



REPORT OF THE CHIEF EXECUTIVE

**SUBJECT: REPORT OF THE TOWNS & COMMUNITIES OVERVIEW
AND SCRUTINY SUB-COMMITTEE: ASB IN COUNCIL
TENANCY TOPIC GROUP**

SUMMARY

This report contains the findings and recommendations that have emerged after the Topic Group scrutinised the subject selected by the Sub-Committee in August 2015.

The environmental, equalities & social inclusion, financial, legal and HR implications and risks are addressed within the topic group's report.

RECOMMENDATION

That Members:

1. Note the report of the Towns & Communities Overview and Scrutiny Sub-Committee Topic Group (attached);
2. Decide whether to refer the recommendations of the Topic Group to Cabinet.

REPORT DETAIL

At its meeting on 18 August 2015, the Towns & Communities Overview and Scrutiny Sub-Committee agreed to start a topic group to scrutinise the Council's Policy on Anti-Social Behaviour by Council Tenants within Housing Services.

Attached is a copy of the Topic Group's report. The report includes details of the scrutiny work undertaken by Members in reaching the recommendations set out.

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Andrew Blake-Herbert
Chief Executive

Background Papers - None



REPORT OF THE TOWNS & COMMUNITIES OVERVIEW AND SCRUTINY SUB-COMMITTEE ASB IN COUNCIL TENANCY TOPIC GROUP

1.0 BACKGROUND

- 1.1 At its meeting on 18 August 2015, the Towns & Communities Overview and Scrutiny Sub-Committee agreed to start a topic group to scrutinise the Council's Policy on Anti-Social Behaviour by Council Tenants within Housing Services.
- 1.2 The membership of the Topic Group was open to all Members of the Sub-Committee. Councillors Lawrence Webb (Chairman), June Alexander, Jody Ganly and Linda Trew indicated to participate in the review.

The following Members also indicated interest and were co-opted to the review group; Councillors John Granville, Pat Rumble and Ian De Wulverton.

- 1.3 The Topic Group met on four occasions and undertook a joint review of the current Tenancy Agreement which sets out the rights and responsibilities of new tenants.

2.0 SCOPE OF THE REVIEW

At its meeting on 23 June 2015, the Sub-Committee received a briefing report on Anti-Social Behaviour and Council Tenancies.

The report informed Members of progress with combating Anti-Social Behaviour (ASB) within the Council's housing stock.

Anti-Social behaviour (ASB) is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder, from litter and vandalism to public drunkenness or aggressive dogs, to noisy or abusive neighbours.

It was noted that such a wide range of behaviours meant that responsibility for dealing with anti-social behaviour was shared between a number of agencies, but particularly the Council and the Police.

The Sub-Committee found that dealing with the root causes of ASB had to be the best solution for long-term change.

The Sub-Committee noted that a review of the current Housing Tenancy Terms and Conditions was in progress. The project was at an early stage and would include a full and extensive consultation process.

The Topic Group was set-up to scrutinise the Council's Policy on Anti-Social Behaviour for Council Tenants within Housing Services.

The Group noted that dealing with ASB within the Council's housing stock was a significant part of the Council's overall ASB strategy but that it should not be looked at in isolation as the Council's Crime and Disorder strategy comprised a number of separate methods that were available to tackle ASB across all tenures.

The Topic Group was informed that the recently enacted Anti-Social Behaviour, Crime and Policing Act 2014 had introduced a series of new powers to assist with combatting ASB. One aspect was the amendment to the Housing Act 1985 in respect of secure tenancies (as used by Councils) to provide for mandatory possession of a property, where ASB or criminal behaviour had already been proved in another court. This also enables social landlords to expedite possession proceedings where another court has proven significant anti-social behaviour or criminality in the locality of the property.

These included situations where a tenant, a member of their household or one or more of their visitors was found to be:

- In breach of a Court Undertaking and / or Civil Injunction;
- In breach of a Court Ordered Criminal Behaviour Order;
- Convicted of Breaching a Noise Abatement Notice;
- Subject to a breach of a Closure Order.

The Group noted that Housing Services had a Prevention and Diversionary Strategy for dealing with Council tenants. Members noted that the service took an intelligence led approach to identify hot spots and to target resources.

It was noted that the service worked closely with partner agencies to both prevent and resolve ASB alongside the Community Engagement Team who had organised a number of events such as Job Clubs and other initiatives to help reduce unemployment and to provide diversionary projects to prevent ASB such as the Football Academy and 'Family Boot Camp' schemes.

The Group noted that:

- Non-payment of council tax could not be included in a tenancy agreement
- The Council could still take action against a council tenant on anti-social grounds but what action could be taken was very much dependent on the regularity and seriousness of the incident(s) and the impact on the wider community.
- One of the principal delays in taking effective and timely action is the courts. There were substantial delays in getting cases listed for hearing

which appears to have worsened following cuts to the Ministry of Justice budgets

- The Council was aware of the serious issue of substance abuse such as the use of cannabis and laughing gas amongst young people.
- Noise nuisance was about 35-40% of the caseload of Neighbourhood Officers

During the course of the exercise, Members of the Topic Group identified tenants' cases that they would like the Topic Group to review as part of the scrutiny process in order to understand the approach that was taken on each individual case.

