

Agenda Item 10

**Recommended Item
Scrutiny Committee 29th April 2008**

974. ANTI SOCIAL BEHAVIOUR POLICY

The Housing Enforcement Manager presented the report which had been developed through the Patch Management process and approved by PPMG2. The policy set out the Council's process of dealing with anti social behaviour throughout the district.

Moved by Councillor J.E. Smith, seconded by Councillor J.A. Clifton.

RESOLVED that the Anti Social Behaviour Policy be accepted.

RECOMMENDED that the Anti Social Behaviour Policy be forwarded to Executive for approval.

(Democratic Services/Executive)

Committee:	Scrutiny	Agenda Item No.:	11.
Date:	29 th April 2008	Category	
Subject:	Anti Social Behaviour Policy	Status	Open
Report by:	Housing Enforcement Manager		
Other Officers involved:			
Director	Chief Executive Officer		
Relevant Portfolio Holder	Housing Community Safety		

RELEVANT CORPORATE AIMS

COMMUNITY SAFETY – Ensuring that communities are safe and secure

The policy aims to formalise the Council's role in achieving the priority of tackling Anti Social Behaviour.

TARGETS

There is no specific target in the Corporate Plan however the policy aims to support the targets to tackle Anti Social Behaviour and its causes.

VALUE FOR MONEY

There is no additional financial impact on the Council as a result of the introduction of the policy.

THE REPORT

The policy is attached has been developed via the Patch management process. The policy has been reviewed by PPMG2 and updated in line with the comments received from the group.

ISSUES FOR CONSIDERATION

The approval of the policy.

IMPLICATIONS

Financial : None
Legal : None
Human Resources : None

RECOMMENDATIONS that

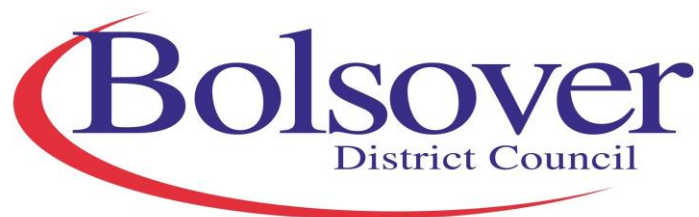
- 1. Scrutiny Committee review and accept the Anti Social Behaviour policy**
- 2. the Anti Social Behaviour policy is forwarded to Executive for approval**

ATTACHMENT: Y
FILE REFERENCE: ASB Policy April 08
SOURCE DOCUMENT:

BOLSOVER DISTRICT COUNCIL

Anti Social Behaviour Policy

January 2008



This Policy addresses the following Corporate Aims :



COMMUNITY
SAFETY



CUSTOMER
FOCUSED SERVICES



ENVIRONMENT



SOCIAL INCLUSION

The District of Bolsover Equalities Statement

The District of Bolsover is committed to equalities as an employer and in all the services provided to all sections of the community.

□ The Council believes that no person should be treated unfairly and is committed to eliminate all forms of discrimination in compliance with the Equality Strategy.

□ The Council also has due regard to eliminate racial discrimination and to proactively promote equality of opportunity and good relations between persons of different racial groups when performing it's functions.

This document is available in large print and other formats from any of the Council Offices or by contacting the Chief Executives Directorate on 01246 242323. Please bear in mind we will need a few days to arrange this facility.

If you need help to read this document please do not hesitate to contact us.

Our Equality and Diversity Officer can be contacted via [Email](#) or by telephoning 01246 242407.

Minicom: 01246 242450

Fax: 01246 242423

CONTROL SHEET

Details of Document	Comments / Confirmation
Title	Anti Social Behaviour Policy
Document type – i.e. draft or final version	Draft Version
Location of Policy	Internet and Intranet
Author of Policy	Housing Enforcement Manager
Member route for Approval & Cabinet Member concerned	
Date Risk Assessment completed	
Date Equality Impact Assessment approved	31 st January 2008
Partnership Involvement (if applicable)	Community Safety Partnership
Policy Approved by	
Date Approved	
Policy Review Date	2010
Date forwarded to CSPD (to include on Intranet and Internet if applicable to the public)	

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Introduction

The Anti Social Behaviour Act 2003 requires Social Landlords to publish a statement of policies and procedures with regard to anti social behaviour for all residents throughout the district. This document meets this legal requirement and is designed to give a clear statement of our approach to Anti Social Behaviour (ASB) including our commitment to eradicate anti-social behaviour, support witnesses and use available legal remedies

This Policy has been developed in line with the Derbyshire wide ASB Protocol which sets out the principles and broad processes of multi- agency working to tackle ASB.

