

**CHESTERFIELD
BOROUGH COUNCIL
HOUSING SERVICES**

ANTI-SOCIAL BEHAVIOUR POLICY

5 February 2019

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1. Terms and abbreviations

ASB	Anti-social behaviour
Community Safety Partnership	Representatives from the police, Chesterfield Borough Council, Derbyshire County Council, the fire and rescue service, health services, probation services and others which work together to tackle crime and disorder.
Reporter	A person making a report of anti-social behaviour (sometimes referred to as a “complainant”).
Subject	A person who is the subject of an anti-social behaviour report (sometimes called a “perpetrator” or “alleged perpetrator”).
The council	Chesterfield Borough Council
Victim	A person who is subject to an impact from anti-social behaviour
Witness	A person who sees, hears, experiences or is aware of in another way an incident or event

2. Statement of policy

- 2.1 This policy sets out the commitment of the council’s housing service to reducing anti-social behaviour. It supports the council’s vision to **put our communities first** and the following priorities:
- To make Chesterfield a thriving borough.
 - To improve the quality of life for local people.
 - To provide value for money services.

Policy aims

- 2.2 We recognise that left unchallenged, anti-social behaviour can have a significant negative impact on the lives of our communities, including those who live, work, visit and study in our borough. In order to support

our commitment to reducing anti-social behaviour, our aims are to:

- reduce anti-social behaviour that involves Chesterfield Borough Council tenants as victims or perpetrators
- put victims and witnesses at the centre of our procedures and support them throughout their case
- make effective use of the powers, orders and mechanisms available for us to deal with anti-social behaviour
- participate fully in joint working with partner agencies to enable the best possible outcomes
- raise awareness of what conduct constitutes anti-social behaviour
- encourage people to report anti-social behaviour
- publicise and promote our service and others that are available to tackle anti-social behaviour

Respect ASB Charter for Housing

- 2.3 We have signed up to the 'Respect ASB Charter for Housing' which includes a set of commitments which are underpinned by a range of outcomes.

The charter consists of the following core commitments which we shall try to meet.

1. Demonstrating leadership and strategic commitment.
2. Providing an accessible and accountable service.
3. Taking swift action to protect communities.
4. Adopting supportive approach to working with victims and witnesses.
5. Encouraging individual and community responsibility.
6. Having a clear focus on prevention and early intervention.
7. Ensuring that a value for money approach is embedded in our service.

Partnership working

- 2.4 We may work with all relevant services and partners to tackle anti-social behaviour at all levels, including:
- at a strategic level (e.g., by active participation in the Chesterfield

Community Safety Partnership)

- with projects (e.g., to reduce crime and disorder on a particular estate, or to tackle a particular type of anti-social behaviour throughout the Borough)
- with individual cases

Promotion of tolerance

- 2.5 We will promote tolerance, balancing individuals' liberties with the impact of their conduct on others.

The role of the community

- 2.6 People in the community have the most important role in reducing anti-social behaviour. The organisations involved in tackling anti-social behaviour can only act where there is a partnership with the community. Where appropriate, we encourage informal resolution of disputes before we are asked to intervene.

Employee authority

- 2.7 Authority to issue formal notices and to enact legal interventions will only be given to employees that are suitably qualified and experienced.

3 Responsibilities, definitions, powers, descriptions

Responsibilities

- 3.1 The housing service is a part of Chesterfield Borough Council. We therefore have powers and responsibilities arising from being part of a local authority and must comply with the council's policies, strategies and governance, including those related to anti-social behaviour.
- 3.2 As a social landlord, we have legal powers to respond to anti-social behaviour involving our tenants and the land and property we manage. We also have legal powers and responsibilities arising from the relationship between landlord and tenant.

3.3 Chesterfield Borough Council is a statutory partner within the Community Safety Partnership. As such, it has a shared legal responsibility with members of the partnership to formulate and implement a strategy for the reduction of crime and disorder. Because the housing service is part of the council, we are involved with working with other statutory services in the Community Safety Partnership to develop a strategy for the reduction of crime and disorder.