Following the exercise, the Topic Group was satisfied with officers' approach to each of the cases reviewed based on the information that was available.

3.0 FINDINGS

The current top messages to council tenants were:

- Your tenancy is your home and you are responsible for your family members and visitors' behaviour.
- You need to take care of your home – any damage that you, your family or your visitors cause will be your responsibility. If the Council has to undertake any such repairs then we will recharge you the costs.

The current policy on pets in councils home allows for:

- Two pets if the tenant lives in a house, bungalow or flat with access to a garden
- Written permission for a dog
- Dogs to be chipped
- One pet if the tenant lives in a flat or the building has a warden service
- No reptiles, pigeons or dangerous dogs
- Animal welfare requirements
- Not allowing pets to frighten or cause a nuisance to neighbours

The policy promotes being a good tenant whilst living in a council home by putting in place controls around:

- Running a business
- Maintaining pest control
- Providing access for repairs – especially gas
- Home improvements
- Damage and rechargeable repairs

The policy promotes taking care of the environment by maintaining:

- Gardens

- Communal areas
- Fly tipping and graffiti
- Trees
- Satellite dishes (this was currently not been enforced due to the poor TV reception in some homes)

The Topic Group was informed that the new Tenancy Strategy which was drafted following the Localism Act 2011 introduced secure fixed terms tenancies for 3 or 5 years

The Topic Group noted the following regarding the new fixed term tenancies:

- Older people (60+) are exempt and therefore will still continue to be offered secure lifetime tenancies
- A three year fixed term will be offered where the tenant has a known history of rent arrears or Anti-Social behaviour. In all other cases a 5 year fixed term will be offered.
- Whether 3 or 5 years the tenancy will be reviewed 6 months from the end of the fixed term to establish whether the 'housing need' of the individual or household has changed.
- This will provide the Council with more control. So for example the Council could refuse to extend the fixed term if the tenant has committed Anti-Social behaviour, is under-occupying, has made unauthorized alterations to the property or is in arrears

The Topic Group was informed that the Localism Act also made some major changes to the law on succession. Prior to the Act being passed the law on secure tenancies was that there was:

- Only one succession on death was allowed and that could be to the spouse living with tenant at time of death or a member of the family living with the tenant for at least 12 months at the time of death.
- The Localism Act changed the above – so that new tenancies post 1st April 2013 could only have one succession on death and this was only to a spouse or civil partner living with tenant at the time of death
- The Topic Group noted however that because the Council's Secure Tenancy has not been revised since the Localism Act was passed the old law still remains in place until such time as the Council agrees any proposed revisions to the tenancy strategy and/or tenancy agreement at which point the new succession changes will take effect.

The Group noted that the Council was presently conducting an assessment into the feasibility of implementing a Landlord Accreditation Scheme and/or additional licensing for Houses in Multiple Occupation. This was due to be completed for formal consideration by January 2017. Much of the need for this related to anti-social behaviour (ASB) within the borough, hence to deal with ASB strategically this needs to be considered when also dealing with all forms of tenancy including Council Tenancy.'

During the process of this review, the Group endorsed a joint nuisance information pack that outlined how a statutory nuisance issue, such as noise, for all forms of tenancy would be investigated. It was intended that this document would now be taken forward towards implementation within both Housing Services and Regulatory Services.'

The Group understand that residents who were owner/occupiers of their property could be held to account under the following two key pieces of legislation:

1. Environmental Protection Act 1990, Statutory Nuisance: evidence is gathered from residents via diary sheets, noise monitoring equipment that can be installed and officers can attend to witness the issue. If following this a nuisance is present then a warning notice is served whereby observations for compliance follow. Should a breach of notice occur a prosecution can be taken forward potentially resulting in a criminal record and fine.
2. Anti-Social Behaviour, Crime and Policing Act 2014: evidence is gathered via diary sheets from residents and observations by officers. There is then a number of tools that can be used i.e. community protection order to deal with the individuals causing the ASB.

The Group understand that throughout these processes the Council would make every effort to deal with the matter informally.

RECOMMENDATION

Following the review exercise undertaken with officers, the Topic Group supports the Housing Services and Public Protection operating a joint service dealing with statutory noise nuisance consistently. This would be via a shared Nuisance Information Pack advising residents of the new procedure. There are various legal remedies that can be used such as Section 80 of the EPA 1990 and the Crime & Policing Act 2015; however the Housing Service can also use Tenancy Terms & Conditions to deal with some issues relating to noise nuisance.

It is recommended that a Policy and Procedure is produced and implemented defining the new joint service. This will also demonstrate how the Council was dealing with noise nuisance in a consistent and as far as is possible tenure neutral manner for all residents.

The Topic Group agreed that in regular communication with all tenants there would be a notice added highlighting any evictions for ASB and a gentle reminder of tenants own obligations.

ACKNOWLEDGEMENTS

During the course of its review, the topic group was supported by the following officers:

Peter Doherty – Tenancy Sustainment Services Manager
Louise Watkinson - Environmental Health
Martin Grant - Environmental Health
John Smith – Tenancy Sustainment Manager

Financial Implications and Risks:

None

Legal Implications and Risks:

None

Human Resources Implications and Risks:

None

Equalities and Social Inclusion Implications and Risks:

None

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Background Papers List

None