Scope

The purpose of this policy is to ensure Bolsover has fair, transparent and consistent standards in relation to addressing Anti Social Behaviour that occurs within the District. It aims to be comprehensive, clear and accessible to all, so that it is clear how we will deal with all complaints of ASB. It also sets out the standard of behaviour expected of tenants, their households and any visitors to their home.

Multi- agency working

The Council believes that effective solutions to Anti Social Behaviour are not the responsibility of a single agency or organisation. The Council is committed to work with partners to address anti-social behaviour. These partners include but not limited to;

- The Community Safety Partnership and its statutory partners
- Residents and tenants
- The Police
- Social services
- Schools
- Community Groups
- Local businesses
- Victims and witnesses
- Youth Offending Teams
- Leisure Services
- Parenting Practitioner
- County Council
- Registered Social Landlords
- Private Landlords

The Law

In addition to the Housing Acts and Anti Social Behaviour Act 2003, a number of legislative powers have been introduced that have impacted on the way local authorities should deal with anti-social Behaviour. This document is designed to be compatible with those legal requirements affecting the Council, including but not limited to:

- Children Act 1989
- Environmental Protection Act 1990
- Noise Act 1996
- Regulation of Investigatory Powers Act 2000
- Homelessness Act 2002
- Disability Discrimination Act 1995
- Local Government Act 2000
- Data Protection Act 1998
- Crime and Disorder Act 1998
- Human Rights Act 1998 Race Relations Act 1976 (as amended in 2002)
- Equalities Acts
- Clean Neighbourhoods and Environment Act 2005
- Violent Crime Act 2006
- The BERR Statutory Regulators' Compliance Code

Definitions

A legal definition of behaving in an anti-social manner is found in Section 1(1) of the Crime and Disorder Act 1998. It defines ASB 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'.

For the purpose of our duties under the 1996 Housing Act (s.218A), ASB is any conduct which:

Behaviour which is capable of causing nuisance or annoyance to any person and which directly or indirectly relates to or affects the housing management functions of a relevant landlord.

Behaviour which is capable of causing nuisance or annoyance to any of the following:

- 1. A person residing in housing accommodation owned or managed by the relevant landlord.*
- 2. A person visiting the housing accommodation or otherwise engaged in lawful activity in or in the locality of the housing accommodation.*
- 3. A person employed by the relevant landlord wholly or partly in connection with its housing management functions.*

In these definitions:

A 'relevant landlord' could be a local authority, registered social landlord, or housing action trust.

The housing management function of the landlord covers any activity that the landlord would undertake in the day to day running and strategic management of their properties. This could include:

- Maintenance and repairs
- Rent collection
- Estate management

Matters that might 'indirectly' affect the housing management function include environmental clearance and refuse collection and other services that enable the efficient operation of the housing service.

It is also important to note that the anti-social behaviour could be either:

- by a tenant of a relevant landlord, affecting other tenants, owners, or others lawfully using a property or facilities in the local area
- by an owner of a property, or tenant of another landlord, in the local area, affecting tenants of a relevant landlord

Anti-social behaviour may or may not constitute criminal activity. The key factor in deciding whether particular behaviour is anti-social or not, should be the impact of that behaviour on others.

Common forms of anti-social behaviour and neighbour nuisance include, but is not limited to:

- Noise nuisance
- Intimidation and harassment
- Aggressive and threatening language and behaviour
- Actual violence
- Hate behaviour that targets members of identified groups because of their perceived differences
- Using housing accommodation to sell drugs, or for other unlawful purposes
- Damage or threats of damage to someone else's property
- Interfering with the right of someone else to live in their home

Principles

Bolsover District Council is committed to tackling Anti Social Behaviour. Anti Social Behaviour has been given a high priority by the Council which is reflected in both the vision and the Corporate Aims of the Council, the vision states:

“To enhance and improve the wealth profile, well-being and quality of life for the communities of Bolsover district”.

The Policy reflects that the Council is working with its partners to deliver the Corporate Aims which support this vision

Bolsover District Council believes that individuals have the right to live the way they want to as long as it doesn't affect the quality of life of other people around them. This means being tolerant and accepting, and respecting the needs and choices of other people.

