

DIRECTORATE OF PLACE

Date: October 2016

Housing Estates and Communities – Policy Responding to complaints about Anti-Social Behaviour, Hate Crime & Nuisance

Implementation date: 25th October 2016

Aims and Objectives

We aspire for our all our neighbourhoods to be places where people want to live both now and in the future. We recognise that people being and feeling safe in their home is important to how they feel about where they live.

Tackling Anti Social Behaviour (ASB) is essential to achieving this outcome. We aim through this policy to prevent and reduce harm caused by ASB to individuals and communities swiftly and effectively tackle ASB with minimal disruption.

We aim to actively work with local communities and partners to prevent incidents of ASB and provide peaceful and secure neighbourhoods.

We aim to investigate complaints of ASB in an impartial and professional manner and provide support and protection to complainants, witnesses and communities affected by ASB.

We aim to provide support to the subject of the complaint to correct behaviours and to prevent recurring incidents of ASB. We will also work with partners to support the rehabilitation of offenders to reduce reoffending.

For the purpose of this document all references to 'ASB' includes Hate Crime and domestic Noise Nuisance, unless otherwise stated.

Scope

Our policy is tenure neutral which means we will respond to reports of ASB from Local Authority, Leaseholders, Private or Owner Occupied residents. Housing Associations respond to ASB for their own tenancies, however, the Local Authority will work with them giving advice and guidance or dealing with its statutory duty of Noise Abatement.

Responding to ASB for private landlords and owner occupiers may include; advice and support, non-legal remedies and statutory obligations such as noise abatement. Other action including legal action will be the responsibility of the

owner/complainant unless the nuisance is impacting on the wider community. The Council may decide that there is no need for their involvement, however, the owner/complainant will have right to take/seek their own legal action.

The policy sets out how we will approach the prevention, management and tackling ASB.

Our priorities and focus are:

- To improve customer satisfaction with our response to complaints of ASB
- To identify and protect from harm vulnerable and repeat victims of ASB
- To take a problem solving approach to tackle ASB in a proportionate and reasonable manner
- To maintain and improve working relationships with other agencies, particularly local neighbourhood police teams.
- To develop innovative and pro-active methods of working committed to addressing both the underlying causes of ASB and the specific concerns within our communities

Measuring Success

Success will be measured by:

- An increase in the percentage of residents who are satisfied with the response provided to dealing with ASB and the outcome of their complaint
- A reduction in the number of complainants who are repeat victims of ASB particularly where a high level of vulnerability has been previously indicated
- A reduction in recurring problems of ASB about the same subject (person or location)

Definitions

ASB

The ASB, Crime and Policing Act 2014 defines ASB as conduct:

- a. that has caused, or is likely to cause, harassment, alarm or distress to any person,
- b. that is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises,
- c. capable of causing housing-related nuisance or annoyance to any person.

Types of ASB and our response times are detailed within ASB procedures.

Hate Crime:

'Challenge it, Report it, Stop it'; the Government's plan to tackle hate crime was published in March 2012 and defines hate crime as:

'any criminal offence which is perceived by the victim or any other person to be motivated by hostility or prejudice based on a personal characteristic'. There are five strands to hate crime:

1. Disability
2. Race
3. Religion or belief
4. Sexual Orientation
5. Trans and gender reassignment

It is recognised that other hate crimes motivated by hostility or hatred of other characteristics such as gender, age or appearance could happen.

We also recognise that some hate incidents which are reported may not constitute a criminal offence, however, it is still important that we encourage it to be reported to allow us to record incidents and deliver support and interventions that may be appropriate as well as monitoring emerging trends or priority locations.

Statutory Noise Nuisance (domestic)

Statutory nuisance is defined by the Environmental Protection Act 1990 as noise being 'prejudicial to health or a nuisance'.

A statutory noise nuisance is more than where the noise is a mere annoyance but where it is viewed to have a significant impact on the health and wellbeing of those affected. Many factors are taken into account in determining if the noise amounts to a statutory nuisance, including:

1. **Location.** Is the noise typical for the area? A cockerel crowing in the countryside would be more accepted than that in a quiet urban residential road.
2. **Time of day.** A statutory nuisance can exist at anytime of the day, however the effects of noise late at night when most people are sleeping would be given greater weight than the same noise occurring during the day.

