

Taunton Deane Borough Council

Tenant Services Management Board – 27th October 2014

Anti-Social Behaviour Strategy and Policy updates

Report of – Paul Hadley Lettings and Anti-Social Behaviour Manager
(This matter is the responsibility of Executive Councillor Jean Adkins)

1.0 Executive Summary

This report has been produced to propose updates for the Anti-Social Behaviour Strategy and Policy for Taunton Deane Borough Council Housing Services, as a direct result of the introduction of the Anti-Social Behaviour, Crime and Policing Act 2014. The updated policy is attached as Appendix 1.

It outlines the strategic overview that tenants can expect from Housing Services in relation to Anti-Social Behaviour (ASB).

The ASB policy details the organisations arrangements for managing the risk of ASB to tenants within the councils housing stock.

The strategy and policy are living documents and will be reviewed on a regular basis.

2.0 Purpose of the report

The purpose of the report is to propose changes to the ASB strategy and policy in light of the introduction of new powers in the Anti-Social Behaviour, Crime and Policing Act 2014.

3.0 Background

This Government has set out a new approach to crime, policing and community safety, based on a fundamental shift from bureaucratic to democratic accountability through directly elected Police and Crime Commissioners, increased transparency, and increasing professional discretion. This new approach includes overhauling the whole system of dealing with ASB to ensure agencies are putting the needs of victims first.

Previously the police, councils and others have started to adopt a range of effective mechanisms that improve the response they provide to victims, which ensures that vulnerable victims are better supported.

In terms of the behaviour itself, what is seen as 'anti-social' will vary from victim to victim, and community to community. It no longer focuses on the behaviour, but on the impact it has on the victim.

The correct response will depend on a range of factors, but most importantly, on the needs of the victim and the impact the behaviour is having on their lives.

4.0 Aim

To give tenants clear information on what they can expect from housing services, and the support and assistance available to them.

5.0 Approximate costs

The cost of implementing this policies will be met within existing budgets.

6.0 Impact on tenants

Tenants will be better informed on what to expect from their landlord and what is expected of them, and the implications of their behaviour on their tenancy.

7.0 Equalities impact

An equality impact assessment has been carried out and views and feedback have been obtained from tenants. This is attached as Appendix 2.

8.0 Risk management

No risks have been identified from the equality impact assessment

9.0 Diversity

Some people may need specific help to fully access the policy and leaflet. Additionally information may be required in different formats:

- Large Font
- Audio Version
- Different Languages
- Website page

10.0 Recommendation

Recommend that the Tenant Services Management Board approve the strategy and policy. The policy will then be forwarded to the portfolio holder Councillor Jean Adkins for affirmation.

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Anti-Social Behaviour Policy

Policy	
Policy Number	Let1
Title	Anti Social Behaviour
Author	Steven Clarke
Responsible Officer	Stephen Boland
EQIA Date	
Date Agreed by TSMB	
Date agreed by Housing Portfolio Holder	
Next Review Date	Sept 17
Version	1.2

Anti-Social Behaviour Policy

Definition of anti-social behaviour

Taunton Deane Borough Council (TDBC) uses the definition of anti-social behavior in the Crime and Disorder Act 1998, which is:

‘Acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as (the defendant).’

1.0 Policy Statement

TDBC are committed to providing an excellent anti-social behaviour service. On delivering our housing service we will actively seek to prevent anti-social behaviour. When allocating empty property we will undertake an assessment of the risk of anti-social behaviour involving the housing applicant, historical incidents of anti-social behaviour within the neighbourhood and the design of the property. With reference to 3.7 of the Homefinder Somerset Common Lettings Policy, which stipulates who are not able to participate in bidding for Social Housing across the whole sub-region. This includes those who have broken their previous tenancy conditions due to ASB. This would mean that if they are evicted and subsequently reapply for social housing all partner-housing providers might refuse to re-house them.

