

London Borough of Tower Hamlets

Anti-Social Behaviour

Landlord's Policy and Procedure

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| Policy and Procedure |
| Outlining the landlord approach to managing anti-social behaviour. |
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Regulatory Standards, Legislation and Codes of practice

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| --- | --- |
| Regulator: | The Regulator of Social Housing's framework and standards:* Neighbourhood & Community
 |
| Legislation: | Anti-Social Behaviour Act 2003Anti-Social Behaviour, Crime and Policing Act 2014Housing Act 1985, 1996Criminal Justice and Police Act 2001Protection from Harassment Act 1997Serious Organised Crime and Police Act 2005 |
| Codes of practice: |  |
| The policy also operates in the context of: | LBTH ASB StrategyCommunity Safety Partnerships PlanDomestic Violence PolicyCustomer of Concern GuidanceSafeguarding ProceduresHate Incident PanelVictim Support Procedure |

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# Purpose

The purpose of this policy is to provide clear information to tenants, leaseholder’s stakeholders and other partners. The policy sets out the London Borough of Tower Hamlets approach, as a landlord to dealing with anti-social behaviour and the types of actions that may be taken. This ranges from preventative measures to avoid problems occurring and early intervention to resolve problems quickly to legal action in cases of persistent, reoccurring or serious anti-social behaviour. The policy aims to ensure that housing services complies with legal and regulatory requirements.

The London Borough of Tower Hamlets recognises that the vast majority of tenants, leaseholders and their households respect their neighbours and their wish to enjoy their homes and the surrounding environment.

Our neighbourhoods provide homes for a variety of households who generally live together in harmony and tolerance of differing lifestyles, life experiences and backgrounds.

Where reoccurring problems of anti-social behaviour and nuisance is happening, we will work with residents and our partners to moderate that behaviour to an acceptable level, before considering legal or enforcement action.

This policy applies where any complainant or alleged perpetrator of anti-social behaviour is a Council tenant, leaseholder or member of their household.

The Anti-Social Behaviour Act 2003 requires all social landlords in England and Wales to prepare publish and review policies and procedures in relation to dealing with occurrences of anti-social behaviour when they are reported.

The Regulatory Framework for Social Housing in England from April 2012 requires that registered providers publish a policy on how they work with relevant partners to prevent and tackle anti-social behaviour (ASB) in areas where they own properties. It further requires that in their work to prevent and address ASB, registered providers demonstrate:

* that tenants are made aware of their responsibilities and rights in relation to ASB
* strong leadership, commitment and accountability on preventing and tackling ASB that reflects a shared understanding of responsibilities with other local agencies
* a strong focus exists on preventative measures tailored towards the needs of tenants and their families
* prompt, appropriate and decisive action is taken to deal with ASB before it escalates, which focuses on resolving the problem having regard to the full range of tools and legal powers available
* all tenants and residents can easily report ASB, are kept informed about the status of their case where responsibility rests with the organisation and are appropriately signposted where it does not
* provision of support to victims and witnesses.

The Council is committed to ensuring that we not only comply with this duty but that our neighbourhoods are safe and welcoming places to live. This policy will apply to all council tenants; however we will also expect leaseholders to abide by the covenants of their lease with regards to their behaviour and that of their household members and refrain from engaging in anti-social behaviour.

Our aim is to prevent anti-social behaviour (ASB) before it starts, intervene appropriately where we can, and enforce the tenancy and lease conditions relating to ASB when required. Within the terms of the current tenancy and lease agreements, residents are responsible for their own behaviour and that of their household members and visitors.

# Anti-Social Behaviour Policy Statement

The London Borough of Tower Hamlets vision is to create places where people want to live, visit and enjoy without living in fear of anti-social behaviour. The Council is committed to dealing with anti-social behaviour and will not tolerate any behaviour that impacts on the quality of life for residents.

