



Charnwood Borough Council

Housing Services

Statement pursuant of Section 12 of the Anti-social
Behaviour Act 2003

Summary

September 2005

SUMMARY OF POLICY AND PROCEDURES ON TACKLING ANTI-SOCIAL BEHAVIOUR

1 Introduction

Section 218A of the Housing Act 1996 requires all social landlords to publish a Statement of Policy and Procedures on anti-social behaviour ("ASB"). This is the Council's Summary of the Statement. The Statement and Summary will be reviewed as necessary.

2 What is anti-social behaviour?

Charnwood Borough Council follows the section 1 (1) of the Crime and Disorder Act 1998 definition of anti-social behaviour. This section defines anti-social behaviour as "acting in an anti-social manner as 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 complainant".

The Council also uses the definition provided in the Housing Act 1996 (as amended by s.12 ASB Act 2003) section 218A (8) which is conduct which:

,is capable of causing nuisance or annoyance to any person; and
directly or indirectly relates to or affects the housing management functions of a relevant landlord;
or
consists of or involves using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose.

Broadly speaking, anti-social behaviour is anything that interferes with the peace, comfort and convenience of other people. Some of the most common anti-social behaviour problems are listed below:

Noise Nuisance (examples include)

- Loud televisions, music, stereos
- Rowdy parties
- Noise from DIY
- Use of domestic appliances at unreasonable hours
- Abusive language
- Persistent car/burglar alarms
- Domestic abuse - physical or verbal

Nuisance from Pets and Animals (examples include)

- Noise from barking dogs
- Unsupervised animals
- Animals fouling communal areas
- Animal cruelty
- Keeping Dangerous Animals

Untidy Gardens (examples include)

- Overgrown gardens
- Nuisance from Bonfires
- Rubbish in Gardens
- Vermin in Gardens

Children and Young People Causing a Nuisance (examples include)

- Verbal and physical abuse
- Vandalism and graffiti
- Riding bikes on footpaths and grassed areas
- Bullying
- Criminal damage
- Excessive noise from their activities

Nuisance from Vehicles (examples include)

Abandoned vehicles- including cars, vans, trailers and caravans
Vehicle repairing that is an eyesore and a danger to the public
Excessive noise from vehicles

Rubbish Dumping (examples include)

Storing rubbish/old furniture in gardens
Fly-tipping
Dumping of rubbish in a communal area or on open land

Drug or Alcohol Misuse (examples include)

Criminal activity e.g. drug dealing
Public disturbance
Excessive visitors to property
Noise and verbal abuse

Harassment (examples include)

Verbal or written abuse
Abusive behaviour
Racism
Use or threats of violence
Physical assault
Damage to property

3 What is our general approach to anti-social behaviour?

As a *Landlord* our approach to ASB can be summarised as follows:

- _ We are firmly committed to tackling ASB;
- _ We expect our residents to accept a certain level of noise from day to day living and be tolerant of other people's life styles;
- _ We actively promote **prevention** to foster an environment where anti social behaviour is less likely to arise in the first place.
- _ We use our **enforcement** powers in appropriate circumstances and in particular where all other attempts at resolution have either failed or have been exhausted.
- _ Our racial and other harassment policies and procedures are a key part of our strategy to tackle ASB.
- _ Our general approach to ASB is compatible with relevant law.

Reducing crime, disorder and ASB is a major concern for all Charnwood residents and as such is a key part of the Council's overall strategy from the highest level.

4 Who deals with anti-social behaviour?

As a Landlord the Council recognises that it can achieve far more by working with other agencies to tackle ASB rather than working alone. We play an important role in a wide variety of multi-agency partnerships ranging from partnerships at the highest level, including the Crime and Disorder Reduction Partnership (CDRP).

Tenancy services Team

This Team carries out the Council's housing management and landlord duties, including those relating to ASB.

4

5 What are the obligations of tenants?

The Council has comprehensive Conditions of Tenancy in place for all tenants, with a specific section covering ASB, which make it clear that all tenants are responsible for the behaviour of all members of the household, including children, lodgers and visitors.

