

## **Housing Services Neighbour Nuisance and Anti-Social Behaviour Policy 2020**

### **1. Introduction**

**1.1** Dover District Council, believe that you have a right to live in an environment that allows you to enjoy your home and community. We recognise that anti-social behaviour (ASB) caused by a minority of tenants can be disruptive and distressing for neighbours, damage the sustainability of communities and adversely affect our ability to let our properties.

**1.2** This policy sets out how the Housing Service tackles the approach of dealing with Neighbour Nuisance and Anti-Social Behaviour (ASB) for tenants living in DDC social housing properties. If your complaint is not about a DDC social housing tenant, then this policy will not apply.

**1.3** There is also a customer alerts policy which covers incidents where tenants or their household members are abusive towards staff or contractors.

**1.4** Wherever possible we will focus on preventative measures and early informal interventions and warnings to avoid the escalation of ASB. When necessary we will take enforcement action which will be measured, reasonable and proportionate, based on the available evidence.

**1.5** We expect our tenants, members of their family, including children or visitors to their home to show consideration and toleration for their neighbours and the wider community.

**1.6** In our response to investigating ASB, DDC will take a victim centred approach. We recognise we cannot tackle ASB amongst our tenants without the support and assistance of other internal departments and external agencies, therefore we will continue to place importance on, and enhance our working relationships with partner organisations sharing information whenever possible to support our case investigation.

### **2. Aims and the purpose of this policy -**

**2.1** Through our policy we aim to:-

- send a strong message to our tenants that ASB is unacceptable
- try to reduce both the incidence and fear of ASB through preventative work
- Use early informal intervention and warnings whenever possible to avoid ASB escalating;
- Encourage residents to take responsibility for their own lives and communities, and to try to resolve their own problems in a reasonable manner;
- encourage tolerance of, and respect for, others in the community;
- make it easy for people to report ASB;
- be clear about how we will manage ASB cases and be transparent about our decision-making processes;
- provide clear expectations to complainants and alleged perpetrators

### **3. Policy context and legislative requirements**

**3.1** The Council have a range of legal powers to help us deal with ASB. These powers are contained in the Housing Acts of 1985 and 1996, the Anti-Social Behaviour Act 2003, the Anti-Social Behaviour, Crime and Policing Act 2014 and the Environmental Protection Act 1990.

**3.2** The tenancy agreement clearly sets out the standard of behaviour expected of tenants. The conditions related to Neighbour Nuisance and ASB are referred to in detail when a new tenant signs their tenancy agreement and new tenants are advised that should they or their relatives/visitors cause a nuisance to those living in the local area they may put their tenancy at risk.

**3.3** DDC will also take into account our responsibilities under the Human Rights Act 1998 and Equality Act 2010.

**3.4** In serious cases of ASB, DDC may rely on the powers set out in the Housing Act 1985 (as amended by the Anti-Social behaviour Crime and Policing Act 2014) to obtain possession of a property using the absolute ground for possession. Our use of these powers will be limited to the most serious cases and where we consider this to be a justifiable and proportionate response to the problem.

#### **4. What is anti social behaviour?**

**4.1** DDC have adopted the definition of ASB used in Section 2 of the Antisocial Behaviour Crime and Policing Act 2014- : Which states Antisocial behaviour means –

(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.

DDC prioritize our response to reported ASB and the list below (which is not limited to) contains some examples of behaviours falling into each category.

#### **4.2 Category A**

- Serious and violent incident involving person or property
- Intimidation and harassment
- Hate behaviour that targets members of identified groups because of their perceived difference e.g. racial harassment.

#### **4.3 Category B**

- Using or threatening to use housing accommodation to manufacture, supply or sell drugs, or for other unlawful purposes.
- Threatening or abusive behaviour
- Excessive noise nuisance.

#### **4.4 Category C**

The fouling of public areas, graffiti (unless it is a racist or obscene) fly tipping, nuisance vehicles

Excessively untidy Gardens

Noisy Animals

## **5. What is not considered to be Anti-Social Behaviour?**

**5.1** DDC will not investigate normal behaviour occurring at unusual times because of different working patterns, one off parties, where there is no evidence the incident will reoccur, smoking or cooking odours or clashes of lifestyle due to cultural differences.

**5.2** We accept people have different lifestyles and it is important that we are realistic when advising complainants what we can and cannot do in relation to a complaint of ASB or neighbour nuisance.

**5.3** Not all inconsiderate behaviour by neighbours is antisocial behaviour. Noises that arise out of the ordinary and reasonable use of a property are not breaches of tenancy and will not be subject to enforcement action.