The aims and objectives of this policy are to deliver the following service outcomes:

* To ensure that as far as possible our tenants and leaseholders are able to exercise their right to quiet enjoyment of their homes
* To ensure that incidents of anti-social behaviour are reported, accurately recorded and monitored
* To ensure early and effective action is taken which can prevent anti-social behaviour escalating into a serious situation
* To take a victim centred approach to dealing with complaints of anti-social behaviour, offering support and advice to victims and witnesses
* To fully investigate complaints of anti-social behaviour and deal with them within agreed timescales
* To ensure the perpetrators of anti-social behaviour are aware of the consequences of their actions and to take action to moderate that behaviour to an acceptable level
* To take steps to provide appropriate support to perpetrators who are themselves vulnerable, in partnership with other support agencies
* To take appropriate enforcement and legal action using the range of tools available to the Council when there is evidence of anti-social behaviour
* To work in partnership with other agencies to ensure effective joint working to address and tackle cases of anti-social behaviour
* To ensure staff have the necessary training, competencies and skills to be able to respond effectively to complaints of anti-social behaviour.

# Strategic Context

The Anti-Social Behaviour Landlords’ Policy & Procedure sets out the Council’s strategic priorities for tackling anti-social behaviour as a landlord.

The analysis which underpins the policy and procedure informs the wider plans and strategies of the Council and our partners including:

* Tower Hamlets Single Equality Framework
* The Council’s Strategic Plan
* Safeguarding Vulnerable Adults procedures
* Safeguarding Children’s Board
* The Council’s wider ASB Strategy
* Community Safety Partnership Plan
* Domestic Violence Policy.

Anti-social behaviour impacts on the lives of individuals, families and communities and reducing it will clearly contribute to the achievement of the Council’s vision within the Strategic Plan.

# Links with the Community Safety Partnership (CSP)

The Council works with the Metropolitan Police Service, NHS East London Foundation Trust, The North East London Probation Service, The London Fire Brigade and other partners within the local Community Safety Partnership. The Partnership has a Crime & Disorder Strategy, which includes its targets for reducing levels of anti-social behaviour.

# Safeguarding Vulnerable Adults & Children

The Council is committed to the protection of vulnerable adults and children in our service provision and by supporting statutory agencies charged with the protection of vulnerable adults and children. This policy and procedure has been developed with partners to ensure full compliance with the safeguarding vulnerable adults’ and children policies.

# What is anti-social behaviour?

There is no single definition of anti-social behaviour, so this policy and procedure uses the following to define anti-social behaviour:

Under the ASBCPA 2014, “anti-social behaviour” means:

1. conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
2. conduct capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises, or
3. conduct capable of causing housing-related nuisance or annoyance to any person.

Anti-social behaviour is defined by the Housing Act 1996, as conduct which:

* is capable of causing nuisance or annoyance to another person AND
* directly or indirectly affects the housing management functions of a relevant landlord OR
* consists of using, or threatening to use, housing accommodation owned or managed by a relevant landlord, for an unlawful purpose.

Anti-social behaviour could be caused:

* by a tenant affecting other tenants, or other people locally
* by an owner occupier, or tenant of another landlord affecting other people locally. The tenant or owner would also be considered responsible for the behaviour of other members of their household and their visitors.
* by visitors to an area where they do not reside.

Each person experiences and reacts to anti-social behaviour differently. To make it easier for our staff and residents to understand what is appropriate to report, the following list of incidents will always be considered by us to be ASB:

* Violence or threats of violence by residents, their family or visitors
* Any other person causing nuisance or annoyance which directly or indirectly affects our housing management functions, including neighbour disputes
* Harassment and intimidation including racial, homophobic and Hate Crime
* Young people congregating in groups creating a threatening and intimidating atmosphere
* Noise nuisance, other than general living noises
* Graffiti, fly posting, animals causing nuisance.

This is not an exhaustive list and we will assess all reports of ASB individually.

The content of this policy and procedure relates to all residential properties managed by Tower Hamlets Council including properties that are let under tenancies, leases or licences.

# Harassment

Harassment is any behaviour that intimidates, dominates or physically or mentally harms an individual, a family or group. Offending behaviour will be treated as harassment if it is:

* targeted
* deliberate, and
* continuing.

Harassment can take many forms. It is important to understand the different ways harassment can manifest itself and the effect it can have on the victims. The council has policies on racial harassment and sexual harassment, but also recognises other motivation for harassment such as sexual orientation, religion, or perceived HIV status. Harassment can also take place without any clear motivation at all. Harassment may include, but is not limited to:

* abusive, threatening or insulting behaviour - including racist abuse
* threats of violence
* physical assault
* vandalism to property Inc. arson or attempted arson
* racist, threatening, abusive or insulting graffiti
* repeated and unfounded complaints against another resident or group of residents
* activities intended to deter someone from occupying a particular property
* abusive telephone calls
* uninvited visits to someone's home
* deliberate or persistent noise
* placing excrement, rubbish or offensive materials near or in the victim's home.

