

Resident Services

Anti-Social Behaviour Policy

November 2020

Anti-social behaviour policy 2020

1 Introduction

- A This document explains Resident Services' approach to managing anti-social behaviour in the locality of or on our estates and properties where our tenants and leaseholders are the victim or perpetrator of anti-social behaviour.
- B Harrow has a diverse community with a wide range of ethnicities and cultures which is reflected across residents in our housing stock. We want all our residents to be able to enjoy living in their homes and with this in mind, Resident Services believes that:
- a) Everyone has the right to their chosen lifestyle, providing this does not spoil the quality of life for others
 - b) Everyone should adopt a degree of tolerance and respect for the beliefs, culture and needs of other residents
 - c) Harrow Council also has a wider role to promote and protect the interests of those living within the borough
- C We are dedicated to working with residents to resolve anti-social behaviour. We are committed to delivering services through a non-judgemental, balanced approach. All cases of ASB will be treated fairly, taking into account the needs of all individuals involved, including victims, complainants, witnesses and alleged perpetrators.
- D This document fulfils the requirements of Housing Act 1996 with regards to the publication of the policies and procedures of a local housing authority in relation to anti-social behaviour (ASB).

2 Definition of Anti-social behaviour (ASB)

- A Resident Services has adopted the definition of ASB as stated in the ASB Crime and Policing Act 2014 as:
- “(a) conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
- (b) conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- (c) conduct capable of causing housing-related nuisance or annoyance to any person (ie, directly or indirectly relating to the housing management function)”
- B Examples (not an exhaustive list) of what we do not usually consider as anti-social behavior:
- a) Babies crying
 - b) Cooking smells
 - c) Normal behaviour occurring at unusual times because of different working patterns or lifestyles
 - d) One-off parties

- e) Clash of lifestyles including cultural differences
- f) Children playing in or near their home
- g) Noise transference due to poor sound insulation
- h) Use of normal household or garden equipment unless at unsociable hours

3 Aims

A The main aims (what we want to achieve) of this policy are:

- a) To encourage tolerance of, and respect for, others in the community
- b) To reduce both the incidence and fear of ASB through prevention
- c) To use early intervention to avoid ASB escalating
- d) To encourage residents to take responsibility for their own lives and communities, and to resolve their own problems in a reasonable manner
- e) To send a strong message to our tenants that ASB will not be tolerated
- f) To make it easy for people to report ASB
- g) To be clear about how we will manage ASB cases and be transparent about our decision-making processes
- h) To provide clear expectations to complainants and perpetrators.

4 Objectives

A The main objectives (what we will do to achieve our aims) of this policy are:

- a) Effectively communicate and publicise our approach to managing ASB
- b) To prevent ASB using a wide range of available remedies
- c) Proactively work to identify our most vulnerable tenants and provide appropriate support to prevent ASB
- d) Actively work in partnership with other departments and external agencies to provide a joined-up efficient approach
- e) Provide advice, support and regular updates to complainants, victims and witnesses in accordance with the Data Protection Act.

5 Strategic context

5.1 Building a better Harrow

A When undertaking new build or regeneration of our estates, designing out ASB is intrinsic to the design. When refurbishing our blocks of flats and estates, consideration is given to providing the best affordable security systems providing access to blocks and door entry controls. Such improvements are viewed as beneficial to tackling nuisance behaviour as well as enhancing resident safety.

B While we aim to build much needed additional social housing in Harrow and bring as many empty homes back into use as we can, we know this will never meet all the housing need in the borough. Therefore, our existing social housing stock must be targeted at those who most need it, requiring Housing Services to provide social housing to some of the most vulnerable people in

society.

5.2 Tenancy strategy / policy

- A Introductory tenancies were introduced in Harrow in August 2013. They act as period of probation lasting for 12 months and are given to all new social housing tenants. They provide tenants with an opportunity to show that they can live within the tenancy conditions. This type of tenancy does not provide the same rights as a secure tenancy meaning that a tenant who breaches the tenancy conditions can be evicted more easily. The council believes that the use of introductory tenancies promotes responsibility from the outset setting the path for the remainder of the tenancy.
- B Demoted tenancies were introduced in Harrow in August 2013. A demoted tenancy can only be created by a court order following proven ASB. It lasts for 12 months and provides a tenant with an opportunity to show that they can change their behaviour and live within the tenancy conditions. This type of tenancy does not provide the same rights as a secure tenancy meaning that a tenant who continues to cause ASB following a demoted tenancy can be evicted more easily.