**5.4** Below are examples of issues which may upset or disturb people, and which are unlikely to be dealt with as ASB are:-

- Babies crying;
- Children playing (including balls games- unless they are being played in a communal area and causing a nuisance)
- Cooking smells;
- Doors and drawers being shut;
- Dishwashers, hoovers, tumble dryers, washing machines and or other household appliances;
- Dropping of objects/moving of furniture
- General talking/ Heavy footfalls (people walking on floors or upstairs);
- Flushing toilets and running water;
- Lights switches being turned on and off;
- Loud talking or laughing;
- One-off or isolated incidents e.g. a party or an argument or altercation;
- People carrying out DIY jobs at unreasonable hours of the day.
- Family disputes
- Families arguing and shouting between themselves. (unless you suspect there is domestic abuse taking place in which case this should be reported to the police)
- Sexual noises,
- Shift workers leaving home.
- Occasional slamming of doors
- Where there is no breach in the tenancy i.e.: people staring or being inconsiderate.
- Noise transference due to poor sound insulation.

This list may, from time to time include other low- level nuisance issues.

## **6. Complaints that DDC Housing Management may not be the lead investigator of.**

**6.1** There are some types of complaints that while we recognise may constitute ASB or neighbour nuisance we may not be the lead investigator of. These are-;

- Complaints about tenants of another housing provider, a private tenant or owner occupier;
- Environmental issues such as abandoned cars, bonfires and fly tipping.
- Harassment and intimidation;
- Hate crime;
- Highways related matters including parking illegally or inconsiderately on land outside of a tenancy boundary;
- Illegal or immoral activity;
- Hoax calls to emergency services;
- Threatening behaviour and verbal abuse;
- Violence to person
- CCTV related nuisance
- Drug dealing
- Smoking cannabis
- Safeguarding or welfare concerns

**6.2** When incidents of this type are reported to DDC we will provide advice and signposting to the agency best placed to investigate these allegations and work with partner agencies where required, to support resolution of these issues. Where a clear breach of tenancy has been proven by a partner agency, DDC may rely on this and consider taking tenancy enforcement action.

## **7. Our expectations of tenants**

**7.1** Tenancy agreements are the legally binding contracts that tenants and their landlords sign and which sets out the terms and conditions for both parties. Our tenancy agreement and lease contain clauses on ASB. These clauses make clear to residents what type of behaviour they are responsible for and what type of behaviour is not acceptable. Tenants are responsible for the behaviour of those who live with them and their visitors, this includes children and pets.

**7.2** We will make clear to complainants from the outset whether what they are reporting to us as ASB is something that we can realistically and appropriately investigate. We will clarify our position if it is unlikely, we can effectively investigate the matter if other statutory bodies are unwilling to support it. If this is the case, an explanation will be given as to why, and alternatives for how the complainant could deal with the issue themselves will be offered.

**7.3** We expect complainants to take responsibility for minor personal disputes with their neighbours and we will offer advice on how to approach their neighbour in the first instance.

**7.4** In cases where it has been identified that there is a housing-related neighbour dispute, and both parties are willing to engage to reach a resolution, the Housing Officer will determine whether a referral to an independent mediation scheme would be appropriate.

**7.5** We will be clear with complainants if we feel another agency would be better placed to investigate their issue, for example the Police or Kent Highways. We will provide advice on what agency would be more appropriate and provide their contact information, but we would expect complainants to liaise directly with those agencies thereafter.

## **8. Preventative work**

**8.1** DDC recognises that one of the most effective ways to tackle ASB is to take preventative and supportive measures to discourage ASB from occurring in the first place. DDC take a range of preventative measures including:-

- allocating properties in accordance with the allocations and lettings policies
- Using Introductory Tenancies, where applicable, to take action when a new tenant breaches the conditions of their new introductory tenancy agreement
- Explaining the clauses about ASB in the tenancy agreement to new tenants before they sign their tenancy agreement.
- Providing and publicising information on what constitutes ASB
- Providing information on what a tenant can do to combat ASB and what we can and cannot do to help
- To target resources to improve the layout and environment on the estates we manage
- Co-operating and working with Multi Agency Partnerships

## **9. Early intervention and warnings to help resolve ASB**

**9.1** In some cases, ASB can be resolved using early warnings and interventions.

These interventions include but are not limited to:-

- Written or verbal warnings
- Joint visits with the Police or other agency representatives
- Prompt action for repairs as a result of anti- social behaviour e.g. the removal of graffiti
- Referral to Environmental Health to investigate a statutory nuisance
- Referral to the Mediation Service
- Community Protection Warnings/Community Protection Notices
- Acceptable Behaviour Agreements
- Support for vulnerable alleged perpetrators on a case by case basis
- Extension of Introductory and Starter Tenancies, where applicable.
- Multi agency partnership working

## **10. Enforcement action**

**10.1** We may consider taking legal action to address ASB if other interventions and warnings have failed. However, in the case of ASB which endangers life or property we will consider if immediate legal action is necessary. Any legal action taken will be considered on the grounds of proportionality and will consider a perpetrator's capacity as well as issues raised under the Human Rights Act 1998 and Equality Act 2010.