Harassment is different to other anti-social behaviour in terms of motivation and the impact on the victim. The Council will work with other agencies to make sure those who commit hate crime and harassment and are prosecuted through the civil and criminal courts.

# Tenants’ Obligations

The Council’s Tenancy Agreement makes it clear that tenants are responsible for their own behaviour and that of every person (including children) and animal(s) living in or visiting the property. This responsibility includes behaviour on surrounding land, in communal areas and throughout the neighbourhood estate in which their home is situated. Behaviour which is regarded as a breach of the tenancy agreement includes:

* Anti-social behaviour
* Criminal activity
* Domestic violence
* Harassment
* Nuisance
* Violence or threats of violence including against Council staff or agents and against anyone living in or visiting the locality.

# How Residents are leading

The Resident Panel has been set up to challenge and influence how the Council deliver resident services. In 2012 the Panel completed a 6-month fundamental scrutiny review into the service delivery of the ASB team.

This policy and procedure has been developed and guided by that resident scrutiny review, in particular:

* Identifying clearly what we consider to be anti-social behaviour
* Having named contacts to keep residents informed on cases of ASB
* Streamlining ASB processes and procedures.

# Diversity

The Council has some of the most diverse neighbourhoods in the country. The ASB services that are included in this strategy need to be accessible, inclusive and fairly delivered.

We will do this by:

* completing an Equalities Impact Assessment on this strategy as well as our policies and procedures, addressing any identified shortfalls
* providing translation and interpretation services on request for victims and perpetrators
* developing a workforce which reflects the community
* developing an ASB apprenticeship scheme for children of LBTH residents
* inviting all residents to be part of our resident service improvement group
* carrying our victim/perpetrator equalities profiling
* ensuring our policies and procedures are compliant with the Disability Discrimination Act
* keeping accurate records.

# Responding to complaints of anti-social behaviour

Anti-social behaviour is a complex problem, which has wide-ranging causes and effects upon its victims and therefore requires a flexible range of appropriate, pro-active remedies to achieve effective solutions. The Council through its managing agent, LBTH will aim to respond promptly to complaints of anti-social behaviour in a way that is sympathetic to the needs of victims. Whenever possible LBTH will aim to deal with complaints of anti-social behaviour and achieve successful outcomes by negotiation, mediation and agreement between the parties but where this is not possible or appropriate, it will use the full range of legal and enforcement powers at its disposal to take action against perpetrators.

The Council and its partners will take the following actions in response to new cases of antisocial behaviour:

* Receive complaints of anti-social behaviour from tenants, leaseholders and residents and their advocates, including family members, local councillors, MP’s, the police and other agencies. Complaints may be made by letter, e-mail, telephone and in person at the Council’s offices
* Ensure all complaints are recorded and acknowledged in writing within one working day
* Respond to the victim about their complaint within agreed timescales and agree a proposed action plan and communication plan. This will be confirmed in writing and the victim kept regularly informed of subsequent progress
* Provide advice and support to victims and witnesses as required by risk assessment
* Intervene at an early stage in complaints of anti-social behaviour and undertake appropriate action to prevent their escalation as far as possible
* When necessary to remedy a breach of the tenancy agreement, initiate prompt legal and enforcement action on behalf of the victim using appropriate tools, including possession proceedings, injunctions, Acceptable Behaviour Contracts, Anti-Social Behaviour Orders, demoted tenancies and any other powers which may be introduced by future legislation
* Monitor incidences of anti-social behaviour and keep appropriate records and statistics
* Keep comprehensive and up to date records of complaints and contact with the victim, perpetrator, witnesses and other agencies
* Ensure prompt repair of any physical damage, seeking to recover costs from the perpetrator whenever possible
* Ensure compliance with the Councils policies for confidentiality and data protection
* Work in partnership with other agencies, including the police, Community Safety Partnership and Family Intervention Programme, to ensure effective joint working and a multi-agency approach to problem solving
* Ensure staff has the necessary training, skills and resources to deliver an effective and timely response to complaints of anti-social behaviour.