Where appropriate we will advise housing applicants where there are risks of anti-social behaviour, for example, if we feel the property is prone to noise travel. At the start of a tenancy we will make residents aware of their tenancy obligations on anti-social behaviour. Through the management of our communal areas we will actively deter anti-social behaviour (such as vandalism/graffiti, abandoned vehicles or misuse of communal areas). When developing new properties or undertaking re-investment or improvement works we will consider how we can prevent anti-social behaviour through these works. We will also utilise our community development resources to prevent anti-social behaviour; this may include youth, parenting projects or projects to foster greater community cohesion.

2.0 Dealing with reports of anti-social behaviour

We will not tolerate anti-social behaviour and will always seek to resolve the problem with the complainant (the complainant is the person reporting anti-social behaviour) remaining in their existing accommodation. We will only consider rehousing the complainant in exceptional circumstances (for example where there is a risk of serious physical harm). In line with Home finder Somerset Lettings Policy.

We recognise that retaining resident confidence and involvement is critical to the success of each anti-social behaviour case and the service as a whole. To achieve this we will normally only take action on a case agreed with the complainant. We will usually expect the complainant to undertake certain actions to assist us in dealing with the anti-social behaviour, this may involve

keeping details of the incidents that occur or reporting incidents to another agency such as the police or the local authority environmental health noise team.

We will advise the complainant in writing of the outcome of the investigation and discuss any further action we propose with them. We will advise complainants when action has been taken against a perpetrator and will monitor the case for any further incident. We will also write to the alleged perpetrator advising them of the outcome of the investigation. We will agree with each complainant how often we will contact him or her. As a minimum we will contact complainants at least once a month to update them of progress and/or receive updates on the situation if these have not already been forwarded to us. If we plan to close an anti-social behaviour case we will write to the complainant first to inform them and invite them to complete a satisfaction survey on our handling of their anti-social behaviour case.

3.0 Aim of this policy

Through the delivery of this policy, we aim to:

Enable residents to live peacefully within their homes without unreasonable disturbance from others

Encourage reporting and make it easy to report anti-social behaviour

Respond quickly and in a robust manner to incidents of anti-social behaviour

Ensure residents are clear on their tenancy obligations

Inspire confidence amongst residents that anti-social behaviour will be challenged

Ensure complainants are kept informed of actions being undertaken on their complaint

Use a full range (and where appropriate a combination) of measures (such as diversion, education, enforcement, prevention, engagement and rehabilitation) to tackle anti-social behaviour and its underlying causes

Provide a framework for supporting victims, witnesses and vulnerable perpetrators

Deliver a 'zero tolerance' approach towards abuse on staff

4.0 Who is covered by this policy?

Our anti-social behaviour policy relates to all TDBC residents including persons residing visiting the property or otherwise engaged in lawful activity in the locality. Our policy is designed to protect residents in the areas where we work. We may act to protect owner-occupiers or those in other sectors from our residents and equally, may take action against people in other tenures to protect our residents.

Where our residents experience criminal activity, we will give advice on what action to take and any available additional support. Where the anti-social behaviour takes the form of a hate crime/incident or domestic violence we will comply with the service standard.

5.0 Types of anti-social behaviour

We will use the following categories recommended by Housemark (a housing industry benchmarking organisation) for the different types of anti-social behaviour we deal with:

Noise (managed by Environmental Health)
Verbal abuse / harassment / intimidation / threatening behaviour
Hate related incidents (harassment based on race, sexual orientation, gender, disability, religion or age).
Vandalism or damage to property
Pets and animal nuisance
Drugs / substance misuse / drug dealing
Alcohol related
Domestic abuse
Physical violence
Litter / rubbish / fly-tipping
Garden nuisance
Misuse of communal areas
Prostitution / sexual acts / kerb crawling
Criminal behaviour (other than listed above)

Dealing with noise nuisance

Noise is the most common type of anti-social behaviour reported to TDBC. These complaints are investigated by Environmental Health Department.

