

## **FCHO/Oldham MBC Tackling Anti-Social Behaviour Procedure Statement**

### **Introduction**

Nuisance can take many forms and includes the following:

- Hate Incidents and harassment – including verbal abuse, racist, sexist or homophobic remarks, threats of violence, assault or damage to property.
- Graffiti – offensive graffiti or damage to property.
- Selling drugs or drug abuse.
- Dumping rubbish.
- Noise – excessive banging of doors, shouting and arguing or playing loud noise constantly.
- Not keeping pets under control – dog fouling or constant barking.
- Untidy, overgrown gardens.
- Dumped cars or vehicle repairs at the roadside.

These are just some examples of common neighbour nuisance problems.

### **Roles and responsibilities**

#### **Housing Management Teams**

“Patch” Housing Officers will be the main contact for tenants who are suffering from ASB. The Housing Officer will be responsible for:

- Responding to complaints by investigating within timescales.
- Firstly, considering the suitability of the case for referral to Mediation Oldham.
- Interviewing complainants and those alleged to be causing problems.

- Explaining the process to tenants and agreeing on an Action-Plan.
- Taking firm action – including legal measures - through Housing Officers working closely with Anti-Social Behaviour Officers and the Legal Team; this will normally only apply in nuisance cases which cannot be resolved by other means.
- Keeping tenants informed of progress.
- Notifying tenants on closure of a case.

Housing Officers will also involve other agencies as necessary, such as GM Police, Oldham Council's Community Safety Unit (CSU), Environmental Services or Social Services. ASB specialists within the CSU will work closely with our officers on ASB cases, but tenants' contact-point will continue to be the Housing Officer unless you are notified otherwise.

In dealing with Hate Incidents, Housing Officers will also work closely with Tenancy Support Officers to assist vulnerable tenants.

Tenants will be expected to work closely with Housing Officers in addressing ASB; detailed records of incidents, for example, are very important in order to decide on appropriate action, particularly in the event of legal action proving necessary.

At the same time, we will do everything possible to encourage tenants by respecting confidentiality and providing Witness Support measures on more serious cases by working with our partners in the CSU.

## **Timescales and action plan**

A complaint may be made in writing, verbally, or via a third party, e.g. a member of the public or Community Leader.

- For High Priority cases (Category A), we will commence investigation to reports or complaints within one working day.
- For Medium Priority cases (Category B), we will commence investigation within two working days.
- For Standard Priority cases (Category C), we will commence investigation within five working days.
- Referrals to Oldham Mediation will be made within ten days.

Definitions of these categories can be obtained from our ASB procedure, which is available at all offices. (Hate Incidents, for example, will always be Category A). Our response will obviously depend on the circumstances of the problem, but in all cases these timescales will involve explaining to tenants the action, which we plan to take. Further contact will involve a written acknowledgement within five days; should the problems persist we will

explain progress and our proposals for more detailed investigation and action.

## Investigation

A complaint may be made in writing, verbally, or via a third party, e.g. a member of the public or Community Leader.

Following receipt of a complaint the Housing Officer must:

Send a written acknowledgement within 2 working days in urgent cases and within 5 working days in non- serious cases days.

Where a complaint is found to be justified, the Housing Officer should endeavour, if appropriate, to arrange an interview with the complainant. A separate interview should also be arranged with the alleged perpetrator. In both cases, full consideration will be given to the personal safety and need for confidentiality for all parties. It may, for example, be appropriate to conduct the interviews away from the relevant property at a neutral venue or at the Housing Office.

The approach at the interview should be sympathetic and supportive. HO's will ask for full details – "Who, what, when, where, why" - in order to fully assess the situation.

When diary sheets are issued, the Housing Officer must explain the process of completing the diary sheets, including examples and reference to the type of language used by those causing ASB. (See Diary Sheets Guidance). The Housing Officer must also record agreed timescales for the return of the diary sheets with the complainant. If the diary sheets are not returned within ten working days, the HO should contact the complainant to pursue completion of the sheets.

Once a suitable course of action is determined on the basis of evidence available, the HO should agree the Action-Plan with the tenant.

Some examples of action that may be taken are:

- a door knocking exercise or mail drop to establish further witnesses
- sending warning letters to the alleged perpetrator
- collecting detailed witness statements
- convening a case conference with other involved agencies
- exploring ways and means to take joint action with other departments and/or the Police
- seeking an injunction by referral to the HLT.

- referral to the HLT for possession action and/or service of a Notice of Seeking Possession/Notice to Terminate.

Close working with ASB Officers will form a key part of our response to nuisance complaints.

