

# Anti-Social Behaviour Policy



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| <b>Reference:</b>                  | HS_POL_HOU_ASB_3.0   | <b>Author:</b>              | Housing Services Manager |
| <b>Scope:</b>                      | Housing Solutions  | <b>Approved by:</b>         | Executive Team           |
| <b>Legislation:</b>                | Caravan Sites Act 1968<br>Protection from Eviction Act 1977<br>Mobile Homes Act 1983<br>Housing Act 1985<br>Housing Act 1988<br>Housing Act 1996<br>Protection from Harassment Act 1997<br>Crime and Disorder Act 1998<br>The Anti-Social Behaviour Act 2003<br>Equality Act 2010<br>Anti-Social Behaviour, Crime and Policing Act 2014<br>Care Act 2014<br>Data Protection Act 2018 | <b>Date of approval:</b>    | March 2024               |
| <b>Regulatory/<br/>Governance:</b> | Regulator of Social Housing Neighbourhood and Community Standard<br>Anti-Social Behaviour, Crime and Policing Act 2014: "Anti-social behaviour powers Statutory guidance for frontline professionals"  | <b>Date of next review:</b> | March 2027               |
| <b>Related Policies:</b>           | Safeguarding Policy<br>Tenancy Policy<br>Data Protection Policy<br>Complaints & Compliments Policy<br>Allocations Policies<br>Health and Safety Policy<br>Mutual Exchange Policy<br>Vulnerable Customers Policy  |                             |                          |

## 1. Policy Statement

- 1.1 Our residents have the right to the peaceful and safe enjoyment of their homes. We also expect our residents to respect their neighbours, the immediate environment, their community, and our staff and contractors providing services to them.
- 1.2 We are a certified member of RESOLVE which demonstrates our commitment to tackling anti-social behaviour and ensuring community safety.
- 1.3 This policy helps us deliver:
  - Our objective to ensure residents are proud of where they live and can enjoy their homes regardless of ethnicity, religion, sexuality, age, gender, disability, and any other protected characteristic.
  - Our commitment to provide safe homes and communities.

- A service which ensures residents and colleagues understand that we take ASB seriously and are committed to tackling it with our residents and local partners.
- A tailored service, response, support and advice to complainants and witnesses of ASB.
- Clarity on how and when we can intervene in ASB and when we cannot.
- Our statutory responsibility (s.17 Crime and Disorder Act 1998) to consider the impact of our functions and decisions on crime and disorder in the areas where we operate.

Our duties under the Regulator of Social Housing Neighbourhood and Community Standard to:

- Work in partnership with other agencies to prevent and tackle anti-social behaviour (ASB) in the neighbourhoods where we own homes.
- Publish a policy on how we collaborate with relevant partners to prevent and tackle ASB.

- 1.4 This policy sets out how Housing Solutions will approach the prevention and management of ASB and any hate crime incident.
- 1.5 Housing Solutions will deliver this policy and its approach in partnership with key internal and external stakeholders.
- 1.6 This policy applies to all tenure types and enables us to support, resolve or enforce as appropriate with all homes and properties owned and/or managed by Housing Solutions.
- 1.7 The roles and responsibilities relevant to this policy are:

|                                     |  |
|-------------------------------------|--|
| <b>Board</b>                        | Supports the organisation in the fair and consistent application of this policy.   |
| <b>Executive Team</b>               | Responsible for approving this policy and any amendments from time to time.  |
| <b>AD Resident &amp; Engagement</b> | Responsible for recommending the strategic direction of the policy that feeds into the operational delivery for residents.                 |
| <b>Housing Services Manager</b>     | Responsible for overseeing the operational delivery and service quality of housing services and compliance with this policy                |
| <b>Community Safety Team Leader</b> | Responsible for overseeing operational delivery of this policy   |
| <b>Community Safety Officer</b>     | Responsible for Anti-Social Behaviour case management and enforcement action.  |
| <b>Housing Officer</b>              | Responsible for tenancy management and informal resolutions  |
| <b>All Staff</b>                    | All staff are responsible for promoting this policy and assisting where possible with identifying emerging cases of anti-social behaviour. |

## 2. Definitions

## Anti-Social Behaviour

A legal definition of anti-social behaviour is found in The Crime and Disorder Act 1998 which describes ASB as: “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 themselves”.