We are keen to:

- Respond effectively to resident complaints of noise nuisance
- Be realistic about the action we can take to deal with reports of excessive noise.

TDBC does not normally consider everyday living noises (such as toilets being flushed, washing cutlery) to be anti-social behaviour even if they are disturbing the complainant. In these cases we will normally expect neighbours to be tolerant and respectful of each other's lifestyle and needs and minimise the noise they create.

We recognise that there are certain properties that do not have good soundproofing and are prone to noise travel. In these cases even everyday living noises (such as walking around the flat during the day with outdoor shoes) can cause annoyance to their neighbour(s). From our experience we have found it very difficult to prove that the noise heard in these cases is anti-social behaviour except where statutory noise nuisance levels have been breached. This can result in cases remaining open for significant periods of time with the complainant reporting persistent problems (as well as the other party making counter-complaints) yet TDBC have insufficient evidence to take any formal action on the case. We have also found that in these cases mediation has proven to be very successful in resolving the problems. Therefore where we have identified a property as prone to noise we will only investigate a report of excessive noise where:

-The noise nuisance has been witnessed by local authority noise teams or recorded on sound recording equipment

Or

-Where we suspect these noise levels were breached.

Where there is no evidence of excessive noise nuisance or we suspect that the noise reported would not breach these levels we will invite all parties involved to undertake mediation. If both parties do not accept this we will close the case and only investigate further if noise nuisance is witnessed.

6.0 Definition of harassment

TDBC defines harassment as behaviour that is abusive to individuals or groups and which is deliberate. It can take many forms and includes, but is not limited to:

Abusive or insulting behaviour

Threats of violence

Physical assault

Vandalism to property

Arson or attempted arson

Threatening, abusive or insulting graffiti

Repeated and unfounded complaints against a resident or residents

Attempts to deter a person from occupying a particular property

Abusive telephone calls

Uninvited visits to someone's home

Deliberate noise

Excrement, rubbish or offensive materials near or in the victim's home

Harassment may be directed against an individual, family or group of people. It is often motivated by prejudice against the characteristics of the individual or group. For example sexual harassment is the interference with a person's comfort or safety on grounds of their gender or sexuality. To distinguish harassment from domestic violence, the harasser is not usually a person with whom the complainant has previously been associated.

Harassment may be based on race, sexuality, gender, disability, religion or age

7.0 Definition of Hate Crime

There is a distinct difference between a hate incident and a hate crime. Hate incident is defined as:

‘Any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being

motivated by prejudice or hate.’

Hate crime is defined as:

‘Any hate incident, which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or Hate crime.’

It is vitally important to note that all hate crimes are hate incidents. However, some hate incidents may not constitute a criminal offence and therefore are not hate crimes.

The following are examples of different types of hate incidents. This list is not exhaustive:

- Racist incident
- Homophobic incident
- Transphobic incident
- Faith related incident
- Sectarian incident
- Disablist incident

The following are examples of actions effected by perpetrators of Hate Crime. This list is not exhaustive:

- Physical attacks on people and property;
- Intimidation and torment;
- Graffiti;
- Arson or attempted arson;
- Offensive comments;
- Abusive or threatening behaviour – language, letters, phone calls
- Deliberate and targeted acts intended to deter residents from living in their home or to force them to move away.

Domestic abuse is not included within this policy

8.0 Responsibility to deal with anti-social behaviour

There are many agencies that have a responsibility to tackle anti-social behaviour these include the police and local authority Environmental Health teams, local Crime and Disorder Reduction Partnerships as well as housing associations. We will work in partnership with these agencies where appropriate to share information, best practice and provide a co-ordinated response to resolve the problems

9.0 Resident obligations

TDBC tenancy agreement includes contractual terms forbidding residents or their visitors from causing anti-social behaviour. We will take further action where there is evidence of anti-social behaviour.