6 How do we help prevent ASB?

This is through various means:

- _ **Conditions of Tenancy** - the Council has comprehensive Conditions of Tenancy with detailed nuisance clauses in Section 4 in the Tenancy Agreement.
- _ **Introductory tenancies** – all new tenants are given an “introductory tenancy” lasting for the first year. After 12 months the tenant becomes secure unless we have started legal action to gain possession. *As part of the introductory tenancy scheme* a housing officer will go through the Conditions of Tenancy with the new tenant when they sign their new tenancy agreement. The housing officer will also aim to visit all new tenants to discuss any problems or difficulties they may be experiencing.
- _ **Neighbourhood wardens** – can provide both a deterrent to those who cause anti-social behaviour and a safer environment for residents.
- _ **Acceptable Behaviour Contracts (ABCs)** – are an early intervention means of tackling ASB by young people, normally aged between ten and eighteen.
- _ **Multi-agency partnerships** – we have both informal and formal agreements with our partnership contacts at both the highest level and at operational levels operating across the Borough.
- _ **Tenancy support schemes** – Independent tenancy support service has been provided for some years, currently offering a housing support service for vulnerable tenants.

7 _Racial and other harassment policies

The Council is committed to eliminating discrimination in both service delivery and employment.

Racial and other harassment

The Council is committed to stamping out all forms of harassment in its housing stock. The main parts of the Council's harassment policy are preventing harassment, supporting victims, taking action against those responsible for harassment and working with other agencies to tackle the problem.

8 Domestic violence policy

The Council has adopted policies and procedures to deal with domestic violence and works closely with other agencies

9 Working with perpetrators and support for vulnerable groups

The Council recognises that perpetrators of ASB may in some cases require support from specialist agencies to address problems such as drug and alcohol dependency or mental health needs. In general we only take enforcement action against the perpetrators of ASB, including juveniles, after all other interventions have been exhausted.

10 Data protection and information exchange

Data Protection Act 1998

The Council ensures that personal data is handled properly and confidentially. Any disclosure of personal data is carried out in line with the provisions of the Data Protection Act (DPA) 1998. In general, personal data cannot be disclosed from one party to another, although there are certain exemptions to this which allow the Council to process personal information for example to prevent or detect crime.

Information Sharing Protocol

There is an agreed Information Sharing protocol to facilitate the exchange of information pursuant to the power contained in s115 of the Crime and Disorder Act (CDA) 1998.

Freedom of Information Act 2000

This Act gives a general right of public access to many types of recorded information held by public authorities, although there are a number of exemptions which will be considered before information is disclosed.

Regulation of Investigatory Powers Act 2000

The Council ensures compliance with the Regulation of Investigatory Powers Act 2000 (RIPA), which regulates the use of covert surveillance.

11 Publicity

Publicity is dealt with on a case by case basis in liaison with the Council's Corporate Communications Team.

12 Cross tenure issues

The Council's housing stock, and neighbouring residential accommodation, is occupied by a variety of tenures. In appropriate cases the Council will consider using its enforcement powers to tackle ASB by people who are not resident in its own Landlord managed stock. We will also consider appropriate action to protect people who are not our tenants from ASB perpetrated by Council tenants. The Council's standard form of lease requires leaseholders not to allow nuisance within their home, which may annoy or cause inconvenience to their neighbours.

13 Protection of staff

The Council has developed policies to protect staff in accordance with its duties under common law and statute. Exposure to violence and assault is not an acceptable part of an employee's everyday working life and we will take all reasonably practicable measures to prevent or reduce the risk of such exposure.

14 Training of staff dealing with anti-social behaviour

The Council ensures that staff are properly trained on topics related to ASB.

The following sections outline the Council's procedures on tackling ASB:

15 How can ASB be reported?

ASB can be reported Council Offices or to one of our partnership contacts, including the police and details are given at the end of the Summary. Complaints can be made by telephone, in person, e-mail, in writing or by someone acting on behalf of the resident. Where possible, anonymous allegations of ASB are investigated.

16 How will complaints be processed?

With very limited exceptions all complaints will be treated in confidence. Translation services or an interpreter may be provided if required.

Responding to the complaint

Some serious incidents may need a response in a few hours. where resources permit. In other cases, housing officers will aim to make initial contact with the complainant within 2 working days.

