



## CABINET

20 September 2017

**Subject Heading:**

**Anti-Social Behaviour in Council Tenancies Topic Group Report**

**Cabinet Member:**

Councillor Damian White, Deputy Leader of the Council and Cabinet Member for Housing

**SLT Lead:**

Steve Moore

**Report Author and contact details:**

Taiwo Adeoye  
Democratic Services Officer  
Tel: 01708 433079  
[taiwo.adeoye@onesource.co.uk](mailto:taiwo.adeoye@onesource.co.uk)

**Policy context:**

Anti-Social Behaviour and Noise Nuisance

**Financial summary:**

There are no direct financial implications arising from the report

**Is this a Key Decision?**

No

**When should this matter be reviewed?**

One year from consideration of report.

**Reviewing OSSC:**

Towns and Communities

### **The subject matter of this report deals with the following Council Objectives**

Communities making Havering	[x]
Places making Havering	[x]
Opportunities making Havering	[ ]
Connections making Havering	[ ]

### **SUMMARY**

Following a briefing on Anti-Social Behaviour (ASB) in Council Tenancies to the Sub-Committee, Members noted that the Housing Service was undertaking a review of current policies and procedures. It was therefore decided to form a Topic Group to work with officers and review Anti-Social Behaviour in Council Tenancies.

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

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

## RECOMMENDATIONS

That Cabinet agree to endorse the following recommendations made by the Topic Group:

- 1. That Housing Services and Public Protection establish a common service provision to deal with statutory noise nuisance consistently. This would be achieved by providing a Nuisance Information Pack and advising residents of the new procedure once finalised, on the Council's website (see paragraph 3.26)**

**The Topic Group report is a retrospective one as the recommendations have already been implemented.**

- 2. That a Policy and Procedure be produced and implemented defining the new common service. This will also demonstrate how the Council deals with noise nuisance in a consistent and as far as is possible tenure neutral manner for all residents (see paragraph 3.26)**
- 3. That in regular communications with tenants that publicity be highlighted of any evictions for Anti-Social Behaviour and reminding tenants of their own obligations in this regard. Additionally that every effort be made to communicate to tenants the actions, which the Council have taken to deal with Anti-Social Behaviour in Council Tenancies. (see paragraph 3.27)**

## REPORT DETAIL

### **1.0 BACKGROUND**

- 1.1 At its meeting 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.**
- 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 participated in the review.**

The following Members also indicated interest and were co-opted to the review group: Councillors John Glanville, Patricia Rumble and Ian De Wulverton.

1.3 The Topic Group met on four occasions.

## **2. SCOPE OF THE REVIEW**

2.1 The Group agreed to explore and understand the following areas during the course of the review:

1. The Council's definition of Anti-Social Behaviour (ASB) along with a breakdown of the volumes of incidents for each of the categories of ASB.
2. The Council's processes for tackling nuisance and ASB – process P1 covering areas such as Racial Harassment, Hate Crime and Domestic Violence or and process P2 encompassing issues such as a loud parties and vandalism. Both informal and formal court-based remedies are to be scrutinised.
3. The use by the Council of the ASB, Crime and Policing Act.
4. The review of case studies of how the Council had dealt with anti-social behaviour– what went well / what did not go so well.

## **3. FINDINGS**

### **Definitions and responsibilities of tenants**

- 3.1 ASB is a broad term used to describe day-to-day incidents of crime, nuisance and disorder, ranging from litter and vandalism to public drunkenness or aggressive dogs, to noisy or abusive neighbours.
- 3.2 Members noted that dealing with ASB within the Council's housing stock was a significant part of the Council's overall ASB strategy but 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.
- 3.3 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.
- 3.4 Anti-social behaviour was defined as "behaviour by a person which causes, or was likely to cause, harassment, alarm or distress to one or more persons not of the same household as the person" (Antisocial Behaviour Act 2003 and Police Reform and Social Responsibility Act 2011).
- 3.5 A widely used definition of anti-social behaviour was the definition contained in the Crime and Disorder Act (1998): 'Acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as (the defendant).'

3.6 Housing Services had defined ASB as set out in the Crime and Disorder Act 1998:

“Acting in a manner that is unreasonable, persistent, disturbing or harassing to one or more persons not of the same household as themselves” The Anti-social Behaviour Crime and Policing Act 2014 had expanded on this as follows:

- Conduct 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, or
- Conduct capable of causing housing–related nuisance or annoyance to any person

3.7 Havering’s tenants must comply with their tenancy agreement in relation to ASB by avoiding all the following actions:

- Conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaged in lawful activity in the locality of the home
- Conduct which directly or indirectly relates to or affects the housing management functions of a relevant landlord *or*
- Using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose
- Behaviour that unreasonably interferes with people’s rights to the use and enjoyment of their home and community.