**It is imperative that housing officers keep tenants informed of case progress to minimise distress; brief file notes of telephone call/other contacts should be retained to confirm that regular updates have been provided for the tenant.**

Housing officers must keep documentation of complaints. Records must be kept and maintained of all incidents.

If our findings are complete, we will send a letter to tenants confirming that the case is closed. If tenants wish to query this, they may do so.

Tenants who are dissatisfied with our response will be referred to FCHO's Complaints Procedure.

A comprehensive range of Key Performance Indicators will be maintained by each local team and FCHO's Quality Assurance Team. This will measure a range of activity including actions taken by local teams, joint working, legal actions and tenant satisfaction.

## **Working with tenants, residents and local communities**

FCHO will do everything possible to engage and support people who are willing to assist in the process of stopping Anti-Social Behaviour. This includes:

- Treating information confidentially
- Providing a place where people will feel confident to discuss their concerns.
- Arranging more frequent visits by our staff/other agencies. Where visits are not appropriate to maintain confidentiality or safety, meetings at other venues should be arranged.
- Taking legal action e.g. injunctions which can restrict the movement of those who may be intimidating witnesses.
- Providing special support e.g. Home Link alarms to maintain urgent communication with the police.
- Making special arrangements for people who are attending court.

In all cases, the wishes and concerns of witnesses will be a major aspect of the action we take.

## **Types of ASB**

### **Harassment:**

#### **What is Harassment?**

Harassment occurs when anti-social or nuisance behaviour is deliberately and persistently targeted on an individual or a group of individuals. Particular groups of people who may be targeted include:

- the black and minority ethnic community
- women
- persons with a disability
- lesbian and gay people.

It is the policy of FCHO to support the victims of harassment, ***racial or otherwise***, and where possible take firm action against the perpetrators of harassment. This is reflected in the Tenancy Agreement.

### **Racial harassment**

#### **What is a racist incident?**

**“A racist incident is any incident which is perceived to be racist by the victim or any other person”**

**FCHO deplores any kind of harassment (racist and other forms) and together with our Crime Prevention Partners, we give full commitment to prevent and deal with racially motivated incidents and crimes.**

Racial Harassment will be dealt with by working with other agencies to take action against those who are responsible. At all times, we will work to protect the interests of the victim, for example, by the Housing Officer, CSU and Tenancy Support Officer working together to ensure that the victim is given additional security measures to their home.

A home visit or office interview will be carried out within 24 hours. As part of the interview, the HO will complete the Racial Incident Reporting Form, which will be copied to various agencies, including GM Police.

We will take photos and remove any graffiti within 24 hours. Any damage to a tenants' property will be made good within 24 hours if possible. For certain

types of repair, which take longer by necessity (e.g. involving manufactured parts) with the highest possible priority.

When the investigation is completed, the HO will work with the CSU, GM Police and others to determine action, e.g. warning letters, injunctions, criminal charges etc.

**The housing officer in conjunction with HTL, TSO, CSU, will seek to prevent racist incidents at the outset, by arranging a risk assessment with the TSO and CSU prior to a tenant moving into a non-traditional area.**

### **Noise Nuisance**

Most allegations of noise will be dealt with by the Housing Officer. Initially, consideration will be given to referring the case to Mediation Oldham, which can produce solutions without the need for enforcement action.

In some cases, it will be necessary to issue warning letters if there is clearly a breach of tenancy. We will also work with Environmental Services who have legal powers to restrict noise nuisance; if such action proves necessary, this information may be used in building a case against the guilty tenant for other breaches of tenancy, such as damage to the property. Environmental Services have a target-time of 48 hours from the date of referral by the Housing Officer/Legal Services for installation of noise-monitoring equipment.

### **Other Breaches**

Other breaches of tenancy conditions, other than nuisance, can also be important, e.g. repairing cars on the grass verge, badly neglected gardens, failing to take care of the property. (See list in Section 1 above).

All housing staff visiting tenants' homes or estates should be vigilant and take every opportunity to identify problems, e.g. during a rent arrears visit, a repair inspection etc.

The alleged perpetrator must be interviewed, and the outcome confirmed in writing, no more than five working days from when the problem is first identified. This is a maximum timescale and Housing Officers should use their judgment in considering a more urgent response. Housing Officers may also wish to take the matter up immediately with the alleged perpetrator, e.g. as part of an arrears interview. This can be a constructive and timesaving way of dealing with the issue.

## **Remedies**

### **Informal Action**

Our aim is to prevent the escalation of ASB wherever possible and that there are a number of preventive measures, which may assist without recourse to punitive responses.