**10.2** We may consider applying to the County Court for an injunction. Depending on the severity of the behaviour, this could be with/without notice; with/without power of arrest and with/without an exclusion order. Where we wish to apply for an injunction affecting someone under the age of 18, we will apply via the Youth Courts and will consult with Youth Offending Teams (YOT) and other agencies as appropriate, prior to the application of an injunction. Where possible we will seek to make an order for positive requirements, encouraging the

perpetrator to remedy their behaviours. Positive requirements will be considered on a case by case basis and may be subject to availability of additional services in the area.

**10.3** We may take formal legal action when other informal interventions to tackle ASB have failed or where the incident is so serious there has been a danger to life or property, where applicable and appropriate, we will apply to court for a possession order. In some circumstances, an ASB case may meet the threshold for an application to court for a possession order on the absolute grounds. In order to apply for possession on the absolute grounds, one of the following must apply.

- Been convicted of a serious offence
- Been found guilty of a breach of ASB injunction
- Been convicted of a breach of their Criminal Behaviour Order
- Had their property be subject to a Closure Order
- Been convicted of an offence of breach of their Abatement Notice

## **11. Reporting anti-social behaviour**

**11.1** Tenants and others can report anti-social behaviour to DDC:

- In person at one of our offices or during a scheduled visit by a member of our staff.
- By telephone: 01304 821199
- Online using our ASB reporting form on the DDC website at [www.dover.gov.uk](http://www.dover.gov.uk)

**11.2** We believe that anyone reporting ASB plays a key role in its successful management. Complainants are expected to co-operate with reasonable requests to assist DDC to progress reports of ASB. This may mean agreeing to self-resolution actions, keeping to appointments, keeping records of incidents or taking part in mediation. We may not be able to take further action to resolve the ASB without reasonable cooperation from complainants which may include complainants providing witness statements and/or attending court.

## **12. How will DDC respond to complaints of ASB.**

**12.1** When we open a case, we will always assess the severity of the behaviour (risk to complainant) and will use the following categories;

- Category A) we will respond to the complainant in 2 working day
- Category B) we will respond to the complainant in 4 working days
- Category C) we will respond to the complainant in 10 working days

**12.2** When opening a case, we will always contact the complainants to discuss. We will always complete an action plan, in agreement with the complainant, to contain what we will do (and what complainants will do) to resolve the issue, and within what timescales.

**12.3** We will retain clear records of all ASB cases for the purposes of evidence gathering, monitoring and quality checks. All records will be kept electronically and will be kept up to date. The Housing Services Manager will review all cases of ASB regularly to ensure compliance with policy and procedure and to ensure positive progress in case management, including regular contact with the complainant

**12.4** In emergencies and where the incident involves serious threats, physical violence or hate crime we will advise you to make urgent contact with the police to report this and to access immediate support.

**12.5** If a complaint does not constitute ASB or falls outside of our remit as a landlord, we will contact the complainant and advise them of our reasons for not investigating their allegation. Where DDC will not be the lead investigator of a complaint our officers may, if appropriate signpost the complainant to other services or agencies who may be able to assist or to other sources of information which may be of help to them. If a complainant disagrees with a decision not to accept a complaint or they have additional information that has not yet been considered, they can ask for the decision not to investigate to be reconsidered.

### **13. Support for Complainants.**

**13.1** We encourage and support complainants and others affected by ASB to continue to live at home and work with us to resolve the problem, rather than to move away from the problem. We will agree an action plan with the complainant and keep them and any witnesses informed of the progress of the case, which will include timescales for action.

**13.2** If required, we will review security measures for witnesses and ensure that they are well prepared for court. We may provide transport to court, an escort at court and follow up support if necessary.

### **14. Support for Perpetrators.**

**14.1** We recognise the potential for vulnerable people who are the perpetrators of ASB to also be the victims of ASB because of the abusive and exploitive behaviour of others. In these cases, we will make appropriate safeguarding referrals and referrals to support agencies where we cannot provide support ourselves. We will work with other agencies such as mental health teams, drug action teams and community- based organisations, to try to establish support packages for both victims and vulnerable perpetrators before any formal tenancy enforcement action is considered. Where feasible and applicable, we will seek to include positive requirements within any ASB injunction applications.

**14.2** Please also see the DDC safeguarding policy on the Council website [ww.dover.gov.uk/](http://ww.dover.gov.uk/)

### **15. Training**

**15.1** DDC officers are trained to investigate and manage cases of ASB and all our staff have access to the up to date policies and procedures for managing ASB. We will not tolerate abuse towards our employees, resident representatives or voluntary workers and will take action in accordance with our ASB and customer alerts policy against anybody who directs abuse against our employees, resident representatives or voluntary workers.