Definition of Anti-social Behaviour

3.4 Our definition of anti-social behaviour includes:

- Conduct, which for the purposes of this section includes disorderly, offensive, immoral or criminal behaviour, that has caused, or is likely to cause, harassment, alarm or distress to any person.
- Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- Conduct that has a detrimental effect on the quality of life of people in the locality
- Conduct capable of causing nuisance or annoyance to any person which is directly or indirectly related to the council's housing management functions.

The above are examples of types of behaviour that we consider to be anti-social. It is not intended to be an exhaustive list and does not prevent us from taking action that would otherwise be within our powers.

3.5 We appreciate that individuals may have different levels of tolerance towards certain activities. To avoid doubt, the following are examples of types of behaviour that we do not generally consider to be anti-social and therefore may not become involved in investigating them:

- A baby crying.
- Young people gathering socially or children playing in areas of general needs housing or a designated play area at reasonable times (unless this is combined with other anti-social behaviour).
- Being unable to park a vehicle near or outside a home.
- At reasonable times, frequency and duration, mowing lawns, using garden tools, using domestic appliances (e.g., vacuum cleaner, washing machine) or carrying out DIY.
- Noise from everyday living, e.g., walking across laminate flooring, flushing a toilet

- Cooking smells

This is not an exhaustive list.

Limits to our involvement

- 3.6 We understand that some people may be annoyed by the activities or behaviour of someone else and may consider this to be a nuisance or annoyance. However, we must also take account of a person's right to engage in activities that should be considered as reasonable under the circumstances.

For example, we may not intervene or take enforcement action where:

- evidence does not show that it is more likely than not there has been, or there is likely to be, anti-social behaviour (including where any nuisance or annoyance caused is a result of reasonable behaviour)
- those engaging in anti-social behaviour cannot reasonably be identified
- our intervention or action would be a disproportionate response to resolving the problem
- we assess that there is not an acceptable chance of a successful outcome
- there is no suitable legal remedy that we can take

In such cases, we may advise on "self-help" options and/or refer to another service.

- 3.7 We will not become involved in any case in our capacity as a local housing authority where there is no indication that:
- a Chesterfield Borough Council tenant has engaged in the anti-social behaviour in the locality of their home, or
 - a Chesterfield Borough Council tenant has been affected by anti-social behaviour in the locality of their home, or
 - there has been an effect on our housing management functions

Serious anti-social behaviour

- 3.8 Our assessment of whether anti-social behaviour is serious determines

how quickly we respond, the measures we put in place to protect victims and the measures we consider for resolving the case.

We would normally consider serious anti-social behaviour to include:

- Hate crime
- Violence
- Threats of violence, serious aggression and deliberate intimidation
- Domestic abuse
- The use of council premises or land for serious illegal activity, e.g., the production, storage or supply of illegal drugs
- Malicious or recklessly false allegations
- Any relevant serious criminal offence as defined in law
- Conduct which puts any person's safety at risk e.g. interfering with electricity or gas supplies

The above are examples and are not intended to be an exhaustive list

4 Our general approach

Putting victims first

- 4.1 In responding effectively to anti-social behaviour, we must provide or work with partners to arrange support for victims and witnesses, including:
- Assigning an individual officer to the case.
 - At the earliest stage possible, providing a realistic assessment for people reporting anti-social behaviour about whether their reports are likely to amount to anti-social behaviour, whether we can intervene and if so, what form that intervention might take.
 - Ensuring that a systematic and continuous assessment of the risk of harm is carried out for victims and witnesses and that appropriate action is taken.
 - Trying to minimise the need for people to provide evidence. However in most cases, a good standard of evidence provided by a witness, occasionally over an extended period, is *the* most important element in bringing a case to a successful conclusion. Where legal action is taken, these reports are often needed up to the date of a court

hearing and after a court order to show that the anti-social behaviour is continuing.