5.3 Tenancy sustainability

- A Tenancy sustainability is at the heart of the work undertaken by Resident Services. We work closely with other Council services and partner agencies to encourage tenant engagement. We refer tenants to floating support and other support agencies such as mental health services and work with tenants' support networks.
- B Council housing is now often only available to some of the most vulnerable people in society; some tenants will have come through periods of street homelessness and others from various institutions. This may result in vulnerable people living in close proximity with other vulnerable people, all of whom may have different ways of expressing themselves and their vulnerabilities.
- C Providing a safe and secure home is central to our work and Resident Services will consider all options to resolve ASB with eviction being the absolute last resort.
- D As a housing authority and a landlord, we have a duty to prevent homelessness. Each potential case of eviction must be considered in a holistic manner as our actions as a landlord may have an impact on our wider homelessness duties.

6 Statutory duties and responsibilities

- A This policy should be read in conjunction with the following legislation

Anti-social Behaviour Act 2003
Anti-social Behaviour, Crime and Policing Act 2014
Crime and Disorder Act 1998
Data Protection Act 2018/GDPR

Equality Act 2010
Housing Act 1985
Housing Act 1996
Housing Act 2004
Human Rights Act 1998
Protection from Harassment Act 1997
Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory guidance for frontline professionals 2019

B This document should be read in conjunction with Harrow Council's

Domestic Abuse Protocol Policy
Housing Management Policy
Resident Services ASB Procedure
Tenancy Conditions
Tenant Policy

7 Responsibilities and obligations

7.1 Landlord responsibilities

A As a landlord, we have a duty to respond to ASB where our tenants and residents are either victims or perpetrators as well as responding to behaviour that affects our housing management function.

B A list of tools available to Resident Services acting in its landlord capacity to tackle ASB can be found at Appendix 1.

7.2 Tenants' obligations

A All tenants have a responsibility to ensure that they, members of their household and their visitors comply with the tenancy conditions. The conditions contain specific clauses regarding anti-social behaviour including domestic abuse and hate crime.

B London Borough of Harrow has a diverse community with a wide range of ethnicities and cultures which is reflected across the council's housing stock. Our aim is that tenants should be able to enjoy their home without interference while respecting their neighbours and the diversity of the wider community. Where it is safe to do so, Resident Services will encourage and support victims to try to resolve issues by speaking directly to the other party

7.3 Leaseholders' obligations

A All Harrow Council leases all contain similar clauses prohibiting anti-social behaviour by the leaseholder. Where a leaseholder sub-lets their property, the leaseholder is responsible for addressing anti-social behaviour by their sub-tenant. Harrow Council may take action against a leaseholder who is not fulfilling the obligations of their lease.

8 Domestic abuse and hate crime

- A Incidents of domestic abuse and hate crime are criminal offences and should be reported to the police. The Council has corporate Council-wide policies for dealing with such offences.
- B We will work with and assist other specialist agencies to provide safety and support to the victim and to assist with any enquiries to take action, if appropriate, against the perpetrator. They are also breach of tenancy which may result in enforcement action.

9 Policy Statement

9.1 Over-arching policy regarding ASB

- A The points below reflect Resident Services' over-arching policy with regards to ASB
 - a) Resident Services expects that, where safe to do so, residents will attempt to resolve disputes between themselves and their neighbours in an amicable manner before reporting a problem to the Council. Residents may be unaware that their behaviour is causing a problem unless it is brought to their attention.
 - b) This policy refers to the victim and perpetrator. These terms are used for clarity not judgement. The term victim also encompasses complainants (although it is recognised that they are not necessarily the same person). At all stages, the perpetrator is the alleged perpetrator until they admit to the behaviour or the evidence substantiates the allegations. A victim may also be a perpetrator and in particular when dealing with vulnerable tenants there may not be a clear distinction prompting the need for close working relationships with support agencies. All complaints of ASB are categorised according to their level of seriousness determining the initial response time. We will always keep an open mind and change the categorisation if a case increases or reduces its level of seriousness.
 - e) We adopt a victim-based approach meaning that cases may be dealt with differently depending on the wishes / needs of the victim.
 - f) Investigations will start at the earliest opportunity after receipt of the complaint and be conducted with all reasonable speed which is variable depending on the complexity of the investigations. Remedies and/or responses will range from advice, conciliation, mediation and support for tenants' own actions through to enforcement or legal action.
 - g) Action against perpetrators will include use of any currently available legal and non-legal remedies. Legal and non-legal remedies may be used at the same time.
 - h) A tenant is responsible for the behaviour of members of the household and their visitors. Therefore, any action taken by Resident Services is directed at the tenant who may not necessarily be the perpetrator of the behaviour. Remedies sought must be proportionate and reasonable taking into consideration the perpetrator's relationship with the tenant and the tenant's behaviour.
 - i) All complaints will be treated with sensitivity and with discretion to

