

ASB POLICY 2013

2013

Our Vision

To ensure Anti-Social Behaviour does not compromise the right to peaceful enjoyment of our residents' homes, nor that of the local community. We provide decent quality affordable homes and services, and strive to improve the quality of life for local people.

Our Mission Statement & Values

At New Forest District Council we **care** about our tenants and leaseholders and their views, and we strive to offer a **quality** service which is **value for money**. We are **trustworthy** and **open** to scrutiny, and have policies and procedures in place to support this. We aim to **communicate** effectively and listen to your views and concerns. We **think positively** about our tenants' and leaseholders' future and by going 'back to basics' and streamlining our services to suit the needs of our tenants and leaseholders, we will **work together** to ensure a service of excellence which meets the needs of all.

(1), (RI Agreement 2008/11 & Leading our Forest Communities Corporate Plan, 2008/12).

1. Introduction

- 1.1 The purpose of this document is to describe New Forest District Council's (NFDC) policy on dealing with Anti-Social Behaviour (ASB) for tenants.
- 1.2 This policy is for staff and the public to provide them with guidance on what NFDC will do with regard to reports of ASB from tenants and generally on its housing estates. Hate Crime such as Racial Harassment and Domestic Violence will be dealt with in separate, but linked procedural documents.

2. General Policy Statement

- 2.1 NFDC recognises that to provide a quality housing service we must be effective in tackling ASB on our housing estates for the benefit of the wider community. We also believe that everyone has a right to the peaceful enjoyment of their home and neighbourhood without the distress or fear that can result from ASB. We will work closely with our partner agencies in relation to this and other related policies to achieve this aim.

3. Our Statement

- 3.1 We want you to enjoy living in your home and recognise your right to enjoy living your life as you choose, as long as this does not interfere with or make other tenants' lives uncomfortable. A good neighbour will tolerate and understand the different lifestyles of others. We ask that all tenants and their households are considerate towards their neighbours and help to create caring and happy communities. We will do what we can to promote harmony on all our estates and deal with any problems. The Council seeks the co-operation of its tenants when taking enforcement action against nuisance tenants.

(2), (NFDC Tenancy Conditions, 2008, Section 8, Para 8.1).

4. Core Actions

- We will adopt a “Low Tolerance” approach to Nuisance & ASB.
- We will continue as a signatory to the RESPECT Standard and incorporate the RESPECT Charter as part of our service.
- Every report of ASB will be recorded.
- The appropriate Neighbourhood & Tenancy Management Officer (NATMO) will investigate every report of ASB.
- Investigators will seek to identify and speak to all interested parties.
- Reports of ASB will be prioritised and investigations will start at the earliest possible time after receipt of the complaint and will be conducted in a timely manner.
- NATMOs will, in the first place take all complaints seriously and ensure the complaint is investigated thoroughly.
- Action against perpetrators will be appropriate to the situation. We will make every effort to help/seek support for tenants who perpetrate nuisance and ASB but if they are unwilling to co-operate, we will take tough action against them. This will include warning letters, visits, Mediation, Acceptable Behaviour Contracts (ABCs), Anti- Social Behaviour Orders (ASBOs), Demotion of Tenancies, Anti-Social Behaviour Injunctions (ASBIs), Referrals to appropriate support agencies, Notices of Seeking Possession (NOSPs), Notices to Quit (NTQs), possession proceedings or any other intervention that is suitable and applicable to the case.
- We fully recognise the importance of multi-agency working and will therefore work in partnership with our key partners such as the Police, Children/Adult Services, Key Workers, Locality Mental Health Teams (LMHT), Support Workers, Probation Service and Youth Offending Teams (YOT). We will seek to develop actions and solutions which are co-ordinated and effective and promote stable communities.
- We will ensure that all tenants have fair and equal access to our service. We will not discriminate against complainants because of their race, colour, religion, nationality, sex, age, mental or physical disability or sexual orientation.
- We will endeavour to help tenants whose vulnerability may be the cause of their inappropriate behaviour to others. This will be within partnership working protocol by referrals to other agencies.
- We will endeavour to help those whose vulnerability makes them more sensitive to other tenants/residents behaviour by alerting other support agencies to offer assistance in the matter.
- We will take firm and fair action against tenants who cause nuisance or ASB which is targeted at individuals from minority groups and motivated by racism or other discriminatory practice.
- We will seek to develop our services in line with the changing needs of our tenants. We will consult with tenants and seek their views as we continue to develop our service in response to ASB.
- We will continue to provide training and support to our dedicated NATMOs who deal with ASB to enable them to continue feeling confident in supporting victims and witnesses, interviewing and challenging perpetrators, negotiating actions and delivering services to achieve successful outcomes.