- Minimising delays by taking action as soon as we have assessed that there has been anti-social behaviour (see 3.4). There must be reasonable justification for not taking action at this stage.
- Where appropriate, making referrals to specialist support providers.
- Maintaining regular contact with victims and witnesses and keeping them updated with the progress of the case.
- Where required, carrying out a safety audit and arranging for home security measures.
- If it is no longer reasonable for the victim to remain in their home, we will consider temporary or permanent rehousing in the most serious cases.

4.2 We will participate in initiatives to identify vulnerable and repeat victims and to work with other services to carry out multi-agency case reviews.

4.3 We recognise that giving evidence at court can be a worrying and stressful experience. Those who act on behalf of their community by agreeing to be witnesses deserve support. In order to minimise any anxiety around the process we will offer support to those who act as witnesses in court for us, including:

- offering transport to and from the court or reimbursement of public transport costs
- having a named officer who stays with them at all times while at court
- a meeting before the court hearing so they know what to expect
- arranging a “pre-court” visit to show them the building

Early intervention and prevention

4.4 Early intervention is important in preventing anti-social behaviour from escalating. We will therefore ensure that it is easy for people to report problems to us and we will respond quickly to those reports by offering a face to face interview within a clear timescale, which we will publish in our summary of procedures (available on the council’s website).

4.5 We will normally consider any appropriate remedy which might work in a particular case. This may include working in partnership with other

organisations.

- 4.6 We will make it clear to applicants for housing and our tenants from the earliest stage that they must observe certain standards of behaviour and what may happen if they do not.
- 4.7 We will make it clear that where behaviour is reasonable under the circumstances, we do not consider it to be anti-social and we will not take enforcement action. We may suggest alternative types of action.
- 4.8 We will take steps to identify people who are registered for housing and who may benefit from support so that we can offer support from the start of their tenancies. Where a need for support is identified, we may make a referral to an appropriate support service where one exists.
- 4.9 In accordance with our allocations policy, we may exclude an applicant from the housing register for a period where that person, or a member of their household, or their joint applicant, has engaged in anti-social behaviour. This means that until the applicant has proved that they have remedied their behaviour, other applicants who have not engaged in anti-social behaviour will be preferred over them.

We may disqualify applicants from the housing register if we have evidence that they, or a member of their household, or their joint applicant, has behaved in an unacceptable way and we consider this makes them unsuitable to have a tenancy with the council.

- 4.10 Where the tenancy of a property has ended and the housing service is aware of anti-social behaviour associated with that tenancy that was likely to have met the requirements for legal action, this will be taken into account when allocating the next tenancy of that property.
- 4.11 The above at 4.8, 4.9 and 4.10 is not intended to alter or amend our allocations policy.
- 4.12 We recognise the importance of preventing anti-social behaviour through services for vulnerable people who may be engaging in anti-social behaviour. We may therefore provide support directly or by referral to another specialist support provider for people whose anti-social behaviour may be a result of a disability. We will take reasonable measures to ensure that an assessment takes place prior to taking legal action against a person who has, or who we suspect may have a protected characteristic. Exceptions include having to take action in

situations where an urgent application to court is required without notice to any person who is alleged to have engaged in anti-social behaviour that warrants such an application.

- 4.13 If someone who is engaging in anti-social behaviour has a disability, we must balance their rights with any legitimate aim, such as the need to prevent and stop anti-social behaviour and enforce compliance with the law, rules, regulations and agreements, such as tenancy agreements. A legal measure such as eviction or an injunction may be sought where it is proportionate to achieve a legitimate aim.