### **16. How to make a complaint**

**16.1** If you are unhappy with the way that a case has been handled you can make a complaint by phoning 01304 872322 or email [complaints@dover.gov.uk](mailto:complaints@dover.gov.uk). Your complaint will be investigated by an independent complaints officer who was not involved with the handling of your case.

### **17. Community Trigger**

**17.1** The Community Trigger is a process which allows members of the public to ask their local Community Safety Partnership to review responses to incidents of anti-social behaviour.

**17.2** The Trigger has been introduced to help ensure that agencies are working together to resolve incidents of anti-social behaviour that are affecting residents' quality of life. Once a community trigger has been raised DDC will appropriately share information between agencies, to review the actions that have been taken and use available resources to try and reach a solution and make recommendations that will hopefully prevent the situation from reoccurring.

**17.3** The Trigger does not replace the existing complaints procedures of DDC or an ability to complain, when appropriate, to the Local Government Ombudsman or Independent Police Complaints Commission.

## **18. Hate Crime**

**18.1** If someone is being bullied, harassed or abused because of age, race, religion, disability, sexuality or gender identity then it can be reported via the independent Hate Crime Reporting line on [www.report-it.org.uk](http://www.report-it.org.uk) or phone the police on 101 or 999 in case of an emergency.

## **19. Confidentiality**

**19.1** DDC officers will deal with complaints of ASB in confidence and with discretion and sensitivity.

**19.2** Our policy is not to accept anonymous complaints, however, in exceptional circumstances, where the reported nuisance is extreme, can be evidenced, and is deemed to be having a significant effect on others in the community, we will investigate as appropriate. If someone is making a complaint on behalf of another person, we will require that person's authorisation to proceed with investigating the complaint.

## **20. Information sharing and data protection**

**20.1** Dover District Council is a Data Controller under GDPR and are therefore required to process and protect personal data in line with data protection legislation.

**20.2** We seek the complainant's permission prior to the disclosure of information to other parties. This includes the other party, legal representatives or any other interested party. We will share information provided to us without explicit consent, if it is required to prevent and detect crime or there is a serious safeguarding concern.

**20.3** We process personal data in compliance with data protection legislation including the Data Protection Act 2018 & General Data Protection Regulation 2016. All processing of personal data will be done so in line with the data protection principles and where appropriate the necessary exemption applied.

**20.4** Full details of how we store and use personal information about our customers can be found on our web site and in our privacy statement at [www.dover.gov.uk/privacy](http://www.dover.gov.uk/privacy) this will also contain contact information If you have any questions or require assistance from the data protection/information governance team.

**20.5** We may share information about both complainants and alleged perpetrators in the following circumstances:

- Section 115 of the Crime and Disorder Act 1998 allows DDC and its partners to share information for the purpose of preventing and detecting crime and disorder.
- DDC will share information in accordance with the Kent and Medway Information Sharing Agreement. DDC has signed up to this agreement, which 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**

**20.6** One off sharing under the Kent and Medway Information Sharing Agreement will require the completion of the KMISA Record of Sharing form which can be obtained from the Data Protection Team.

**20.7** For further information on our data protection compliance please view our Data Protection Policy here at <https://www.dover.gov.uk/Corporate-Information/PDF/Data-Protection-Policy.pdf>

## **21. Case closure**

**21.1** When considering whether it is appropriate to close an investigation, the housing officer will take into account the following factors.

- whether the anti-social behaviour has ceased
- If another partner agency is leading on the investigation and intervention.
- Whether a lack of evidence from a witness(es) prevents further action being considered
- Whether intervention in the form of mediation has assisted in resolving matters
- Where there are several parties involved, making counter allegations with no independent witnesses to the incident(s)

## **22. Guidance for staff**

**22.1** DDC is committed to:

- Ensuring its staff are aware of the importance of dealing with reports of incidents of ASB quickly and effectively and provide complainants with practical help, advice, information and support ensuring new staff are aware of and understand the ASB policy and procedure as part of the induction process ensuring staff can prioritise complaints
- being clear about the standards expected of staff and ensuring they have the confidence and knowledge to investigate incidents and reports of ASB supporting staff and encouraging learning to understand the legislation and powers available to tackle anti-social behaviour
- ensuring staff are sensitive to issues of diversity, sustainability and homelessness.
- doing what we say we will do and not making promises we cannot keep
- respecting the confidentiality of all our tenants and leaseholders

## **23. Monitoring and review**

**23.1** Monitoring is necessary to ensure that DDC delivers the aims and objectives set out in this policy. DDC employs a range of mechanisms to report, monitor and review our ASB service including benchmarking performance against other organisations in the South East.

**23.2** DDC will regularly monitor its performance on ASB and publish this information.

**23.3** This policy will be reviewed annually, to address any changes in legislation, regulatory powers, best practice or operational issues.