5. Definition of Anti-Social Behaviour

- 5.1 It is difficult to define ASB as there is no specific or formal definition which is used generically by Housing Providers or Police therefore NFDC use a definition modelled on the definition in Section 1(1) of the Crime & 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 himself”.

6. The Housing Act 1985 (Ground 2)

6.1 Ground 2 of The Housing Act 1985 states as a ground for possession:

“The tenant or a person residing in or visiting the dwelling house:-

- a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or***
- b) Has been convicted of using the dwelling house or allowing it to be used for immoral or illegal purposes***
Or
An indictable offence committed in, or in the locality of the dwelling house”.

7. Tenancies

7.1 NFDC Housing Services are provided under the terms of the Housing Act 1985. Three types of tenancies are available:

- a. Introductory Tenancies
- b. Licenses
- c. Non-Secure Tenancies
- d. Fixed Term Tenancies
- e. Periodic Tenancies

7.2 **Introductory Tenancies** are probationary tenancies which are given to all new tenants for a period of 12 months. This tenancy has fewer rights than a Secure Tenancy and it can be terminated at any time due to ASB or Rent Arrears. A Notice of Intent is served and a Court would automatically grant possession of a property.

Tenants do however have the right to have a decision reviewed by the Council (Introductory Tenants Review Regulations 1997).

7.3 **Licenses** are used for residents who are placed in Hostel-style accommodation and again have no security of tenure. If NFDC need to terminate a License we can do so by giving 28 days Notice to Quit.

7.4 **Non-Secure Tenancies** are tenancies granted to tenants where there is no security of tenure and in order for NFDC to gain possession of the property we would be required only to give 28 days' Notice to Quit. If a tenant failed to vacate the property we would go to Court and the Judge would have no alternative than to award possession of the property back to NFDC.

Non-Secure Tenancies are usually awarded to tenants who are housed under the “Homeless” legislation route and they can remain on a non-secure tenancy for a period of up to 2 years or longer. When they are eventually offered a permanent property they would be offered a Secure Tenancy.

- 7.5 **Fixed Term Tenancies** are granted to those who have successfully completed their Introductory Tenancy. They are granted a Fixed Term and give security of tenure for the duration of the fixed term. In order for NFDC to gain possession of the property we are required to do so through the Courts by way of a Possession hearing for breach of tenancy conditions. In the first instance this would require us to serve a Notice of Seeking Possession giving 28 days for a tenant to vacate the property or for the nuisance to abate. If evidenced nuisance continues after service of the Notice, possession proceedings would commence. A Court hearing would ensue whereby a Judge may award outright or immediate possession back to NFDC or they could award a Suspended Possession Order which would permit the tenants to remain in the property, as long as they met conditions of the Order, such as clearing rent arrears or amending their poor behaviour.
- 7.6 **Periodic Tenancies** are granted where the tenancy is or may be vulnerable or elderly and unlikely to ever have the resources to be accommodated in the private sector. Tenants with this type of tenancy have security of tenure. In order for NFDC to gain possession of the property we are required to do so through the Courts by way of a Possession hearing for breach of tenancy conditions. In the first instance this would require us to serve a Notice of Seeking Possession giving 28 days for a tenant to vacate the property or for the nuisance to abate. If evidenced nuisance continues after service of the Notice, possession proceedings would commence. A Court hearing would ensue whereby a Judge may award outright or immediate possession back to NFDC or they could award a Suspended Possession Order which would permit the tenants to remain in the property, as long as they met conditions of the Order, such as clearing rent arrears or amending their poor behaviour

8. **Civil Law**

- 8.1 If a tenant, family member or visitor living in or visiting the property perpetrates ASB and receives a conviction for a criminal activity, this can be used as evidence in a Civil Court, such as possession proceedings.

9. **Persistent Behaviour**

- 9.1 As a landlord, NFDC will do all it can to work with perpetrators to support them and address their behaviour however, if nuisance and ASB persists then we can initiate legal proceedings under Civil Law on the basis that the behaviour is ongoing.

