighting, fencing or community warden services where available.
- Working with other agencies that may provide support or other assistance.

#### 7.4 Use of different types of tenancies available and extending probationary periods

- TVH will make use of the different type of tenancies available and where appropriate will seek to terminate a tenancy or extend a 'probationary' period of a tenancy.
- Probationary tenancies will be issued in all cases other than for prospective tenants who currently hold a social housing tenancy with a local authority or another Housing Association.
- Probationary tenancies will be extended for a six month period to monitor the ASB, after which a decision would be made either to convert the tenancy or proceed with a Section 21 process to recover the property.
- Probationary tenancy extensions would be discussed with the tenant, and actions agreed to end any ASB causing concern e.g. Noise nuisance, visitors, pets and confirmed in writing to the tenant/support team.

## 8.0 Support for people reporting ASB and witnesses

- 8.1 What is considered 'anti-social' from a behavioural point of view will vary between victims and communities. It is a direct result of this that the Government has encouraged professionals dealing with ASB to consider a new approach. It is now considered more important than ever that the impact of the ASB on the victim is the primary focus, as opposed to looking only at the actual behaviour causing the ASB.
- 8.2 The Community Trigger now gives victims the ability to demand action, starting with a review of their case by a multi-agency panel, where the locally defined threshold is met. This is coordinated by the Police, Local Authority and relevant support services.
- 8.3 TVH offer a 24 hour hotline where residents are able to leave messages reporting out of hours ASB and receive a response within 24 hours.
- 8.4 TVH offer the services of fully qualified in-house mediators. TVH have also developed a number of excellent partnerships with external mediation companies who we are able to utilise for this purpose.
- 8.5 TVH will build on existing victim support services available for those tenants/leaseholders reporting ASB and witnesses who may benefit from someone outside of the association to confide in.
- 8.6 All staff will carry out a vulnerability assessment as part of a risk assessment, ensuring the principles of the Equality Act are considered in any potential action.
- 8.7 We will offer the resident an opportunity for us to complete a risk assessment in appropriate cases. This enables us to measure the impact to the individual customer of the ASB being reported and may direct us to consider alternative solutions and avenues of support.

## 9.0 Enforcement

- 9.1 As a landlord TVH and their tenants and leaseholders have responsibilities pursuant to the tenancy agreement or lease. Some cases of ASB may not result in direct action being taken by TVH. The appropriate steps to take in response to deal with ASB will depend on the type and level of ASB. We believe that in many cases ASB can be tackled effectively when challenged early enough and where appropriate we will use early non-legal interventions, which may include:
  - Acceptable behaviour contracts (A, B, C's)
  - Warnings and meetings both informal and formal
  - Good neighbour agreements
  - Mediation
  - Extending probationary tenancies
  - Partnership working with the Police and Local Authority
  - Referrals to other agencies where appropriate

We will pursue legal action if we believe the case is either serious and/or other early interventions have failed or are not appropriate. In some serious cases it may be necessary and appropriate to take immediate legal action. The range of legal tools and powers include:

- Civil Injunction (with or without the Power of Arrest)
  - Obtain an undertaking from the resident to the court agreeing to stop any ASB (if the court considers this appropriate)
  - Absolute Ground for Possession which is a mandatory ground for possession under Ground 7A (assured tenants) or Section 84A (secure tenants). This is when a tenant or person residing at or visiting the property has been convicted of a serious offence, breached a civil injunction, breached a Criminal Behaviour Order, been convicted of breaching a noise abatement notice/order or the property has been closed for over 48 hours under a closure order for ASB.
  - Possession proceedings on discretionary grounds
  - Accelerated Possession Proceedings (for assured shorthold tenants only)
- 9.2 There are additional tools and powers available only to the Police and Local Authority. Although these powers are not available to TVH, we may be able to support or recommend the use of these additional powers. These include:
- Criminal Behaviour Order (CBO)
  - Dispersal Power
  - Community Protection Notice (CPN) (where TVH do not have designated powers from the Local Authority)
  - Public Spaces Protection Order
  - Community Protection Notice in areas where TVH are designated to use these powers by the Local Authority
  - Closure Power

## 10.0 Monitoring and reporting

- 10.1 All cases of ASB will be monitored via regular supervision with the relevant case officer. The level of monitoring will depend on the frequency and seriousness of the ASB. Supervisors and Line Managers will provide appropriate advice and support to those officers, ensuring that cases are progressed in line with relevant operating procedures.
- 10.2 We may benchmark performance with other organisations and provide regular reports to the Executive Team, Housing Senior Management Team as well as the Customer Services Committee on an annual basis.