10.0 Taking action to resolve anti-social behaviour

When deciding on action our main aim will be to stop the anti-social behaviour. Unless the reported ASB is particularly serious, every effort will be made to resolve the issue without the use of legal action. Where the allegations involve threats of violence or actual violence we will consider whether it is appropriate to take emergency legal action to protect personal safety.

11.0 Assessing potential actions in dealing with anti-social behaviour

Part of the investigation into the anti-social behaviour a risk assessment is completed. We will consider the information gathered and decide what further action to take. If there is a lack of information to support the report this may limit the action we can take.

The action we take on a particular incident will depend on a number of factors, which include:

The seriousness of the incident (e.g. where there is intimidation or a threat of violence we may take immediate legal action on one incident; whereas on the first report of noise nuisance we may serve a warning letter).

The number of previous incidents that have occurred

The level of evidence we have on the reported ASB

Any legal advice received on the case

Whether the people involved have vulnerability.

We understand that the circumstances will vary with each case and this will affect the action taken. However we will aim to resolve lower category ASB with non-legal action at first and only consider legal action where problems persist.

We will write to the complainant and the alleged perpetrator after we have completed our investigation confirming whether the reports of anti-social behaviour are proven or not and what further action will be taken. Where anti-social behaviour is not proven we may issue warnings that on the consequences if anti-social behaviour is proven in the future.

Where anti-social behaviour is proven we will take firm proportional action. Where non-legal action fails to stop the anti-social behaviour we will consider taking legal action.

Actions taken to resolve the anti-social behaviour could involve a combination of the following:

11.1 Non-legal actions

Warning letters

Acceptable Behaviour Contracts (ABCs)
Referral to mediation
Monitoring with diary sheets
Referral to Safer Somerset Partnership
Parenting contract (informal)
Parenting courses
Referral to the Environmental Protection Team
Referral to Supported Housing or other support package
Referral to Family Focus Team
Referral to the Mental Health Team
Referral to the Youth Offending team

11.2 Legal actions

Demotion Orders,
Possession proceedings,
Criminal Behaviour Orders,
Closure of premises
Recovery of possession of dwelling houses
Public spaces possession orders
Community Protection Notices
Injunctions under 153a, 153B, 153C, 153D of the 1996 Act (including with the power of arrest attached)
Or other legal action e.g. Community triggers ASB & Police Act 2014, Environmental Protection Act 1990 or criminal prosecution).

12.0 Confidentiality

Complainants will be encouraged to allow us to share information with other agencies, including the police and partner agencies, to ensure that the full range of civil and criminal action can be pursued and appropriate support provided. However all information provided by the complainant will be treated with the utmost confidence and only passed to external agencies with proper consent. The exception is where we consider a child is at risk in any situation or if there is a high risk of serious harm to anyone involved. The Community Services Manager or Housing Services Lead will approve any disclosure without the complainant's consent.

There may be situations where the complainant has requested that no action is taken on a report. However where we consider the situation to be serious we may feel that we have little option but to pursue an issue against their wishes. In such circumstances we will take appropriate action to protect all those affected.

13.0 Providing support and tackling the causes of anti-social behaviour

When we first investigate a report of anti-social behaviour we will undertake an assessment of the support needs of the complainant, witnesses and perpetrators and with their consent refer them to an appropriate support provider. When taking action we will consider the various factors that may be

causing the anti-social behaviour and will seek to take appropriate action to tackle these causes identified. This may include making a referral to an anger management course where aggressive behaviour has occurred or referral to the local Community Mental Health team where mental ill-health is identified as contributing to the anti-social behaviour. Throughout the case (including at the end) we will re-assess the support needs of those involved and take appropriate action.

We realise that the active co-operation of complainants and witnesses is vital to the success of the service. Therefore we will support residents by:

Providing them with information on our service and what we can do to help them

Agreeing with them what action we will take on the case

Providing regular updates on the progress of the case

Regularly assess their support needs

Suggest providers of appropriate support.