To deliver this the Council will:

- Encourage and help individuals to solve their differences wherever possible. This is often the easiest way to solving a problem, as often people do not realise they are causing a nuisance. We will get involved and work with people and other agencies to tackle anti-social behaviour quickly and efficiently.
- Deal firmly but fairly with anti-social behaviour, to discourage such behaviour and to encourage and support others to come forward as witnesses.
- Where possible try to ensure that troublesome families or individuals receive support to help them to modify their behaviour and then to act against those families or individuals who continue to cause a nuisance.
- Commit to making sure our neighbourhoods are peaceful, safe and secure places to live. Recognising that anti-social behaviour can have a severe effect and accept our responsibility to help tackle any problems in a timely manner.
- Take appropriate and prompt actions within our powers when dealing with any disruptive tenants and other people causing a nuisance or harassment in our neighbourhoods and homes.

Policy Statement

Service Aims

The Council will:

- Allow residents to have quiet enjoyment of their home and communities
- Take all reasonable steps to ensure that all our tenants fully comply with their obligations under the terms and conditions of their tenancy
- Respect confidentiality
- Respond to requests, normally within 10 working days, in an effective, sensitive and consistent way
- Investigate thoroughly and take timely, effective action if required
- Encourage customers to help themselves where this is appropriate
- Maintain regular contact with complainants and work with other agencies to provide support packages if necessary
- Not tolerate unlawful discrimination and harassment
- Deal with all cases of harassment in a sensitive and professional manner always taking a victim-centred approach.
- Create the environment where people feel able to report incidents which are racially motivated
- Ensure staff are trained to deal with anti-social behaviour
- Work effectively with partners in dealing with and preventing anti-social behaviour

Obligations of Council tenants

When tenants sign their tenancy agreement, they agree to the conditions contained within the agreement. The standards of behaviour which are expected, not only from the tenant but any other people who occupy or visit the property, are detailed in the agreement..

Where appropriate, the action taken could result in tenants losing their security of tenure, their home, or being subject to an injunction which might lead to their arrest or even imprisonment. However, in many cases such action will not be appropriate and other measures will be considered.

The major conditions relating to anti-social behaviour contained within the tenancy agreement upon which tenants are managed, are:

- Nuisance
- Nuisance by family and visitors
- Harassment
- Damage to property
- Theft and Illegal use of premises

Vulnerable Perpetrators

Issues of vulnerability, for example disability, mental health problems or drug and alcohol abuse, will always be considered. In such cases the relevant provisions of the Disability Discrimination Act and other relevant legislation will be applied, seeking the intervention and support of partner agencies as appropriate.

Juvenile Perpetrators

The Council will always ensure that actions taken against juvenile perpetrators are compliant with our responsibilities under the Children Act and other legislation. It will seek to provide support and intervention in liaison through Derbyshire County Council Children's Services and other relevant youth services and the District's Senior Parenting Practitioner.

Receiving Complaints

For the purposes of this policy a complaint is a request for service made to the Council to deal with the actions or situation of tenants and residents of Bolsover District Council, members of their households and visitors to tenant's homes.

Complaints will be accepted from:

- Neighbours
- Families or friends of neighbour
- Local councillors
- Tenant representatives
- Other staff from the authority.
- Members of Parliament
- Advice agencies such as the Citizens Advice Bureau
- Solicitors
- Other partner agencies working in the District.

Complaints may be made by letter, in person, by telephone or by email. There is no requirement for a complaint to be put into writing.

Upon receipt the complaint will be entered onto the Council's Customer Relationship Management (CRM) system. This complaint will then be passed to the Community Action Network Ranger who will deal with it in the first instance.

Reporting Progress

The Council will agree with the complainant the stage at which they wish to be kept informed. This could be on a weekly or monthly basis. Even if there is nothing to tell the witness, contact will still be made with them to give them an update until the case is closed. This contact may be verbal or written, depending upon the case or needs of the complainant.

The complainant will also receive the name and contact details for the case officer who is dealing with the complaint

Support Package

The Council will offer and undertake referrals to other agencies who can deal with specialist issues such as domestic violence, victim support and home security.

Support will be provided at every significant stage. This support could be when legal papers are served on the perpetrator, giving advice and assistance if the local press are involved, and escorting the witness to court so they feel as safe as possible throughout the process.

The support package will be tailored to meet the needs of the case and the individual.

Support to witnesses and victims.

The level of fear and intimidation that victims and witnesses are living with cannot be underestimated. To work effectively trust and confidence must be established. This support is needed to ensure successful prosecutions.