The Anti-Social Behaviour Crime and Policing Act 2014 expanded on this as follows:

- “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.”

## Hate Crime

Hate crime is defined as ‘any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic’. The five monitored strands are:

- race;
- religion/faith;
- sexual orientation;
- disability ; and
- gender-identity.

## **3. Our Approach**

3.1 We are committed to creating safer communities through proactive:

- Engagement & visibility within our communities
- Communication & signposting
- Problem solving
- Case management using the ASB tools and powers available.
- Collaboration with our community safety partners.

3.2 Where the policy *refers to range of tools available to us, this is referred to in appendix 1 – ASB interventions.*

ASB includes a wide range of unacceptable behaviour that affects the quality of life for residents and those living or working within the community. We categorise incidents in the following way:

**Personal** - These are incidents where the perpetrator has directly targeted the victim(s) and/or a criminal offence is suspected to have been committed. Examples include:

- Hate related incidents.
- Physical violence / serious threats of violence
- Ongoing harassment or intimidation, including stalking or bullying.
- Cuckooing (taking control of a vulnerable person’s home to establish a base for illegal drug dealing and other criminal activity)

- Targeted criminal damage / arson
- Aggression by animals towards people

Serious Criminal offences (as defined within the [Housing Act 1985](#))

We will attempt to make initial contact with the complainant / reporting party within one working day of receiving the initial report.

**Nuisance** - These are incidents that affect one or more individuals but are not directly targeted at any person or group or where there is no immediate risk to any persons.

Examples include:

- Criminal damage to communal areas or property
- Drug misuse (in communal areas)
- Drug dealing & supply.
- Serious or sustained noise nuisance
- Sustained animal related nuisance
- Prostitution & sexual activity in a public place
- Unlawful behaviour
- Sustained breaches of tenancy related to ASB.

We will attempt to make initial contact with the complainant / reporting party within three working days of receiving the initial report.

### 3.3

**Environmental** - These are incidents where the perpetrator(s) behaviour affects the quality of life of the local community and/or victim(s) indirectly or are low-level tenancy / lease breaches We do not categorise these incidents as ASB but will seek to resolve them proactively at the earliest possible opportunity in accordance with our Neighbourhood management policy using methods of self-help and proactive early intervention. Examples of these incidents might include:

- Untidy gardens
- Noise nuisance which is not deliberate or targeted
- Graffiti
- Neighbour Disputes
- Misuse of communal areas
- Animal / Pet nuisance
- CCTV nuisance
- Littering & fly tipping
- Vehicle nuisance including abandoned vehicles.

The following issues will **not** be investigated.

- Issues perceived to arise due to people's differing lifestyles that are not intended to cause nuisance or annoyance.
- Actions which amount to people being unpleasant to each other people or people staring with no other associated ASB but are not sufficiently serious considering the likely harm caused to justify our involvement.
- Cooking Smells
- Spreading rumours
- Children playing in their homes or in the locality of their home or designated playing area. (including ball games)

- One off party
- Parking disputes
- Social media disputes
- Incidents that we believe will be vexatious where there is a history or pattern of allegations unsupported by evidence by the complainant.

We will explain to all new customers the terms of their tenancy and or lease agreement so that our expectations are clear.

We will provide a range of options to report ASB: in person, by phone, letter, or email, the ASB app or through an advocate acting on the resident's behalf.

We will seek to adopt a problem-solving approach to our case management of incident reports and work towards resolution wherever possible. We will do this through investigation, evidence gathering and by supporting residents in gathering evidence using:

- Interviews
- Diary sheets
- Witness Statements (from complainants and/or other witnesses)
- Photographs / CCTV recordings
- Noise recordings
- Information from our partner agencies

In all cases defined as ASB categorised as personal or nuisance, complainants will receive contact from one of our specialists Community Safety Officers who will discuss the allegations, agree an action plan which will detail what the complainant should expect from us, what we expect from the complainant, summarise your expectations, our response to your expectations, details of the agreed method and frequency of contact.