STAGE 2 Agreeing action to be taken

The Housing Officer will investigate the incident, making independent enquiries where possible. The Housing Officer is likely to ask the complainant what the problem is, when and where does it happen, whether he or she knows the name of the perpetrator(s), what effect is it having and whether there were any witnesses. The complainant may also be asked whether he or she is prepared to make a statement or give evidence, should enforcement action be taken. As part of these investigations the Housing Office will ordinarily interview the perpetrator as well. If the alleged perpetrator accepts that they have caused a problem they will be asked not to cause a nuisance again and warned that if they do so further action may be taken. If it has not been possible to resolve the complaint at this stage the Housing Officer will advise the complainant on options and, where appropriate, agree a course of action for tackling the problem. The complainant will be asked to record any future incidents of ASB on diary sheets. The case will be logged in the appropriate category for nuisance recording statistics

STAGE 3 Supporting complainants and witnesses

The Council is committed to supporting complainants by dealing with complaints promptly, keeping them up to date with developments relating to the case and ensuring that they are referred to appropriate support services where necessary, such as the police.

Where enforcement action is taken to deal with ASB, the Housing Officer will consider the use of civil remedies, such as injunctions to protect a complainant.

—

Where there is a court hearing, the Housing Officer will

- _ Advise, as far as can be anticipated what is likely to be required of witnesses and the questions they may be asked in relation to their evidence
- _ Consider assisting with transport to and from the court where possible.

After any court hearing, the Housing Officer will:

- _ Inform witnesses of the outcome of the hearing
- _ Provide ongoing witness support, if necessary and if appropriate.

Options to tackle the problem

In many cases where a report of ASB is received, an interview or a warning letter from a housing officer will be enough to stop the behaviour. However, there are situations where these early warnings are ignored.

Enforcement action is normally only considered when all other options have been exhausted. The Council uses a range of methods to tackle ASB, including legal and non-legal options.

Mediation – is a process in which a neutral and independent mediator helps people in dispute come together to resolve their disputes, rather than imposing solutions on them. It can help stop disputes escalating and provide a speedy solution, particularly where disputes are fairly new and where both parties are willing to try it on issues such as noise, children, rubbish, animals or harassment.

Acceptable Behaviour Contracts - are individual written agreements made between a young person, normally aged between ten and eighteen, the police and the Council in which the young person agrees not to carry out particular types of behaviour that have been identified and agreed as antisocial.

- _ If the young person agrees to sign up to the process the ABC will be drawn up listing the type of behaviour agreed to be anti-social, such as congregating in stairwells and writing graffiti.
- _ The ABC normally lasts six months. It is not legally binding but if serious ASB persists enforcement action, such as an application for an ASBO or possession proceedings may be taken using the ABC as evidence that attempts were made to change the individual's behaviour.
- _ The agreement is signed by all parties, with a copy given to the young person and their parents

Anti-social Behaviour Orders (ASBOs)- are civil orders prohibiting certain behaviour and prescribing exclusion zones for named individuals. They last a minimum of 2 years and can be made against any person aged 10 years or over. Applications for ASBOs must be made within 6 months of the behaviour complained of. Breach of an ASBO is a criminal offence. An ASBO will not ordinarily be used as a first option in dealing with ASB.

Before seeking an ASBO, the Council will consider whether an order is necessary to protect people from further acts of ASB by the individual and whether alternative remedies have been considered and either failed or not been considered appropriate.

If the behaviour continues despite the ASBO, possession proceedings may be considered.

Injunctions – are Court orders that may either tell someone not to do something or compel action by telling someone what to do. They are unlikely to be obtained against anyone under the age of 18. A person who fails to comply with the terms of an injunction is in contempt of court. This is a criminal offence and could lead to a fine or imprisonment.

Injunctions can be useful:

- _ When there is a need to exclude a person from specified places or areas
- _ In emergencies when a quick result is needed
- _ To protect witnesses from the threat of violence
- _ When there is a need to take action against one person in a household, not the whole family
- _ When it is important not to displace ASB

A power of arrest can be attached to an injunction, so that if it is breached, arrest may follow. The Court will usually only grant an injunction as a last resort. Thus to succeed in obtaining one, we try to show the Court that we have exhausted all other options.

Possession Proceedings - are usually a last resort, when other appropriate methods of trying to stop the ASB have either failed or been exhausted.

Such proceedings may be considered if there has been a serious breach of the tenancy conditions, such as serious and persistent noise nuisance or if the tenant or a member of the household has been convicted for using their home for unlawful purposes or for drug dealing in the local area.