Any victim or witness needing support will be referred accordingly to the Victim Support Provision, accessed through Derbyshire County Council.

The safety of victims and witnesses will always come first. The Council will endeavour to ensure that no witness is left exposed and has been protected through any enforcement action being taken.

Legal Action

After investigating a case, the ASB Team may decide that legal action is necessary. All cases where legal action is decided will be referred to an "Orders Group Meeting"

Orders Group Meeting

Upon instruction from the ASB Team, the meeting is called to discuss the case, which has been designated in need of legal action. This will include, but is not limited to all Anti Social Behaviour Order applications and ASB Injunction applications.

Any agency involved with the proposed recipient of legal action will be invited to attend the meeting to contribute their views. A consensus will be taken at the meeting in regard to progressing legal action and the quality and strength of evidence presented. Records of the meeting will be kept and stored accordingly. All publicity relating to legal action regarding ASB will be agreed by the Orders Group.

Publicity

It is important to ensure that any publicity relating to Anti Social Behaviour is necessary, appropriate, proportionate and contemporaneous. A decision regarding the publicising of Anti Social Behaviour Orders and Injunctions will be made at the Orders Group meeting. The group will agree the type, distribution and timescales of the publicity.

All publicity will be cleared by the Council's Communications Officer.

Recording Equipment

The Council recognises that it may be necessary to use recording equipment to gather evidence of Anti Social Behaviour. All requests for cameras and other recording equipment to gather evidence for ASB will be referred to the ASB team, who will make the decision on the necessity and priority of the deployment of the equipment.

Anyone utilising covert or overt recording equipment will comply fully with the Regulation of Investigatory Powers Act (RIPA) and the Data Protection Act 1998.

Racial Harassment and Hate Crime

Racial harassment and Hate Crime includes not only physical attacks on persons and damage to property, but also verbal abuse and any other form of behaviour which deprives people of the peaceful enjoyment of their homes and lives.

Hatred is a strong term that goes beyond simply causing offence or hostility. Hate crime is any criminal offence committed against a person or property that is motivated by an offender's hatred of someone because of their:

- race, colour, ethnic origin, nationality or national origins
- religion or belief
- gender or gender identity
- sexual orientation
- disability
- age

Hate crime can take many forms including:

- physical attacks – such as physical assault, damage to property, offensive graffiti, neighbour disputes and arson
- threat of attack – including offensive letters, abusive or obscene telephone calls, groups hanging around to intimidate and unfounded, malicious complaints
- verbal abuse or insults - offensive leaflets and posters, abusive gestures, dumping of rubbish outside homes or through letterboxes, and bullying at school or in the workplace

The Council's definition of a hate crime is:

- Any incident, which constitutes a criminal offence, which is perceived by the victim or any other person as being motivated by prejudice or hate.

Bolsover District Council will not tolerate racial harassment or hate crime in any form.

Bolsover District Council aims to abide by the Good Practice Standards for social landlords on tackling racial harassment as published by the ODPM in 'Tackling Racial Harassment: Code of Practice for Social Landlords (2001)'.

This includes:

- Preventing racial harassment
- Recognising incidents of racial harassment
- Responding to incidents of racial harassment quickly and effectively
- Acting appropriately to support victims and witnesses
- Having clear procedural commitments to respond to incidents of racial harassment
- Developing a clear message is sent to perpetrators that racial harassment will not be tolerated in any form
- Reporting and monitoring all racist and hate crime incidents.

Mediation

Mediation, as a way of resolving conflict can be very effective. The Council will consider and offer mediation to appropriate and suitable cases.

This will usually be undertaken in the early stages of a case involving low level nuisance or ASB. However, it may also be appropriate in circumstances where more serious nuisance is alleged over longer periods.

Domestic Violence

Domestic violence will not be tolerated and the Council recognises that it is an issue not just restricted to partner or former partner abuse, but also occurs in other intimate relationships. Working with the Police, Domestic Violence Outreach Worker and other agencies to use existing legal remedies, including where appropriate, the Housing Act provisions to evict perpetrators of domestic violence.

The Council will :

- Ensure the victim is supported
- Refer to the Domestic Violence Outreach Worker
- Provide safe housing if necessary
- Re-house victims if appropriate
- Work together with other specialist agencies and victims to secure a positive outcome
- Work with the Police Domestic Violence Unit if specific enforcement action is to be undertaken

Parenting

The Council will seek to provide education for parents to empower them to deal with the behaviour of their children as this is accepted as a successful method of dealing with problems relating to low level ASB.