We will conduct a risk assessment with the complainant to establish if a complainant is considered vulnerable and where appropriate will offer additional measures of support or signposting to support agencies for those considered high risk due to their vulnerability or the type of ASB or hate incident.

We will work closely with various support agencies with the aim of improving the behaviour of a tenant which is identified as vulnerable.

Where we suspect, or there is evidence a child or adult may be at risk, we will act promptly and in accordance with our safeguarding policies and procedures.

Incidents involving violence, threats of violence or a serious risk of harm may require immediate action in partnership with the Police or other partner agencies. A specialist Community Safety Officers will work with the complainant and any other agencies to establish the best course of action on a case-by-case basis.

Housing Solutions is committed to preventing and deterring ASB and in most cases we will seek to resolve incidents proactively using non-legal interventions detailed in Appendix A.

Housing Solutions may suggest mediation between parties where both parties agree to this approach. This approach brings those harmed by conflict and those responsible into a managed environment and enables those affected by an incident to have a part in finding a positive way forward. Cases will be referred in some instances to Housing Solutions' independent mediation service. In most cases referrals will be made by the investigating officer at the action planning stage or initial stages of a complaint investigation

After exploring avenues to resolve the case using non-legal interventions, the Community

Safety Officers will consider the type of behaviour and its impact on others, the vulnerability of those involved, the willingness to engage with support, the evidence available, the frequency of the behaviour and impact of action so far before exploring the legal interventions detailed in Appendix A.

All ASB cases involving criminality will be referred to the Police. We will co-operate with and support any criminal investigation.

A case will be closed when:

- It has been successfully resolved; or
- The behaviour has changed, the perpetrator leaves, or, in the last resort, the perpetrator is evicted; or
- By mutual agreement, there is no further action which can be taken; or
- There is insufficient evidence available to support the allegations despite our investigation; or
- No further contact has been received from a complainant and there is no other indication that unacceptable behaviour by the perpetrator is continuing or that there is any remaining risk of harm to any person; or
- The complainant asks for the case to be closed

We will never raise a complainant's expectations falsely. Clarity is essential. If there is no rational basis for the complaint, or rigorous investigation cannot verify the problem, the complainant must be advised that the case is closed unless further evidence is available.

A decision to close a case should always be discussed, and ideally agreed, with the complainant before confirming this in writing, clearly explaining the reasons.

The ASB case review (formally community trigger) gives these affected by ASB the right to request an ASB case review of the response to their reports of ASB. The ASB case review should only be used if you think your concerns have not been dealt with or acted upon by agencies.

To activate the ASB case review all the following criteria must be met:

- 3 complaints of ASB in last 6 months period with the most recent complaint being made within the last month.
- You feel that no or insufficient action has been taken.
- You are an individual, a business or a community group.

You can activate the ASB case review on someone else's behalf, but the individual concerned must give their consent to do so.

Your local council will be able to provide you with further information about the ASB case review process in your area.

We recognise that publicity is an essential part of the strategy to tackle anti-social behaviour, in terms of reassuring complainants and the wider community that action is being taken to tackle anti-social behaviour. In circumstances where a court has not imposed reporting restrictions Housing Solutions may issue publicity to existing residents via a local press release, newsletters, or the website.

We will ensure staff are well trained and have the confidence to identify and investigate incidents / reports of ASB collaborating with partner agencies.

## **4. Legislation**

- Housing Solutions will ensure that we comply with the legislation and guidance set out on page 1 of this policy. We will also remain up to date with any changes in legislation, guidance, and best practice.

## **5. Consumer Standards**

By publishing and adhering to this policy, Housing Solutions is upholding the requirements set out in the Consumer Standards published by the Regulator of Social Housing.

## **6. Equality and Diversity**

Housing Solutions recognises the needs of a diverse population and always acts within the scope of its own Equality, Diversity & Inclusion Strategy and Policy, the Human Rights Act 1998, and Equalities Act 2010 to ensure that all tenants and prospective tenants are treated fairly and equally in making decisions under this policy. Housing Solutions collaborates closely with its partners to ensure it clearly understands its resident community with clear regularly updated service user profiles. Housing Solutions will record, analyse, and monitor information on ethnicity, vulnerability, and disability to support the fair application of this policy.