- The Housing Support Team may be able to assist, for example in modifying the behaviour of a young client who has become a tenant for the first time.
- Improvements in “Secure by Design” issues e.g. through our Environmental Improvements Programme. The Community Safety Unit may also be able to advise on additional security features, e.g. for victims of repeat burglary.
- Police Community Support Officers or Youth Services may be able to catch problems at an early stage, based on evidence or intelligence gathered by Housing officers or tenants.
- We should expect tenants to show reasonable levels of tolerance in order to create or sustain a sense of community.
- We will be conscious of communication problems, e.g. where there are language or mental health problems, which may be the source of a nuisance report.

### **Mediation Oldham**

Oldham MBC and FCHO recognise and acknowledge that not all anti-social behaviour and neighbour disputes can be resolved by the landlord, despite our best endeavours. In many cases mediation between the tenants in dispute may be a way forward to come to a successful resolution. Housing Officers should consider referral to Mediation Oldham, **as a first option** in dealing with complaints. Mediation provides a means of producing a lasting solution by giving ownership to tenants, rather than expecting all solutions to be successfully imposed by FCHO as landlord.

### **Injunctions**

An injunction is a court order telling the defendant to do something or, more often, not do something; for example, an injunction may prevent the defendant from approaching a person or place. Injunctions can be adapted to a range of circumstances and their value lies in the consequences of a breach. If the order is breached it could result in imprisonment for contempt of court. However, Housing Officers, tenants and others will need to work closely in appropriate cases, as a high standard of evidence is needed to prove a breach to the court.

In extreme circumstances, certain injunctions can be obtained without even telling the defendant that the case is going to court. Prompt action is essential

in such cases, so the Housing Officer must pass detailed evidence through to the Legal Team as a matter of urgency; such injunctions are likely to only apply to cases which involve, for example, a very real threat of violence or harassment. The risk of such violence will be based on the evidence available and will be assessed by the Legal Team in partnership with the local Housing Team and other partners.

### **Acceptable Behaviour Contracts (ABC's)**

Normally, ABC's are used with young people, aged between 10 and 18 years who would potentially benefit from the scheme ABC's are a tool to "nip" problems in the bud; they are intended to warn individual that any further reports of anti-social behaviour would be likely result in legal action in the form of an ASBO and/or possession proceedings.

### **Anti-Social Behaviour Orders (ASBO's)**

ASBO's will normally be used in more serious cases where other efforts to modify the behaviour of individual(s) have been unsuccessful. An ASBO may be sought where there is evidence of harassment, alarm or distress caused by the behaviour of the individual(s) responsible. However, ASBO's should be seen as a preventative, rather than a punitive measure. Best practice will normally involve a range of agencies in case-conferences or other detailed discussions before an ASBO is sought. (For this reason, other measures, particularly injunctions offer a more speedy remedy). A multi-agency approach will assist in considering all relevant evidence, which is invaluable in formulating the conditions of the ASBO; the terms may, for example, prevent the individual(s) from associating with others or in being in a particular area where they have already clearly caused problems.

Both ABC's and ASBO's will normally be led by the Anti-social Behaviour Officer, but will need evidence-gathering and other support from the relevant Housing Officer.

### **Notice of Seeking Possession (NOSP)**

Where there is clear evidence of a breach of the Tenancy Conditions (eg a tenant has been convicted of using their property for illegal purposes), a further option is to issue a NOSP. In nuisance cases, the service of a NOSP can substantially reduce the problem by the threat of a tenant losing their home. In order to obtain a NOSP, Housing Officers will be required to provide full details of evidence, including diary sheets, notes, etc. presenting the alleged breaches in date order for the Legal Team.

### **Notice to Terminate (NTT)**

NTT's apply to Introductory Tenants (ie those who are on a "probationary" twelve month tenancy with FCHO). Again it is essential for Housing Officers, tenants, ASB Officers and others to build a strong body of evidence for

referral to the Legal Team. Although possession must still be sought through the County Court, the steps are much simpler than those to be followed for a Secure Tenancy (as shown in the use of NOSP's above). As such, action should be taken promptly in order to prevent a tenancy from becoming secure after the twelve month period.

### **Demoted Tenancy**

The ASB Act, 2003 provides the power to apply for the demotion of a tenancy where a tenant or a resident, or a visitor to the dwelling is guilty of anti-social behaviour. In order to obtain a demotion order, the Housing Officer must pass witness statements, diary sheets and other evidence through to the Legal Team. A demotion order will mean that the tenant is in a similar position to Introductory Tenants, i.e. the Demoted Tenancy will normally last for a period of twelve months. As with Introductory Tenancies, a Demoted Tenancy can be terminated more easily than a Secure Tenancy **IF** the correct process has been followed and there is clear evidence of persistent ASB within the twelve month period.