3.8 Housing Services would work in conjunction with the Council’s partners, including the voluntary sector to provide effective solutions to deal with issues of ASB in the borough. The Topic Group noted that in the delivery of housing services some examples of ASB were considered to be:

- Threatening or using violence towards anyone in the local area, including Housing Services employees and contractors
- Doing anything that caused or was likely to cause nuisance or annoyance to anyone in the local area
- Doing anything that interfered with the peace, comfort or convenience of anyone who lived in the local area
- Playing music or the television at loud volumes
- The holding of loud parties
- Nuisance Noise including slamming doors, DIY, shouting and screaming, misuse of communal landings and stairwells (nuisance that was persistent and at unreasonable times)
- Smell of drugs in communal areas or in neighbours’ homes
- Vandalism
- Using the premises for any immoral, criminal or illegal purposes, or being convicted of a criminal/unlawful offence in the local area

- Harassment of anyone in the local area on the basis of their colour, race, nationality, ethnic origin, sex, sexual orientation, mental or physical disability, religious beliefs or on any other grounds whatsoever
- Causing alarm or distress to neighbours and other tenants through the use or threatened use of domestic violence (including psychological abuse)
- Keeping an animal, where this caused a nuisance or annoyance to anyone in the local area. This would include allowing animals to foul in communal areas, dogs barking, attacking or biting and causing intimidation to others

3.9 The Topic Group was provided with the following lines of action that the Council followed under its Priority 1 (P1) process:

### **Racial Harassment**

The Service will not tolerate racial harassment by or against our tenants. The Service will use legal remedies such as Injunctions specified in the Anti-social Behaviour, Crime and Policing Act 2014, or Criminal Behaviour Orders to deal with racial harassment where appropriate. The Service will also enforce any breaches of the terms and conditions in the Tenancy Agreement by seeking eviction if appropriate. Racial harassment is a criminal offence and the service will encourage victims to report incidents to the police, where appropriate.

Housing Services had a Racial Harassment Policy to explain how racial harassment would be dealt with. Copies could be obtained from the Housing Services office and the council website.

### **Hate Crime**

Housing Services uses the Association of Chief Police Officers' definition of hate crime which is: "Hate Crime is any criminal offence committed against a person or property that is motivated by the offender's hate against people because of their sex, race, religion, disability or sexual orientation". The Service had also developed a Hate Crime policy that informs residents how it addressed hate crime.

### **Domestic Violence**

Housing Services had, in addition, developed a separate Domestic Violence Policy, to explain how domestic violence was managed.

### **Legal powers available to the Council**

3.10 Anti-social Behaviour may or may not involve criminal activity. When receiving a report, the main issue in deciding whether specific behaviour is anti-social or not, is its impact on others. ASB can be started by individuals, both adults and children, or by groups and families or/and their visitors.

3.11 The Group noted the different types of ASB as outlined above and felt that dealing with the root causes of ASB had to be the best solution for long-term change.

3.12 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 enabled social landlords to expedite possession proceedings where another court had proven significant anti-social behaviour or criminality in the locality of the property.

3.13 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.

3.14 Other measures available included Housing Services having 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.

3.15 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.

3.16 The Group noted that:

- 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 was the court process. 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 ASB caseload of Neighbourhood Officers.

## **The Eviction Process**

3.17 The Group was informed of the process that could lead to eviction on anti-social behaviour grounds.

Given appropriate evidence, the Council could ask a court for a possession order and potentially evict a tenant, if someone in the household or a visitor that was involved in anti-social behaviour.

The tenant could also be potentially be evicted for anti-social behaviour that takes place not only in their home but within the local area.

Such Anti-social behaviour includes:

- causing a nuisance to your neighbours
- threatening landlord's staff or contractors
- using homes for illegal purposes, such as drug dealing
- being convicted of a serious criminal offence
- breaching a criminal behaviour order

Additionally, the Council could seek a possession order because of:

- the behaviour of a tenant's children
- the behaviour of other adults who live with them or who maybe visiting their home.
- the tenant or an adult living at the property commits an offence during a riot anywhere in the UK!

3.18 During the course of the exercise, Members of the Topic Group identified tenants' cases that they had been involved with and suggested that the Topic Group seek clarification as part of the scrutiny process in order to understand the approach that was taken on each individual case.