- ensure that a victim is not put at further risk from a perpetrator.
- j) In cases of disputes between neighbours, if there is a possibility of effective mediation, this will be offered as a reasonable solution.
 - k) The primary focus is to stop the perpetrator's anti-social behaviour. Possession proceedings in anti-social behaviour cases will only be instigated in the most serious of cases.
 - l) Criminal behaviour will be referred to the police for investigation and Resident Services will provide any necessary support for such an investigation. The outcome of a criminal investigation may, in some circumstances, result in separate action by Resident Services.
 - m) Resident Services will not generally re-house victims but will seek to resolve and remedy the situation by tackling the perpetrator about their anti-social behaviour, apart from where re-housing is absolutely necessary in the most serious of cases.
 - n) We take into consideration the wishes and needs of the victim, including the impact the ASB has on the victim and the community, along with the outcome that the victim is hoping for, bearing in mind that our response should be proportionate to both the victim and the perpetrator.
 - o) Harrow Council considers it can be most effective in combating ASB if it retains flexibility and discretion dependant on a case-by-case basis adapting our responses as required by specific cases. We will also incorporate best practice and legal precedent as they evolve.

9.2 Reporting incidents of ASB

- A Anti-social behaviour can be reported online through the council's website, by phone, email or in person. Reports of ASB can be made by the individual concerned or through a third party. A victim can retain anonymity although this may place limitations on any subsequent investigation. Reports of criminal activity should also be made direct to the police.
- B Making false or vexatious complaints about other people is a breach of tenancy and may be harassment or other criminal behaviour. Resident Services will take appropriate action where there is evidence of such complaints.

9.3 Casework management

- A We adopt a victim-based approach meaning that cases may be dealt with differently depending on the wishes / needs of the victim. However, the general approach will follow the principles as below:
 - a) Opening a case
 - b) Contacting the victim - this will be done at the earliest opportunity to gather basic facts and explain the process.
 - c) Preparing an action plan with the victim. This may include agreed actions and timescales for the victim and/or Housing Services and frequency of updates
 - d) Contacting the perpetrator – this may vary depending on the individual case, the severity of the alleged behaviour and the victim's wishes
 - e) Serious incidents - domestic abuse and hate incidences. We will work with and assist other specialist agencies to provide safety and support to

the victim and to assist with any enquiries to take action, if appropriate, against the perpetrator

- f) Progressing a case and gathering evidence
- g) Review of available remedies – Resident Services has a range of formal and informal remedies available- see Appendix 1
- h) Referrals to Legal Services where appropriate
- i) Case closure

9.4 Support of victims and witnesses

- A We take all complaints of ASB seriously; complaints will be quickly acknowledged and will initially be investigated by an appropriate member of staff.
- B It is essential to the success of any legal action that we can use available information, including evidence provided by victims or witnesses. Where witnesses are prepared to give evidence directly, this makes the case significantly stronger as they can often identify the perpetrators of ASB in court and describe the effect ASB has on their lives by providing impact statements.
- C However, witnesses must be aware that if they agree to provide evidence directly this will mean giving witness statements in which their details will be disclosed to the perpetrator.
- D Council officers can also give evidence on behalf of a resident without revealing their identity, which is known as ‘hearsay’ evidence. This does not carry as much weight in court as there is no opportunity to challenge it or to know the source of the evidence.

9.5 Community Trigger

- A Victims may use the [Community Trigger](#) to demand action, starting with a review of their case where problems persist because of no or inadequate responses from agencies. The Community Trigger may be used by the victim or by any person acting on behalf of the victim.
- B Agencies including the police, local authority and local health teams have a duty to undertake a case review where requested and the case meets the threshold. Harrow Council has an agreed threshold of three complaints within six months.