14.0 Safeguarding children and vulnerable adults

Whilst delivering our anti-social behaviour service, if we consider a child or vulnerable adult to be at risk of harm we will be take appropriate action in line with our vulnerability policy and relevant local authority safeguarding procedures.

15.0 Closing an anti-social behaviour case

We will close an anti-social behaviour case in the following circumstances:

The anti-social behaviour as finalised

There have been no reports of further incidents for at least one month

An investigation has been completed and there is no evidence of ASB

The complainant has not co-operated with requests from the authority making it difficult to progress further with the case.

16.0 Abusive behaviour towards staff

We will not tolerate abusive behaviour, threats or violence towards our staff members or contractors. We will work with the police and other agencies to take action where this occurs. This action may involve exclusion from office premises and legal action.

16.1 Staff training

TDBC provides training for all staff dealing with anti-social behaviour complaints. This programme includes:

- training on policy and procedures, good practice and legal remedies in tackling anti-social behaviour, domestic violence and hate crimes/incidents
- health and safety training
- training seminars
- informal training and coaching from supervisors.

16.2 Best Value and Continuous Improvement

TDBC is committed to continuously improving its service to residents. To this end we will develop an annual ASB Strategy, which will draw upon best practice and value for money considerations to set the direction of service development.

In tackling anti-social behaviour we aim to use our resources effectively so that the maximum number of residents can benefit from our service. Through engaging with our external partners we will endeavour to lever-in their resources to resolve anti-social behaviour within our stock. On an annual basis we will assess the cost of providing our anti-social behaviour service as a cost per property and benchmark these costs with those of other organisations. We will also set targets to reduce the average amount of time taken to resolve cases.

16.3 Key Performances Indicators

We will routinely monitor our performance in implementing of this policy and report on our performance to the TDBC Senior Management, Tenant Services Board and Elected members.

Indicators we use to measure of the service include:

The number of ASB cases in total

The number of hate crimes reported per category

The number of cases closed

The number of actions taken to resolve ASB (such as evictions due to ASB, CRSBOs, Injunctions, Acceptable Behaviour Contracts, referral to the Safer Somerset Partnerships)

The satisfaction of complainants on closed cases

We will publish in the TDBC annual report:

The number of evictions due to ASB action

The number of Criminal Behaviour Orders obtained

The number of Injunctions obtained

17.0 Relevant legislation and regulatory documents

Respect Standard for Housing Management

Respect Performance Toolkit

Housing Quality Network "The Respect Standard: What Social Landlords should be doing and what inspectors are looking for"

Anti-Social Behaviour Act 2003 (Section 12)

Crime and Disorder Act 1998

ASB & Police Act 2014

Disability Discrimination Act 2001

Data Protection Act 1998

Housing Act 1985

Housing Act 1996

18.0 Equality and diversity

Housing Services recognises that it operates in a community within which there is wide social diversity, and is committed to providing equal opportunities and valuing diversity.

Through the management of our empty properties we aim to treat all customers fairly, and with respect and professionalism regardless of their gender, race, age, disability, religion, sexual orientation and marital status. To enable all residents to have clear information and equal access to our available properties, Housing Services publishes clear information in a range of appropriate languages and formats and through a range of media on request.

Feedback is also accepted through a variety of different routes to reflect individual tenant's preferences or needs.

To help demonstrate our approach our Tenancy Management Policy is in keeping with our equality and diversity aims and objectives, we collect equalities information on satisfaction with the void management process, the re-let standard, and the quality of advice provided to prospective and existing tenants, to feed into our monitoring and review processes. We will carry out diversity impact assessments on all new and reviewed policies.

Full details of our approach are set out in our Equality and Diversity Strategy.

19.0 Customer involvement

Housing Services recognises the importance of working in partnership with our customers to develop and continuously improve our services and raise standards. Housing Services actively involves all tenants in at the beginning of decision making processes and ensures tenants are empowered to play a part in wider consultation and involvement structures, as detailed in full in our Resident Involvement Strategy.