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

## **Other Issues**

The current top messages by the Council to council tenants were:

- Your tenancy is your home and you are responsible for your family members and visitors' behavior.
- 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.

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

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

- Older people (60+) were exempt and would therefore still continue to be offered secure lifetime tenancies
- A three year fixed term will be offered where the tenant had a known history of rent arrears or Anti-Social behaviour. In all other cases a 5 year fixed term would be offered.
- Regardless of whether a 3 or 5 year tenancy was in operation, this would be reviewed 6 months from the end of the fixed term to establish whether the 'housing need' of the individual or household had changed.
- It was felt that this would provide the Council with more control. For example, the Council could refuse to extend the fixed term if the tenant had committed Anti-Social Behaviour, was under-occupying, had made unauthorized alterations to the property or was in arrears.

- 3.21 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 approved by Cabinet in January 2017. This related to anti-social behaviour within the borough, hence to deal with ASB strategically this needed to be considered when also dealing with all forms of tenancy including Council Tenancy. The additional licensing scheme is moving forward in 12 wards and is due to go to Cabinet in October 2017.

- 3.22 During the process of this review, the Group was informed that officers within Housing and Environmental Health were seeking to standardise the approach to noise nuisance by providing a common 'tenure neutral' service to both residents and Council tenants alike. The Group endorsed the approach including the introduction of an information pack that would outline how a statutory nuisance issue, such as noise, for all residents would be investigated. It was intended that the process would be taken forward to implement similar services within both Regulatory and Housing Services. The Group felt that the common service should have clear procedures in how it dealt with noise nuisance across both Council and non-Council premises (see recommendations 1 and 2).

- 3.23 The communication of such a policy was felt by the topic group to be a key issue. The consequences of Anti-Social Behaviour, including any evictions undertaken for this reason, should be communicated to tenants on a regular basis (see recommendation 3).

- 3.24 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 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 were 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 but had the policies to fall back on if needed.

## **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

## **REASONS AND OPTIONS**

### **4. Reasons for the decision:**

There are currently major inconsistencies in the way that the Council manages noise nuisance which is determinant on tenure. The principal recommendation from this report is that a policy and procedure be produced and implemented defining the new joint service which will demonstrate how the Council will deal with noise nuisance in a consistent and, as far as possible, tenure neutral manner for all residents.

### **5. Other options considered:**

To remain 'as is' which was considered to be unacceptable. Consideration was also given to the services being completely homogenised but this was discounted because of the statutory and regulatory differences in delivering the services to different resident groups.

## IMPLICATIONS AND RISKS

### **6. Financial implications and risks:**

There are no direct financial implications arising from the report.

### **7. Legal Implications and Risks:**

Report reviewed and no observations.

It is noted that there is an on-going review of current housing policies and a specific working group producing a redrafted Housing ASB Policy as well as a review of current tenancy terms and conditions (again including ASB) and the next meeting to progress this is on 31<sup>st</sup> August. This Report will be also be useful to that process

### **8. Human Resources Implications and Risks:**

It is anticipated that the recommendations can be delivered from within existing staff resources. There are no other direct HR implications or risks to the Council or its workforce that can be identified from the recommendations made in this Report.

### **9. Equalities and Social Inclusion Implications and Risks:**

Equality and dignity for all are important characteristics in the maintenance of community cohesion and in addressing anti-social behaviour. These principles will be shared at every given opportunity. As reflected in the body of this report, any behaviour which targets people because of a 'protected characteristic' under Equality Act, or because of hate, will be addressed quickly and vigorously.

## **Appendix**

The Topic Group noted the following current Housing Service Standards:

- The Service will contact victims within one working day of them reporting racial harassment, hate crime and domestic violence to us. These are known as Priority One incidents
- The Service will visit contact victims of other ASB within five working days of receiving their report.
- The Service will work with the victim to agree an Action Plan during this visit, and write to them with a copy of the Plan within five working days of the visit.
- The Service will keep victims informed of the progress of their complaint at least every 10 working days but in some cases weekly.
- The Service will make safe any damage caused to a tenant's home by ASB, within 24 hours (provided the necessary repairs falls within our normal repair responsibility).
- Once an ASB case has been closed, the Service will contact victims to carry out a satisfaction questionnaire to find out what they thought of the service that was provided. This will be carried out within a month after we have closed a case.
- Where the victim is dissatisfied with the Service handling of an ASB report, the Service will review their case and re-open it, where appropriate.