Incremental approach and proportionality

- 4.14 Where appropriate, we will take an incremental approach, where legal action is only considered if other measures are not appropriate or have not worked, particularly where those engaging in anti-social behaviour are more vulnerable. However, we may take any action, including legal proceedings, without warning or consideration of other measures if, in our opinion, the circumstances warrant it.
- 4.15 We take legal measures when it is proportionate. We will normally consider using the most serious measures such as eviction under circumstances including, but not limited to:
- a response to the most serious anti-social behaviour as outlined at paragraph 3.8 above
 - where the conduct is such that it is no longer appropriate for the person to remain in occupation of a council property
 - where the conditions are met for an absolute ground for possession
 - where incremental measures have not worked
 - where anti-social behaviour is persistent or repeated
- 4.16 We will take into account the views of those involved in a case. However it will remain our decision about what action we take or do not take.

Evidence

- 4.17 We base our interventions, investigations and action upon evidence. We will not consider taking enforcement action unless there is evidence to show that it is more likely than not that there has been anti-social

behaviour.

- 4.18 We will use reasonable and proportionate means to clarify and substantiate evidence, including, at appropriate stages in an investigation, face to face interviews and seeking corroboration from other potential sources of information.
- 4.19 Where someone does not comply with our reasonable requirements to provide, clarify and substantiate evidence, for instance by refusing a face to face interview, or to respond fully to reasonable questions, we reserve the right not to take further action.
- 4.20 Where a case goes to court, the strongest type of evidence is normally "first hand" or "direct" evidence. Where the source of this evidence is a witness, the identity of the witness is disclosed to the defendant, to his or her legal representatives and to the court. The witness attends court and may be cross examined. We encourage and expect witnesses to provide direct evidence where it is reasonable for them to do so.
- 4.21 Hearsay evidence is where, for example, a witness gives evidence to another person (e.g., a housing officer) about something which they have seen, heard or are aware of. The housing officer may present the hearsay evidence to the court without the witness needing to give a statement or to attend court to give evidence. However the housing officer may still need to disclose the identity of the witness. Hearsay evidence may be accepted by the court, but it does not have the same value as direct evidence. We will therefore consider the use of hearsay evidence, but reserve the right not to use it or take it into consideration if, in our judgement, there is not an acceptable chance of a favourable outcome.
- 4.22 The court may consider anonymous hearsay evidence where it can be shown that there will be, or there is likely to be, a serious risk of harm to the witness if the witness's identity is revealed. However the weight which the court gives to hearsay or anonymous evidence will be less than that of direct evidence. We will therefore consider the use of hearsay evidence, but reserve the right not to use it or take it into consideration if, in our judgement, there is not an acceptable chance of a favourable outcome.

Reporting anti-social behaviour

- 4.23 We will try to be accessible to all. Where people have difficulty in

communicating with us, we make reasonable adjustments to make communication easier.

- 4.24 We will make available a range of ways to report anti-social behaviour. However we may not investigate or take further action unless we have direct reports from an individual or direct evidence such as a conviction, open source information or it is self-evident. If evidence from a witness is needed for investigation and enforcement, we will not normally accept anonymous reports or those made through a third party.
- 4.25 Reports in relation to the behaviour of others (e.g., someone making an allegation against a neighbour) will not be investigated under the council's complaints policy. Instead they will be reported as requests for service and managed in line with our policy and procedures.

The right to respond

- 4.26 We will give a reasonable opportunity for any person we are investigating to respond to allegations.

Closing cases

- 4.27 We will normally close a case only when the situation is resolved and the reporter is happy for the case to be closed. However in certain circumstances we may close the case without the agreement of the reporter. These circumstances include where:
- we are satisfied that we have done all we reasonably can
 - we have assessed that it is not anti-social behaviour
 - the reporter has not cooperated with a reasonable request (e.g., has not responded to requests for contact, has refused to attend an interview or has not provide information reasonably requested)
 - we have not received any further reports of anti-social behaviour within three months
 - the allegations are likely to be false, malicious, a nuisance or vexatious
- 4.28 We will always try to make contact with the reporter before closing a case.