10 Rehabilitation of perpetrators

- A We will take appropriate action against those who have committed ASB making use of the full range of remedies which may include referral to appropriate support agencies or specialist projects. Eviction of tenants is considered in the most serious of cases, but is generally seen as the last resort. We seek to support tenants in their own home and only move tenants who have been the victims of ASB in the most extreme circumstances.
- B Wherever appropriate we will use positive requirements within agreements or injunctions, thereby seeking to promote rehabilitation or lessen the impact of

negative lifestyle choices.

11 Multi-agency working

- A The ASB Crime and Policing Act 2014 requires that local housing authorities should work in partnership with a variety of agencies to provide a joined-up approach to tackling ASB. The statutory guidance states “Solutions need to be jointly developed by local agencies, each bringing their own experience and expertise to work together with communities and victims.”
- B Resident Services works closely with partner agencies and other council departments, attending multi-agency panels and meetings. Resident Services attends professionals’ meetings comprising other council services and partner agencies to discuss individual cases and find sustainable solutions. Appendix 2 contains a list of current multi-agency and council-wide panels and meetings where ASB may be discussed.
- C Resident Services seeks to work with other council services and external agencies whilst each party follows its own professional opinion and policies when deciding how to pursue a case. Tenancy sustainability is at the heart of Resident Services’ aims and culture, eviction is only sought as a last resort where the tenant’s behaviour is of the most serious nature and is the appropriate remedy in the professional opinion of housing officers.

12 Data protection

- A It is our policy to gather and share personal information for the prevention and detection of crime. This includes requesting information from the police and other partner agencies. All information will be retained in line with the provisions of the Data Protection Act and will be shared with other agencies as allowed by law.

13 Confidentiality

- A With limited exceptions, all information received is treated in confidence. Exceptions arise where there is a duty to report to another authority or agency, for example, to prevent a crime or where a child is in need and there is a requirement to contact Children’s Services. We may also be required to make disclosure in legal proceedings or by court order.

14 Protection of staff

- A Staff safety is a primary consideration. Staff and contractors are encouraged to report any incidents of ASB that occur while working on our estates or in tenants’ homes. The ASB policy and procedure applies equally to staff and contractors carrying out their housing management function as to residents’ occupation and enjoyment of their homes.

15 Training

- A All relevant members of staff will be trained on this policy and refresher training will be offered at regular intervals to ensure that staff understand the

implications of this policy and are aware of any changes to legislation or best practice.

Signed off by	<i>B Dhaliwal</i>
Policy/procedure owner	Beljit Dhaliwal, Resident Services Manager
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Author	Roz Seedburgh
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Appendix 1

This is an outline of the main remedies available to Resident Services in its capacity as landlord to resolve ASB. It is not an exhaustive list.

Acceptable Behaviour Agreement (ABA)

Used for anyone over 10. They are a voluntary agreement entered into between the offender, the local authority and any involved partner agencies. Can help identify problems that may be leading to the ASB. ABAs are not legally binding but may be used in court as evidence of non-engagement.

Banning letters

Used where a perpetrator has threatened officers or contractors and the methods of contact available to them is to be limited to specific methods, such as only speaking to a manager or only by letter/email.

Civil injunction

There are two separate tests for applying for a civil injunction. The application can be with or without notice.

Non-housing related – conduct that has caused, or is likely to cause, harassment, alarm or distress to any person.

Housing related – conduct is capable of causing nuisance or annoyance to a person in relation to that person's occupation of their home or the conduct is capable of causing housing-related nuisance or annoyance to any person.

A housing related injunction can be used to take civil action against any person over the age of 10 and can be used against a tenant, family member or visitor (under 18s must consult with Youth Offending Team and inform any other relevant body). An injunction can include prohibitive and positive requirements. Positive requirements must be supervised and be capable of enforcement. A power of arrest can be attached to an injunction.

Closure notice

Available to local councils or the police to issue out of court to close premises which are being used or likely to be used to commit nuisance or disorder. A closure notice lasts for 24 hours if issued by a council officer (but 48 hours if issued by the Chief Executive or designate) but cannot prevent the tenant or other residents from using the premises.

Closure order

Every issue of a closure notice must be followed by an application to a magistrates' court for a closure order (whether or not the closure order is required). The court is required to hear the application within 48 hours of the service of the closure notice (excluding Christmas Day). A closure order can exclude tenants from using the premises.

Compensation for criminal damage

Resident Services will seek compensation for criminal damage caused to Council owned property in all appropriate cases.