3. **Frequency.** How frequently are you affected by the noise? Clearly noisy parties every weekend would be viewed differently to one held occasionally.
4. **Duration.** How long are you disturbed? A dog barking at the postman or barking at cats occasionally passing by would be viewed differently to one barking most of the day.
5. **Intensity.** How loud is the noise? How intrusive? We all have different noise thresholds and tolerances. In determining nuisance the judgement would be how the noise would affect an ordinary individual, not someone who had a particular sensitivity to the noise complained of.
6. **Number of people affected.** A view will be taken on the number of people who are, or could be, affected by the noise. If only one person complains when the whole street could equally be affected, then there could be a challenge that the individual making the complaint could be unduly sensitive.

Reporting ASB

We have a wide range of mechanisms available for reporting incidents of ASB, which include:

- Telephone
- Talking directly to our ASB Team
- e-mail
- Dudley Council website: www.dudley.gov.uk
- Written correspondence
- In person at our offices
- Through a third party (e.g. Councillor, friend or relative)

When a resident reports an incident of ASB, we will listen and take the report seriously and sensitively. We will ask a series of questions to gather information about the reported problem, which will allow us to decide on the most appropriate course of action.

We take a harm centred approach to ASB and will prioritise the case in accordance with our procedure on reducing the risk of harm. Our staff will give clear advice and appropriate support to all residents to help deal with ASB.

We encourage residents to speak with their neighbours where appropriate and safe to do so which can resolve matters more effectively. However, we understand that this may not be appropriate in some circumstances and we will agree any actions to be taken with the resident once the issue has been reported.

When agreeing an action plan to resolve the problem, we will also agree how to communicate with the complainant and the frequency of contact to ensure that all parties are kept well informed of progress.

Not every allegation reported will be accepted as being ASB. Some types are considered to be everyday living noise or minor lifestyle differences rather than ASB and therefore may not be investigated as such. Examples are detailed within ASB procedures.

Responding to Reports of ASB

Our staff will take a problem solving approach to managing reports of ASB, and whilst remaining supportive will keep an open minded approach to any investigation which focusses on stopping the problem.

During the investigation, our officers may use a wide variety of methods to tackle ASB. This will usually involve speaking with the other party in most circumstances. Our investigation will comprise of gathering evidence and addressing concerns swiftly and effectively to maximise the resolution as early as possible.

We record all cases of ASB, and our investigation may comprise of reports, phone calls, letters, and diary sheets. This will be used as evidence to decide on the most appropriate action to resolve the problem.

We have a wide range of tools and powers to tackle ASB in line with current legislation. Our officers will take a proportionate and reasonable approach when using legal and non-legal action. We recognise that each case can be different and our focus will be to stop the problem swiftly and effectively. In some circumstances this might mean taking legal enforcement action however in the majority of cases we will successfully resolve through non-legal interventions

We will not move complainants, witnesses or subjects as a means of resolving ASB (except in exceptional circumstances, where consultation has been carried out with partner agencies and the authorities housing options teams). We will deal with the nuisance and use legal tools with an aim to protect people where appropriate. Those people causing ASB may be excluded or suspended from the local authorities housing waiting list or transfer list.

Support for our residents

We recognise the importance of supporting the needs of complainants and particularly those that are at risk of harm or vulnerability. We will aim to identify any support needs at the earliest opportunity and throughout the case.

We also recognise that residents that cause ASB may have vulnerability or support needs and our officers will aim to identify those needs at the earliest opportunity and throughout the case.

We will aim to work with our partner agencies to provide appropriate levels of support for our residents who are experiencing ASB. We may make referrals to specific agencies that can provide tailored support for particular vulnerable residents.

Our officers have a responsibility to make referrals to specific agencies if a safeguarding concern is raised. The local authority has a Safeguarding Policy which deals with safeguarding concerns.

Closing Cases

Our aim is to resolve all cases of ASB with sustainable outcomes and we will close cases of ASB in the following circumstances:

- When we have successfully resolved the ASB in agreement with the complainant
- When we have investigated the ASB case and have not been able to resolve the issue, but there are no more available options
- When we conclude, following investigation, that there is no ASB occurring.
- When another agency is dealing with the case and no longer requires involvement by our officers
- When action has been taken, and this has solved the ASB
- When the complainant fails to assist in providing evidence, and we cannot take further action without this assistance.