10. **NFDC Responsibilities**

- 10.1 The **Neighbourhood & Tenancy Management Officers** are responsible for investigating reports of ASB, and all follow-up action as appropriate and necessary. They are also jointly responsible for identifying areas and issues for consideration of preventative strategies.
- 10.2 The **Head of Housing** is responsible for hearing all Introductory Tenancy Appeals and will Chair the Panel which determines the decision. The Panel is made up of Senior Managers within the Housing Service, but not the Senior Manager from the service which manages the case.
- 10.3 The **Housing Estates Manager** is responsible for overseeing the Neighbourhood & Tenancy Management Officers in complex cases, monitoring the progress of cases and making final decisions on relevant action on some cases.
- 10.4 The **Partnership Intervention Panel (PIP)** is a multi-agency Panel made up of professionals from other agencies and departments who come together to discuss

appropriate action on individual cases where a perpetrators' behaviour is ongoing or escalating. The Panel consists of Police, Adult/Children's Services, Probation, NATMOs, Mental Health Teams, Acceptable Behaviour Coordinator, Support Workers or any other agency who may be involved with the individual.

- 10.5 The **Acceptable Behaviour Coordinator** is part of the Community Safety Team and works with perpetrators of nuisance and ASB in a variety of ways to assist perpetrators to address and manage their behaviour.
- 10.6 The **Community Safety Officer** is responsible to the Head of Public Health & Community Safety and works with Housing as well as the Police and other agencies to tackle ASB issues in the wider community.
- 10.7 The **Legal Team**
NFDC has an in-house Legal team comprising of Solicitors and Barristers who are specialised in a variety of areas of law including Housing Law. Any cases which may require Injunctions, ASBOs or Possession Proceedings are discussed with the Legal team prior to commencement of any legal action.

11. Non-legal Remedies

- 11.1 Nuisance and ASB occurs in various forms from petty and minor incidents to serious incidents. NFDC will make every effort to resolve the issue without the use of legal action where appropriate.
- 11.2 Such action may include:
- Advice
 - Letters
 - Visits
 - Mediation
 - Service of a Notice of Seeking Possession
 - Acceptable Behaviour Contracts (ABCs)

NFDC will use each of these remedies, where necessary and appropriate to the individual case.

12. Legal Remedies

- 12.1 Should the non-legal remedies prove to be ineffective, or the degree of ASB is such that formal legal proceedings are warranted from the outset, then consideration will be given to adopting one or more of the legal remedies that are available, which include:
- Notice of Seeking Possession
 - Notice to Quit
 - Anti-Social Behaviour Injunctions
 - Demotion of Tenancy
 - Anti-Social Behaviour Orders (ASBOs)

13. Prevention of Anti-social Behaviour

- 13.1 We attempt to prevent ASB on our estates through a variety of measures. These measures include:

- Using Introductory Tenancies to ensure new tenants fully understand their responsibilities;
- Considering whether the design of the estate contributes to the situation, and if so, what we can do to improve it at a reasonable and affordable cost;
- Preventing individuals or families who have a proven history of ASB from becoming NFDC tenants, unless there is substantive evidence that they are not likely to cause such problems again;
- Actively considering support needs, if any, of prospective residents and ensuring those support needs are in place at the start of a tenancy;
- Actively seeking, where support needs are discovered during a tenancy, to provide necessary support through other appropriate agencies such as Floating Support;
- Actively engaging with and participating in Crime & Disorder Reduction Partnerships (CDRPs);
- Encouraging tenants and residents of estates to report nuisance and ASB when witnessed;
- Having protocols in place to ensure that a multi-agency approach is adopted to support vulnerable residents;
- Actively promoting such protocols in areas where they are not currently established;
- Encouraging good behaviour of our residents through a range of measures including:
 - providing a variety of ways in which tenants and residents can be involved in our services
 - working with partners and other agencies to promote community cohesion
- Understanding our tenants, stock and neighbourhood profiles and tailoring our services accordingly through a Customer Insight Programme.

14. Responding to a report of ASB

14.1 All reports of nuisance or ASB will be taken seriously.

14.2 The Housing Helpdesk will take the initial call and arrange to send out diary sheets which must be completed by the complainant in order to provide information on the alleged nuisance or ASB. The electronic data system will then allow the NATMO or other team member in their absence, to view incoming and new cases and decide on the correct and relevant action depending on the severity of the case.

14.3 Serious incidents, specifically violence which could lead to serious injury, including race-hate crime, Domestic Violence, Homophobic crime will be addressed by a phone call and/or visit to the complainant within one working day.

Other harassment and persistent nuisance will be responded to as appropriate to the level of seriousness of the incident.

14.4 Types of response include:

- A phone call
- A letter
- A visit

All of these will take place within 7 working days in line with our corporate response time to complaints.