Counselling or support agency referrals

Such referrals may be appropriate or beneficial for the perpetrator or victim. Substance or alcohol misuse can be at the root of much low-level crime but may also add to a victim's vulnerability. Civil injunctions allow for positive requirements and counselling and support referrals will form the basis of many such requirements.

Demoted orders

A demoted tenancy is a one-year probationary tenancy with less security than a normal council tenancy. We use demoted tenancies to take action against tenants who have been involved in antisocial behaviour. Demoted tenants can be evicted much more easily than secure council tenants.

Eviction

See possession proceedings

Good neighbour agreement

An agreement arrived at in consultation with a group of neighbours to promote respect and tolerance in a neighbourhood.

Introductory tenancy

This type of tenancy places a new tenant on probation for the first 12 months of their tenancy. It provides a tenant with less security than a secure tenancy and has a simplified process for ending the tenancy.

Joint visit from housing officer and police or safer neighbourhood team

This may be used as a stronger verbal warning, showing that partner agencies are aware of the behaviour and therefore more agencies will be involved in seeking to prevent it.

Lease conditions

Leases set out accepted standards of behaviour for leaseholders. Leaseholders who sub-let their homes are responsible for ensuring that their sub-tenants comply with the lease conditions.

MARAC referral

MARAC is the Multi-Agency Risk Assessment Conference where high-risk cases involving domestic abuse are discussed. Referral to this group ensures that serious/high risk cases are addressed by a range of agencies, rather than one agency tackling a problem in isolation.

MASH referral

MASH is the multi-agency safeguarding hub. Referral to this group ensures that serious/high risk cases are addressed by a range of agencies, rather than one agency tackling a problem in isolation.

Mediation

Mediation brings all parties together and may be effective where there are neighbour disputes, lifestyle conflicts or where there are counter allegations. Both parties must be willing to participate in mediation.

Notice of Seeking Possession (NSP)

Serving a NSP is the first step in the legal process of gaining possession of a tenant's home. There are specific grounds for serving a NoSP on the grounds of anti-social behaviour and such grounds do not require four weeks' notice before applying to court for a possession order.

Possession proceedings – discretionary

Immediately following service of a NSP on the grounds of ASB, the Housing Department may apply to court for a possession order. The court may award the order at its discretion where it believes it is reasonable to do so. The court may suspend the order on conditions or make an outright order.

Possession order – mandatory grounds

These grounds seek to remove the courts' discretion when the council is asking for possession in certain circumstances. There are five applicable categories

- Convicted of a serious offence (specified in Housing Act 1985 Sched 2A)
- Found by a court to have breached a civil injunction
- Convicted for breaching a Criminal Behaviour Order
- Convicted for breaching a noise abatement notice
- Tenant's home has been closed for more than 48 hours under a closure order

The offence or breach must have occurred in the locality or affected a person with the right to live in the locality or affected the housing management function.

The tenant must be offered the right of review and the court must be satisfied that there is no human rights defence.

Preventative measures

- Clear and consistent messages at sign up and throughout the tenancy

- Designing out crime on our estates
- Introductory tenancies
- Restrictions on the right to buy and mutual exchange
- Multi-agency and partnership working
- Publicity from successful cases
- Well-maintained estates

Tenancy conditions

Tenancy conditions set out the expected standards of behaviour. Tenants who do not keep to the tenancy conditions place their tenancy in jeopardy as a breach of the tenancy conditions is a ground for serving a Notice of Seeking Possession

Verbal warnings

As and when appropriate and noted on the tenant's file.

Written warnings

A written warning set out the anti-social behaviour complained of and gives notice of further action that can be taken if the behaviour recurs.

Appendix 2

Council-wide multi-agency panels or meetings (current as of July 2020)

Panel or meeting	Frequency	Housing representation
Channel Panel	Monthly	As and when
Intensive Offender Management (IOM)	Monthly	Yes
Multi-agency Child Exploitation Panel (MACE)	Monthly	As and when
Multi-agency Public Protection Arrangements (MAPPA)	Monthly	Yes
Multi-agency Risk Assessment Conference (MARAC)	Weekly	Yes
Safeguarding Adults' Board	Quarterly	Yes
Safeguarding Children's Board	Quarterly	Yes
Safer Harrow	Quarterly	Yes
Serious Violence Panel	Monthly	Yes
Safety, Wellbeing and Risk Management (SWARM)	Monthly	As and when
Violence, Vulnerability, Exploitation Meeting (VVE)	Daily	No
Multi-Agency Risk Assessment Panel (MARAP)	Not yet operational	