## 11.0 Data protection

- 11.1 TVH will deal with data in accordance with the Data Protection Act 1998.
- 11.2 We may share and seek information from third parties and work with other agencies to address anti-social behaviour.
- 11.3 Obtaining Evidence - officers will consider a number of ways to obtain evidence of anti-social behaviour, to help identify any breaches of the tenancy agreement and should always keep accurate records / file-notes of all such investigations (please see separate procedure).

Evidence may also be obtained from resident's e.g. CCTV and photo images and as a data controller TVH can use evidence obtained by residents in legal proceedings (or to assess if

legal proceedings are necessary) because s35 of the DPA says the non-disclosure provisions do not apply when the disclosure is necessary:

- For the purpose of, or in connections with, any legal proceedings (including prospective legal proceedings), or
- For the purpose of obtaining legal advice,
- or is otherwise necessary, for the purposes of establishing, exercising or defending legal rights

## 12.0 Internal appeals for mandatory possession order cases

12.1 In some circumstances, we will issue accelerated possession proceedings on mandatory grounds for example, a notice under Section 21 of the Housing Act 1988. Prior to serving such a notice we are required to complete an Equality Act form (Appendix C in ASB Procedure) prior to referring the case to the county court for possession, Tenants are able to appeal the decision to serve a Section 21 Notice and appeals must be made in writing and are reviewed by the Residential Services Director. This applies only to tenants with probationary tenancies.

12.2 The Anti-Social Behaviour Crime & Policing Act 2014 added a new absolute ground for possession which is a mandatory ground for possession by the insertion of Section 84A into the Housing Act 1985 (secure) and Ground 7A into Part 1, Schedule 2 of The Housing Act 1988 (assured). This new mandatory ground for possession has been available for Landlords since 20<sup>th</sup> October 2014 and applies where ASB or criminal behaviour has been proven at Court already. The Act specifies the conditions that must be met in order to issue proceedings on this ground. For secure tenants TVH will follow the statutory review procedure in relation to this ground for possession. For assured tenants TVH give tenants a right of appeal against this ground for possession being relied upon. Prior to Serving a notice on Ground 7A we are required to complete an Equality Act form, tenants are able to appeal the intention to serve a Notice under Section 7A, appeals are reviewed by the Residential Services Director before further action is taken.

## 13.0 Appeals in other court cases

13.1 In many Anti-Social Behaviour cases, possession action is taken under discretionary grounds such as Grounds 1 and 2 of Schedule 2 of the Housing Act 1985 (secure) or 12 and 14 of Schedule 2 of the Housing Act 1988 (assured) and/or injunction proceedings are taken. Proceedings are facilitated through the County Court. Evidence from all parties can be taken in to consideration and a County Court Judge will make their ruling. The Court has their own impartial appeals process and residents may be able to access free and impartial advice via

Legal Aid applications, Citizens' Advice Bureau, housing advice centres other duty solicitor system operated by the Court.

## 14.0 Equality & diversity

14.1 An Equality Impact Assessment has been carried out on this policy based on the resident profiling information we currently hold. This Policy is not deemed to adversely impact anyone on the grounds of age, disability, ethnicity, sexuality, religion or gender. We will continue to review this as part of the Policy Review Programme.

## 15.0 Other useful links

- Transfer Policy
- Mutual Exchange Policy
- Lettings Policy
- Tenancy Policy
- Arrears Policy
- Complaints Policy
- Data Protection Policy
- Confidential Reporting Policy
- Community Investment Strategy 2012-2015
- Safeguarding Vulnerable Adults and Children Policy (in progress)

## 16.0 Policy Information

**Policy owner:** Clare Quennell, Area Housing Manager

**Approved by:** Babs Doran, Interim Director of Housing Services

**Next review date:** April 2021