Complainants who are not satisfied with our reasons for closing the case can refer to our Corporate Complaints Policy if they wish to make a complaint.

Working in partnership and Information Sharing

The ASB Team are an active member of Dudley's Safe and Sound Partnership and will contribute to the wider strategic aims where we are able to do so. We will also actively work with any internal or external partner agency who can contribute solutions to problems of ASB and who can deliver activities that will prevent ASB from occurring.

We recognise that confidentiality is important to develop a relationship of trust with residents and guarantee that any information provided will be kept in the strictest confidence. We will not reveal the identity of any person unless permission is obtained beforehand.

Information will be shared with other agencies; where there is a duty to do so, and /or where information-sharing protocols are in place:

- Section 115 of the Crime and Disorder Act 1998 allows the local authority and partners to share information for the purpose of preventing and detecting crime and disorder.
- We will share information in line with the agreed Information Sharing Agreement. The local authority signed up to this agreement which is an information sharing document that sets out:
 - What information is going to be shared;
 - What powers in law give the ability to share information;
 - How information is going to be shared;
 - Who the partners to the agreements are; and
 - Any necessary security requirements

Protection of Employee's

We will not, under any circumstances tolerate abusive, threatening or violent behaviour towards our staff and will always take swift and robust action to protect our employee's. Where there is a risk of harm or violence from someone at an address, the Employee Warning System will be activated.

Monitoring performance and staff development

We are committed to monitoring and improving our performance in managing and resolving ASB. Monitoring will include:

- Regular performance reporting.
- Benchmarking our service against other Local Authorities and Registered Social Landlords.
- Reviewing customer experience using satisfaction surveys.

Staff dealing with ASB will continue to receive regular specialist training to equip them with the skills and knowledge required to effectively tackle ASB.

Equality & Diversity

We will apply this policy consistently and fairly, and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equalities Act 2010.

The local authority will make this policy available in other languages and formats on request. We will carry out an equality impact assessment on this policy, in line with our corporate procedure.

Service Standards

Will be identified and regularly reviewed within ASB procedures. We will publish our service standards as set out below.

Publicity and Communications

We will ensure through clear and concise communications that residents of Dudley are aware of our Policy and Procedure.

In particular, tenants of the local authority will be advised at the commencement of their tenancy about their rights and responsibilities and how to report ASB. We may publish details of our actions to resolve ASB which may take the form of; photographs of subjects, articles in resident newsletters, local press, leaflets, our website, partner agency publications and letters to specific addresses.

We will publish in our annual report details of our performance in responding to ASB.

We will consider publicity of cases where the action taken has had a positive impact, whether this is a legal or non-legal action. We will never publicise anything with the intention of punishing anyone. The benefits of publicity include:

- Public reassurance about safety
- Public confidence in our service
- Deterrent to subjects of complaints and others
- Encourage reporting incidents of ASB

When legal action has been taken and a court order has been granted, it is expected that publicity will follow, unless there is a legal reason for not publicising a successful action. Publicity will always be proportionate to the ASB that has taken place.

Persistent and Malicious Complaints

People have the right to complain about ASB, however, if it is found that the complaints are false and/ or malicious or that the person persistently complaining is being unreasonable, the local authority may take action against them, when it is reasonable and proportionate to do so.

Legislation

The local authority continues to monitor and review the relevant legislation in tackling ASB. We pay particular attention to the following legislation when writing this policy:

Housing Act 1985, 1996 and 2004
ASB, Crime and Policing Act 2014
ASB Act 2003
Crime & Disorder Act 1998
Data Protection Act 1998 and 2003
Equalities Act 2010
Environmental Protection Act 1990 and 2002
Mental Health Act 1983 (amended 2007)
Human Rights Act 1998
Freedom of Information Act 2000
Care Act 2014
Local Government Act 200

Complaints

The local authority operates a complaints policy and procedure. This is accessible for any persons who are dissatisfied with the level or quality of service being received.

Community Trigger

The Community Trigger is a provision within the Anti-Social Behaviour, Policing and Crime Act 2014 to help people who have had their ASB complaints investigated but who are experiencing persistent problems.

Details regarding the Community Trigger will be published on our website, giving information on how to invoke it.

Review

This policy will be reviewed as the need arises or no later than 3 years from its implementation date.