To demonstrate this commitment, we will:

- Review the policy in consultation with service users and customers;
- Involve customers in the monitoring and testing of service delivery standards, laid out in this policy and relevant procedures;
- Publish information in relation to performance against the aims and standards set down by this policy;
- Develop and review this policy in light of customer feedback, comments and complaints.

20.0 Policy monitoring and review

This policy will be reviewed by Housing Services every three years unless there is a change in legislation or regulation.

Where there has been a change in legislation which has an impact on the policy, the policy will be reviewed within 3 months of the legislation or regulation coming into affect.

20.1 Responsibility

The Housing Service lead will retain the overall responsibility for the implementation of this policy.

The Housing Lettings and ASB Manager is responsible for the operational delivery of this policy and the associated procedures. This includes responsibility for monitoring and review, staff awareness and training, policy development and communication to customers.

Equality Impact Assessment – pro-forma

Responsible person	<i>Paul Hadley</i>	Job Title ASB and Voids Housing Manager
Why are you completing the Equality Impact Assessment? (Please mark as appropriate)	Proposed new policy/service	Anti-Social Behaviour policy
	Change to Policy/service	Anti-Social Behaviour Policy
	Budget/Financial decision – MTFP	
	Part of timetable	
What are you completing the Equality Impact Assessment on (which, service, MTFP proposal)	Housing Service	
Section One – Scope of the assessment		
What are the main purposes/aims of the policy/decision/service?	<p><i>The aim is to add amendments following introduction of new ASB powers from Anti-social behaviour, police and crime act 2014</i></p> <ul style="list-style-type: none"> • <i>Amend policy to reflect new powers</i> • <i>Amend policy to remove old powers</i> 	
Which protected groups are targeted by the policy/decision/service?	<i>All council tenants regardless of race, religion, sex, ethnic background, Sexual orientation, Disability, Age</i>	
What evidence has been used in the assessment - data, engagement undertaken – please list each source that has been used	<p>Data collected from all previous reports of Anti- Social Behaviour.</p> <ol style="list-style-type: none"> 1. Number of reports 2. Type of reports 3. Outcomes of the reports 	
The information can be found on....	<p>Engagement has been undertaken with the following</p> <ul style="list-style-type: none"> • Police 	

- Tenant groups
- Family Focus staff
- NHS protect
- Social services

Information can be found on

1. Housing Service Neighbour Nuisance Statistical reports
2. Initial ASB reporting forms
3. ASB module)

Section two – Conclusion drawn about the impact of service/policy/function/change on different groups highlighting negative impact, unequal outcomes or missed opportunities for promoting equality

There will be no impact in service or on policy in relation to the different groups. It will reinforce current policy and procedures in the reporting and investigation of Anti Social Behaviour. It shows support for victim and witness of Anti Social behaviour and links into other agencies and support networks available to our tenants.

I have concluded that there is/should be:

No major change - no adverse equality impact identified	No major change in the service provision.
Adjust the policy/decision/service	
Continue with the policy/decision/service	
Stop and remove the policy/decision/service	

Reasons and documentation to support conclusions	
Section four – Implementation – timescale for implementation	
<ol style="list-style-type: none"> 1. Consult with partners Aug 14 2. Consult with tenants groups representatives Sept/ Oct 14 3. Report to TSMB Oct 14 4. Sign off by housing portfolio holder Nov 14 	
Section Five – Sign off	
Responsible officer Paul Hadley Date	Management Team Housing Voids and ASB Manager. Date
Section six – Publication and monitoring	
Published on	
Next review date	Date logged on Covalent

Action Planning

The table should be completed with all actions identified to mitigate the effects concluded.

Actions table

Service area				Date		
Identified issue drawn from your conclusions	Actions needed	Who is responsible?	By when?	How will this be monitored?	Expected outcomes from carrying out actions	