## **7. Confidentiality**

7.1 Under the Data Protection Act 2018 and UK General Data Protection Regulation (UKGDPR), all personal and sensitive information, however received, is treated as confidential. This includes:

- Anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff, or board member.
- Sensitive organisational information.

7.2 We will ensure that we only involve other agencies and share information where there is a legal basis for processing the information or we are signed up to UKGDPR compliant Information Sharing Protocol.

7.3 We will treat all information received from complainants in relation to this policy in confidence and will seek residents' consent before sharing any information.

7.4 There may be some instances where Housing Solutions will be obliged to share information with a third party due to legal requirements, such as where there is child protection or vulnerable adults' concerns. Any information would be shared in accordance with data protection requirements.

7.5 We may also share information regarding anti-social behaviour with other partners as part of their commitment to Community Safety partnerships. Section 115 of the Crime and Disorder Act 1998 allows information to be shared in the prevention and detection of crime and disorder. Any information would be shared in accordance with data protection requirements.

## **8. Review**

- 8.1 This policy will usually be reviewed on a three-yearly basis or more frequently in response to changes in legislation, regulatory guidance, good practice, or changes in other relevant Housing Solutions' policy.
- 8.2 We will monitor our performance in relation to the delivery of our ASB service and activities set out in this policy on an ongoing basis through our established reporting mechanisms to our Executive Team, Board, and associated committees.



## Appendix A – ASB Interventions

### Non legal

There are a range of (non-legal intervention) tools available to manage Anti-Social Behaviour and nuisance including:

- Interviewing the alleged perpetrator
- Mediation
- Acceptable behaviour contracts
- Good neighbour agreements
- Extension of starter tenancy
- Referral to support / partner agencies (Before making referrals always ensure you have consent to share information) unless there is an immediate risk of harm or threat to life.
- Warning letters
  - **ASB 1 letter** – notifying the alleged perpetrator that a complaint has been received - at this stage we do not know if it is justified or not.
  - **ASB 2 letter** – warning the alleged perpetrator that we have received reports of alleged Anti-Social Behaviour (outlining the allegations and breaches of tenancy)
  - **ASB 3 letter** – warning the alleged perpetrator that despite previous warnings we are still receiving complaints and, that if further complaints are received, we may need to consider injunction and / or possession proceedings against the perpetrator.
  - **ASB 4 letter** – advising the alleged perpetrator that it is will be our intention to commence injunction and or possession proceedings against the perpetrator.
  - **ASB 5 Letter** – advising the alleged perpetrator that a serious criminal offence has been reported to us by the police detailing the findings and our intention to commence legal possession proceedings if the tenant is convicted of a serious criminal offence.

### Legal

There are a range of (legal interventions) available to manage Anti-Social Behaviour and nuisance including:

#### Injunctions

An injunction is a court order that is preventative e.g., ordering a person not to behave in a certain way. They can be used to:

- Protect staff.
- Curtail behaviour.
- Prevent someone entering premises.
- Remove obstructions or building work that has not received landlord permission.
- Exclude perpetrators from specified areas.

The Anti-social Behaviour, Crime and Policing Act 2014 established a new civil injunction which specifically tackles housing related ASB. Key features include that it is a civil injunction, which is obtained on the balance of probabilities test. Adult breaches are

treated as contempt of court, with unlimited fines and up to two years custodial sentencing (using the criminal standard of beyond reasonable doubt)

The housing-related test under Part 1 of the 2014 Act is that the conduct involved is capable of causing nuisance or annoyance that is directly linked to housing.

Injunctions can include both prohibitive and positive measures as to control Anti-Social Behaviour (power of arrest can be attached to prohibitions, but not requirements).

### Demotion of Tenancy

A Demotion Order can be used to reduce the rights (such as the Right to Buy and to a mutual exchange) of a tenant who causes ASB. It also places the tenant's security Tenure on a "probation" period for 12 months (extendable to 18 if poor behaviour persists). If within this time possession is sought, it will be on Mandatory legal Grounds.