The court must be satisfied that it is reasonable and proportionate to grant possession. It has powers to adjourn, stay, suspend or postpone the date of possession and can impose conditions. Where the Court grants possession it can make either an Outright order, which grants possession to the landlord forthwith or after a specified period, typically 28 days or a Suspended order, under which the possession order is suspended, subject to conditions to which the tenant must keep. Alternatively, the Court may accept an undertaking from the defendant to the court not to continue committing the nuisance or ASB.

If an outright order is granted or if the terms of a suspended order are broken it is highly likely that the Council will seek to evict the tenant.

Possession action against introductory tenants follows different procedures.

Under the Introductory Tenancy scheme, the Council does not have to prove to the Court any of the grounds set out in the Housing Act 1985 for seeking possession. The Court must make a possession order where it is satisfied that the statutory notice and review procedures have been carried out lawfully.

Demotion Orders - may be sought in Court where we do not wish to evict the tenant from the property outright, but need to give a very strong warning to the tenant about ASB.

If the Demotion Order is granted, the tenancy is reduced to a less secure form of tenancy. Some tenancy rights will be lost such as the right to buy and right to exchange with another tenant. The period of demotion will initially be for 12 months but may be extended if we make a claim for possession during this period. In circumstances where a claim for possession is made the tenant has a right to request a review of the decision.

Other legal action

Other powers are available to tackle ASB including:

- _ The Environmental Protection Act 1990 (EPA) can be used for noise complaints where the noise is defined as a statutory nuisance.
- _ The Protection from Harassment Act 1997 can be used by the police to protect people subject to serious harassment.

—

Closing a Case

When a complaint of ASB is received, the Council aims to investigate, monitor and progress the case to its conclusion.

If the complainant is not happy with the service they have received, they can make a formal complaint through the Council's corporate complaints procedure. Details of this scheme and a form on which a complaint can be made are contained in the leaflet "Have your say?"

17 Data collection

Statistics on the different types of ASB and on the actions taken in response are held by the Council.

18 Monitoring ASB and the service

The purpose of collecting this information is to:

- _ Identify geographic "hot spots"
- _ Highlight key priorities and areas of concern
- _ Target resources appropriately
- _ Evaluate success of initiatives to combat ASB

19 Conclusion

This summary on policy and procedures is intended to demonstrate the Council's commitment to dealing properly and effectively with ASB. The Policy section aims to give readers an overview of the principles underlying our approach to ASB. The statement on procedures provides information on how reports of ASB are processed and on the range of options available to tackle ASB. If detailed information is required, a copy of the full statement of policy and procedures should be consulted.

:

Contacts

Housing Services

If you are experiencing nuisance and you believe that the person causing the nuisance is a tenant of Charnwood Borough Council, you should report the problem to Housing Services either in writing, by telephone or in person. You should give your name, address and a contact number when reporting a problem. This is because it is very difficult to take action against anonymous complaints. All complaints will be treated in the strictest confidence – your identity will not be revealed to the person you have complained about without your prior permission.

To report a problem to **Housing Services: telephone 01509 634567**

OR

Write to: **Housing Services**

Charnwood Borough Council

Southfields

Loughborough

OR

E-mail: **housing@charnwood.gov.uk**

Environmental Health

Environmental Health is responsible for dealing with statutory nuisance from private housing and business e.g. shops, offices and factories. A statutory nuisance is something that is likely to cause injury to health or something that causes the average person 'unreasonable interference with the enjoyment of their property'.

The main types of statutory nuisance are:

- Unacceptable levels of noise
- Build up of refuse, animal faeces or waste materials
- Fumes, gases and offensive odours
- Smoke from burning materials
- Premises in an unacceptable condition

To report a problem **to Environmental Health**, phone: **01509 634636** during office hours or **01509 643979** outside office hours.

Community Safety Unit

The unit is part of the Policy and Planning Team at Charnwood Borough Council and one of their roles is to co-ordinate the Council's response to ASB

(01509) 634920

OR

e-mail

Communitysafety@charnwood.gov.uk

LEICESTERSHIRE POLICE

You should report anti-social behaviour that is of a serious and criminal nature to the Police.

Examples of behaviour that you should report to the Police include:

- Criminal damage
- Harassment – this includes racial harassment
- Use or threats of violence
- Drug or alcohol misuse
- Vandalism
- Graffiti – this includes racists graffiti
- Dangerous dogs
- Public disturbances

To report a problem to the Police, phone: **0116 222 2222**

In an emergency - dial 999