- 14.5 Whilst it is acknowledged that the definitions in 14.3 are fairly broad, the NATMOs are a dedicated Nuisance & ASB service and will utilise their extensive experience, training and partnership working to implement a suitable and realistic timescale and action plan for each individual case.
- 14.6 NFDC also work closely under the “Safeguarding of Vulnerable Adults & Children” Policy to ensure any concerns are identified and reported immediately.

15. Confidentiality

- 15.1 Complainants will be encouraged to allow us to share information with other agencies, including the police, to ensure that the full range of civil and criminal remedies can be pursued. However, all information provided by the complainant will be treated with the utmost confidence and only passed to external agencies with prior consent. The exception to this is where we consider a child is ‘at risk’ in any situation, or if there is a high risk of serious harm to anyone in the situation described.
- 15.2 The Housing Estates Manager or Head of Housing will approve any disclosure without the complainant’s consent.
- 15.3 Information and evidence gathered from third parties to corroborate evidence previously provided from complainants will also be treated with confidentiality.
- 15.4 We will, at all times, adhere to our ‘Data Protection Policy’.

16. Support for Complainants & Witnesses

- 16.1 NFDC will if possible not re-house complainants (who are our tenants) but will rather seek to resolve the situation by tackling the alleged perpetrator about their ASB and securing the ending of this behaviour. In very rare and serious cases it may be necessary to re-house victims or witnesses on a temporary or permanent basis under a Management Move. This will involve exceptional circumstances where there is serious violence, organised criminal activity or threats to kill and someone is in real “fear for their life.” A Management Move will only be granted where the Police support this.
- 16.2 If it is necessary to move a family under a Management Move situation the following criteria will apply:
- The family will be moved from their current location to another location at the opposite side of the district.
 - The move will be on a like-for-like basis only in terms of property size and type.
 - Only 1 offer of accommodation will be made. If refused, then no other offer will be made.

It is the tenant’s responsibility to ensure that they do **not** tell anyone where they have moved to.

16.3 Other forms of Support will be provided by:

- dealing with reports promptly
- involving everyone in discussions about the action plan to resolve the issues
- keeping them informed of any developments
- referring them to appropriate support services where necessary
- using Officers as Professional Witnesses in Court, if required
- Victim Support (provided by the Police)

16.4 In general, we would wish to obtain agreement with complainants about the particular actions to be followed. There may be occasions however where the complainant would wish that NFDC take no specific action on their report. The situation may however be serious enough that we feel we have little option but to pursue the issue against their wishes. In such circumstances we will take appropriate measures to protect all those affected. On the other hand a complainant may wish us to take an action against an alleged perpetrator that we consider is not proportionate to the alleged incident. In such a case we may decide to follow a different course of action. We will always communicate and make the complainant aware of our proposed action plan and the reasons for our decisions.

16.5 Active and serious engagement with witnesses is critical to the success of this service and achieving a positive outcome. This relies significantly on the courage and tenacity of individuals living under threat and at the centre of the anti-social activity. In serious cases where we seek possession of a perpetrator's property the Court is more likely to award possession if witnesses come forward and provide details of how the ASB has directly affected them.

16.6 We understand that not everyone will wish to attend Court due to fear and possible recriminations and in certain cases we can use the NATMOs to do this on an individual's behalf. The NATMO would require detailed diary sheets and conversations with the complainant to prepare the Witness Statements and would attend court on their behalf. The complainant's details would not be disclosed. There are however occasions whereby a complainant could still be identified by an alleged perpetrator, despite all precautions being taken to prevent this. An example of this would be where an alleged perpetrator has made an offensive statement to a complainant and they could remember this, thus identifying the complainant.

16.7 We will support residents by:

- providing good, regular and up-to-date information on the progress of cases
- building confidence and capacity to act as witnesses
- attending Court with the witnesses and ensuring they are kept separate from the defendants

16.8 NFDC is committed to resolving reports of nuisance and ASB, and will endeavour to be realistic and to strike a balance between establishing reasonable optimism and avoiding unreasonable expectations. We will ensure we treat complainants and alleged perpetrators fairly and that any action we take must be reasonable and justified, therefore accurate and good evidence is required for us to do this.