Safeguarding

- 4.29 We recognise our role in protecting vulnerable members of our community. In dealing with anti-social behaviour, we may come into contact with children and adults where there are safeguarding concerns. We will ensure that all members of staff are trained appropriately to enable them to respond to such concerns, including reporting anything that is a cause for concern.

5 Information exchange, storage, disclosure and publicity

- 5.1 Sharing information is an integral part of dealing with anti-social behaviour. We will share information with other organisations as part of a strategy to reduce crime and disorder. We will do this in compliance with the law and with protocols, agreements and guidance made with Derbyshire Constabulary and Derbyshire Safer Communities Board. These explain the information that can be provided and exchanged and the mechanisms to allow this.
- 5.2 We shall store, retain and dispose of data in compliance with legal requirements
- 5.3 Disclosure is possible where someone asks for information under data protection law. We may refuse to supply information following a request made under the law if the purpose of the refusal is to prevent or detect crime or some other lawful purpose.
- 5.4 If we consider it is reasonable in the circumstances to do so, we may disclose third party information (e.g., information provided by a witness that may identify that person) to a data subject (normally the subject of the report) where the third party has withheld consent to disclosure. However when dealing with such requests, before deciding whether to disclose third party information, we will be sensitive to, and give proper consideration to this potential conflict between the data subject's right of access and the third party's right to respect for a private life. We will normally seek the third party's consent before disclosure. We may advise the third party of this and give the option to withdraw the report rather than have the information disclosed.
- 5.5 We may disclose personal information to various teams within the

council, but we will only do this with that person's consent or where permitted under the law.

- 5.6 All employees of the housing service have an obligation to protect confidentiality and a duty to make sure that information is only disclosed to those who have a right to see it.
- 5.7 All employees of the housing service will be trained and be fully aware of their responsibilities to maintain the security and confidentiality of personal information.

Publicity

- 5.8 The community needs information about anti-social behaviour. We will therefore publish information where appropriate.
- 5.9 We may publish details about individual orders that are granted in open court, including personal details of the perpetrator. In each case, we will consider the impact, including the human rights, on the named person and any associated people and whether the publicity is proportionate. If the court imposes reporting restrictions on the press, we will also consider whether and how to restrict our publication.

6 Employees, councillors and contractors

Protection

- 6.1 We do not tolerate the abuse of council employees elected councillors and people working for the council as agents or contractors. Abuse includes:
- abusive or threatening words or behaviour
 - violence or the threat of violence
 - false, malicious, nuisance or vexatious complaints or allegations about council employees or its agents or contractors or services

There will be an assumption that we will take legal action where appropriate against any person who engages in such abuse.

- 6.2 All incidents will be dealt with in compliance with the council's health and

safety policies and procedures.

- 6.3 Acts of violence, threats or aggression will be recorded, and reported to the police where appropriate.

Training

- 6.4 We recognise that there is likely to be a higher risk to employees who respond to anti-social and often criminal behaviour. Our highest priority is the health and safety of our employees, elected councillors and people working for the council as agents or contractors. We will therefore ensure that employees of the housing service who are involved in responding to anti-social behaviour are trained in relevant health and safety policies and procedures.
- 6.5 We acknowledge the difficulties faced by employees who respond to anti-social behaviour. These difficulties include the need to make balanced assessments when confronted by conflicting accounts of behaviour, the avoidance of “confirmation bias”, the need to follow procedures and to remain impartial when people demand resolution in their favour. Good decision-making is made possible only when good training is provided and justified evidence-based assessments are backed up by senior management and elected representatives.
- 6.6 We will inform and train employees and elected representatives as appropriate on anti-social behaviour in general and the policies and procedures relevant to the housing service.
- 6.7 We will work in partnership with other organisations to provide training for our staff on any relevant aspects of the response to anti-social behaviour.

7 Policy implementation and update

- 7.1 Our housing management team will ensure that this policy is communicated to housing service employees.
- 7.2 This policy is adopted on Monday 5 February 2019 and will be reviewed after three years or in response to relevant significant change.