### Possession proceedings based on Mandatory grounds (Notice: NOSP grounds 7A)

The new mandatory ground is inserted as a new ground 7A into Schedule 2 of the Housing Act 1988 for assured and assured shorthold tenants. The Court must make a possession order under these provisions if one of five conditions is met.

#### ○ *Condition 1*

The tenant, or a person residing in or visiting the dwelling-house, has been convicted of a serious offence, which was committed on or after 20<sup>th</sup> October 2014:

#### ○ *Condition 2*

A court has found in relevant proceedings that the tenant, or a person residing in or visiting the dwelling-house, has breached a provision of an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014 and:

#### ○ *Condition 3*

The tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under section 30 consisting of a breach of a provision of a criminal behaviour order prohibiting a person from doing anything described in the order, and the offence involved:

#### ○ *Condition 4*

- The dwelling-house is or has been subject to a closure order under section 80, and
- access to the dwelling-house has been prohibited (under the closure order or under a closure notice issued under section 76 of that Act) for a continuous period of more than 48 hours.

#### ○ *Condition 5*

The tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under—

- section 80(4) of the Environmental Protection Act 1990 (breach of abatement notice in relation to statutory nuisance), or
- section 82(8) of that Act (breach of court order to abate statutory nuisance etc.), and
- the nuisance concerned was noise emitted from the dwelling-house which was a statutory nuisance for the purposes of Part 3 of that Act by virtue of section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance).

### Possession proceedings based on Mandatory grounds for possession (Notice: Form 6A S.21)

This notice can be served on starter tenancies and provides mandatory grounds for possession to bring the tenancy to an end.

### Discretionary grounds (Notice: NOSP grounds 12,13 & 14)

The Housing Act 1988 (S.2) allows Housing Solutions to seek possession of a property using.

- *Ground 12* Any obligation of the tenancy (other than one related to the payment of rent) has been broken or not performed.
- *Ground 13* The condition of the dwelling-house or any of the common parts has deteriorated owing to acts of waste by, or neglect or default of, the tenant or any other person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant. For the purposes of this ground, “common parts”, means any part of a building comprising the dwelling-house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses in which the landlord has an estate or interest.
- *Ground 14* The tenant or a person residing in or visiting the dwelling-house-
  - (a) has been guilty of 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, or
  - (b) Has been convicted of –
    - (i) Using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
    - (ii) An arrestable offence committed in, or in the locality of, the dwelling-house.

### Court Undertaking

This is a promise to the court signed by an individual and can be used to address ASB. It is not an admission of guilt, but a promise about future conduct.

### Suspended rights

We can suspend certain rights in connection with ASB as follows:

Mutual exchange: Section 191 of the 2004 Housing Act added a new ground for refusal to Schedule 3. Since 6 June 2005 landlords have been able to refuse an application for a mutual exchange if a relevant injunction or possession order, granted on the grounds of nuisance behaviour, is in force, or if court action to obtain such an order or a demotion order is pending against the tenant, the proposed assignee, or a person who resides with either of them.

The Right to Buy: Since 6 June 2005, section 193 of the 2004 Housing Act has prevented tenants, against whom an application is pending for a demotion or possession order sought on the basis of Ground 2 of Schedule 2 to the 1985 Act (anti-social behaviour), from compelling the completion of a sale until those proceedings have ended. Where a possession or demotion order is granted, the tenant loses their security of tenure and also, therefore, the right to buy (RTB). We can also refuse a RTB application where proceedings are underway using the new mandatory ground for possession under the 2014 Act.

### Leaseholders

Action against leasehold perpetrators will involve injunctions (set out in the 2014 ASB legislation) or Criminal Behaviour Orders. We will use covenants on right to buy sales as a means of demonstrating, both to buyers and their tenant neighbours, that expectations about behaviour are the same for owners as for tenants. We can act against leaseholders for breach of covenant if they (or their tenants) fail to adhere to these requirements. A breach of covenant could result in forfeiture of the lease.