17. Case Closure

17.1 A case will be closed when:

- it has been successfully resolved;
- the perpetrator of the ASB has amended their behaviour
- the perpetrator of the ASB has been sent to jail or evicted
- there has been no contact from the complainant for a period of 4 weeks, unless we have commenced legal action or are monitoring the situation for evidence of a breach of the Tenancy Agreement
- there is no further action which can be taken at the present time

17.2 A clear conclusion is important to all concerned, i.e. the complainant, the alleged perpetrator and NFDC. Ideally, the complainant should be satisfied with the result, but some cases will have to be closed, even though the complainant is not satisfied. This may be for the following reasons:

- the reported behaviour cannot reasonably be classed as a nuisance or ASB
- there is not enough evidence to support action, whether legal or otherwise
- the parties will not try another approach such as mediation
- the report of ASB is obviously mischievous
- there is no breach of tenancy conditions and it is merely a lifestyle choice of an individual to act or behave in a certain manner

17.3 NATMOs will never falsely raise a complainant's expectations. Clarity is essential. If there is no rational basis for the report, or rigorous investigation cannot verify the problem, the complainant will be advised that the case is closed unless further evidence is available.

17.4 A decision to close a case should always be discussed and ideally agreed with the complainant in a formal review meeting before confirmation in writing. For relatively minor issues, or when closure is because the complainant has not been in contact for a period of at least 4 weeks (unless we have begun legal action or are monitoring the situation for evidence of a breach of the Tenancy Agreement) this review meeting could be by telephone, unless the complainant specifically requests a face-to-face interview.

17.5 What may be insufficient evidence for action at one point may provide vital intelligence or verification in the future.

17.6 Formal closure of a case will be in writing to both the complainant and the alleged perpetrator, clearly explaining the reasons.

17.7 The Senior NATMO will evaluate the effectiveness of every closed case. The Housing Estates Manager will carry out regular random audits of cases.

18. Post-Eviction and Re-Housing Applications

18.1 NFDC Housing Needs Department will seek to challenge known perpetrators of ASB if they seek to gain access to the Homesearch housing waiting list, either as a tenant in their own right or as part of a larger moving group (a 'moving group' would generally be the immediate family, but could also include extended family or friends).

18.2 NFDC maintains a list of such persons on our computer system.

18.3 Everyone evicted because of ASB will be entered onto this list, together with his or her moving group.

- 18.4 It is also important to keep good quality information to indicate why an eviction has taken place. Such information may well be required should an evicted perpetrator apply to another organisation or Local Authority for accommodation, therefore all notes and correspondence relating to a tenancy (either current or previous) will be made on Anite. (This is the Housing Services in-house software data imaging system where all tenancy matters and files are held on computer).
- 18.5 We will also co-operate with partner agencies in providing information on any formal action we have taken in respect of our residents in their area.
- 18.6 NFDC requires that all information leading to an eviction should be maintained on files, which can and should be made available on request to a caseworker in a Homeless Families section of a Local Authority, to enable them to make an appropriate decision whether or not to treat the individual(s) as intentionally homeless.
- 18.7 No individual or family who have a known history of ASB, whether or not they were tenants of NFDC, will normally be re-housed by NFDC, unless there is substantive evidence that they are not likely to cause such problems again or there is a legal requirement on the Council to secure housing.
- 18.8 NFDC's Housing Needs Department have the powers to reduce the priority of applicants on the waiting list or to treat housing applicants as being ineligible for an allocation if they (or a member of their household) have been guilty of unacceptable behaviour and are considered to be unsuitable to be a tenant due to that behaviour. Cases will be considered on an individual basis.

19. Appeals

- 19.1 Where a person involved in a case is dissatisfied with the investigation or the decision, they may appeal against the way an investigation has been handled or the decision reached and request a review of the case. Either the Housing Estates Manager or the Head of Housing will conduct this review. If, following the appeal the person is still dissatisfied, the matter should then be considered under NFDC's Corporate Complaints Policy.

20. Monitoring and Reporting

- 20.1 Managers of front line NATMOs and Private Sector Lease properties will regularly monitor each case of ASB, providing appropriate advice and support to those officers, ensuring that they receive appropriate training; and ensure that all cases are appropriately recorded and dealt with in line with detailed operating procedures.
- 20.2 We will benchmark performance with other organisations through Housemark and will provide regular quarterly Performance Indicators to tenants via the Housing Scrutiny and Performance Panel
- 20.3 Working closely with our Resident Involvement Service, we will set up an Anti-Social Behaviour Group to work with the Neighbourhood & Tenancy Management Team to review the Policy and Procedures.

21. Review

21.1 This policy will be reviewed every 3 years but will be updated on an ongoing basis when necessary, to reflect any changes to corporate/customer requirements and targets or changes in legislation.