The Council will also seek to support parents where it has taken action against children committing ASB.

Working in Partnership

Bolsover District Council does not work in isolation. The Council is part of the wider community and will share the problems and challenges of that wider community. Anti-social behaviour is a complex subject and it is unlikely that the causes or solutions to it will lie solely within one organisation.

The Council will work together with residents and local agencies such as the

Police, Community Safety Partnership, Social Care, Neighbourhood Wardens, Youth Offending Teams, Education Services, Health Services, Drug and Alcohol Services, other landlords and Probation Services.

The Anti Social Behaviour Team will arrange multi agency case conferences for complex cases. This will ensure that the all the relevant agencies have an input into resolving the case.

Confidentiality

Any information provided to the council will be treated in confidence in line with the Data Protection Act 1998. It will not be passed to the potential perpetrator, without the permission of the person who provided the information.

The Council will accept information anonymously and will investigate this information as far as is possible. Anonymous information can be difficult to substantiated and investigate. However, it can be used to build a picture of particular issues of ASB or support other evidence.

Sharing of information with other agencies

The Council is under a duty to act in order to reduce crime and disorder and will share information where it is necessary in order to achieve this objective. The guidance from the Information Commissioner makes it clear that the Council does have the necessary powers to share information in order to tackle Crime and Disorder.

Information may be shared with other signatories to the Information Sharing Protocol if this is authorised under the Crime and Disorder Act.

Sharing information with tenants and the wider community

Sharing information can help the Council and agencies with whom they work in reassuring tenants and other residents that action is being taken. This may take the form of local media coverage or targeted leafleting.

This action may also act as a deterrent to others whose nuisance behaviour imposes on the quality of life of others. It can also provide tenants and residents with information they need to allow them to report any breaches of injunctive measures which may be served upon perpetrators.

Closure of Cases

The Council will ensure that the complainant is kept fully informed of action taken and when satisfied that no more can be done for a complainant then they will be advised, in writing, when the case is closed.

A case may be closed for a number of reasons:

- a. Action that has been taken has resolved the matter
- b. If, after a reasonable amount of time, there has been no further problems.
- c. There is no evidence of nuisance being caused.

The decision to close a case lies with the case officer. On occasion this may be contrary to the opinion of the complainant

Appeals

If a complainant, or their representative, is unhappy that a case has been closed they have the right to appeal against this decision. The appeal should be received in writing. The appeal will be considered by an officer who is senior to the officer who decided to close the case.

The outcome of the appeal will be confirmed in writing within 10 working days. If a complainant is dissatisfied with the way his/her complaint has been handled by the Council then he/she would have the option of making a complaint under the Corporate Compliments / Comments / Complaints Procedure.

There can be no further appeal to reopen a case unless substantial new evidence or information comes to light.

Repeated Complaints

The Council will not consider a simple re-instatement of a previous complaint as a new complaint. Where a matter has been closed or a decision has been made that no action can be taken then the complainant will be required to provide the Council with significant additional new evidence in order to re-open the matter or review the decision. Such evidence will include a number of further incidents or a serious incident.

The decision to re-open the matter will normally be made within 14 days of receiving a further complaint.

Malicious Complaints

If the Council discovers that a complaint has been made maliciously they will, wherever possible, seek to take legal action against the complainant to ensure that such behaviour is not repeated. In addition future complaints will

not be considered unless they are addressed to the Customer Service and Performance Department.

Vexatious Complaints

The ASB Team will follow the corporate procedure in relation to vexatious complaints as detailed in the Corporate Compliments / Comments / Complaints Procedure.

Staff Training and Development

The council are committed to training our staff and will ensure that all staff dealing with anti-social behaviour are aware of the contents of this policy and procedures.

Refresher training and updates for changes in legislation or good practice changes will also be provided.

Responsibility for implementing the Policy

The responsibility for the deployment of this policy rests with

Initial acceptance of complaint – Contact Centre

Initial investigation – Community Services

Further investigation – Housing Department and ASB Team

Initiating legal action – ASB Team

Undertaking enforcement action – ASB Team and Legal Department

Closure of cases and appeals – Community Services, Housing or ASB Team

More Information

Other Policies relevant to tackling ASB may be viewed on the Council's Website, including;

- Dumped rubbish & fly-tipping
- Nuisance vehicles
- Graffiti

Policy: Anti Social Behaviour Policy, Lead Officer: Deborah Whallett