# Prioritising complaints of anti-social behaviour

The Council, prioritise its response to complaints of anti-social behaviour depending on the seriousness of the incidents reported. The response will include speaking to the complainant by telephone or in person, taking details of the incident, making an initial assessment of the next actions required and advising the complainant of the proposed next steps.

It will respond in accordance with the following service standards:

## Case Prioritisation

Level 1 case - High

All cases relating to: hate crime, violence, threats, frequency and duration of incidents, serious victim vulnerability, repeat victimisation, and serious tenancy breaches, serve damage to property.

Level 2 case - Medium

Cases relating to: rude offensive behaviour, non-serious damage to property, nuisance gatherings, nuisance noise, inappropriate use of public spaces including stairwells, gardens, garages and parking areas, fly-tipping, graffiti and general anti-social behaviour.

Level 3 case - Low

Cases relating to: minor nuisance, domestic noise, issues not relating to LBTH , monitoring cases with low level of incidents for a fixed period not exceeding 3 months.

For complaints when the behaviour involved is not considered to be anti-social within the scope of this policy, we will notify the complainant of that decision in writing within 10 working days, including advising them about other remedies which may be open to them.

## Timescales for interviewing and completion of initial assessment

On receiving the case, the ASB Officer will contact the complainant within 24 hours for level 1 cases; two working days for level 2 cases and 3 working days for level 3 cases. If the complainant cannot be contacted by telephone, a letter is sent offering an interview within five working days (level 1 & 2 cases only) of initial contact, unless otherwise directed by the complainant. Every effort will be made by the ASB Officer to complete the risk assessment, if attempts by the ASB Administration Team have failed at the initial contact stage.

The complainant should be offered an interview during working hours at the housing office if possible, however if work commitments or mobility issues make this impossible, the LBTH ASB Officer will offer home visits and appointments outside office hours. This includes evenings and weekends.

The ASB Officer will refer all hate crime/incident cases will be referred to the Hate Incident Panel (HIP) within one working day of receipt, with the Complainants consent. If the Complainant does not give consent, the case cannot be referred to HIP.

## Case Review

All cases allocated to ASB officers for investigation, regardless of level will be reviewed by an appropriate Team Leader.

Level 1 case will be set automatically case review dates every 10 days while the case is active.

Level 2 cases will be set automatically case review dates every 15 days while the case is active.

Level 3 cases will be set automatically case review dates every 20 days while the case is active.

## Escalation and De-escalation of cases

Escalation and de-escalation of the priority of a case will be carried out at a case review by the Neighbourhood Team Leader. Any change of level of a case will need to be justified and logged on the system at the time of the review.

## Support for victims and witnesses

When investigating all reports of ASB officers will adopt a victim-centred approach. Essential to this approach is:

* Taking the complaint seriously
* Being sensitive to the complainant’s needs
* Prioritising safety
* Maintaining strict confidentiality
* Considering the safety of children and vulnerable adults
* Officers being informed and aware of all current legislation/policies/procedures
* Only give information that they know to be accurate
* Respecting the complainant’s right to make their own decisions
* Not judging or blaming
* Making appropriate referrals
* Giving clear information on what follow-up action will be taken
* Keeping thorough, accurate records
* Looking after themselves – dealing with more serious cases can be traumatic for both complainants and staff.

# Vulnerability

Wherever possible we will tailor our services to provide support for victims, witnesses and perpetrators of anti-social behaviour. We understand that by the very nature of the service we provide it is more than likely that the majority of residents staff will be encountering will be going through a period in their life where they are at a greater risk of being vulnerable.

We will take a holistic and sensitive approach to identifying and dealing with vulnerability by:

* carrying out a full risk assessment at the first point of contact with a reporter and update the ASB database and all other appropriate Housing systems with the information captured
* provide training for staff
* ensure we are able to provide proof of any alleged behaviour on a case-by-case basis
* providing comprehensive advice and training to all staff within the Service so they are aware of the full range of support services available and are able to signpost and refer where appropriate; and
* ensuring referrals to support services are measured and the outcomes are tracked.

# Crimes associated with anti-social behaviour

## Hate Crime/Hate Incidents

We believe that all forms of discrimination and prejudice should be tackled and will take hate crime seriously – we will take action against those who perpetrate it and support those who are victims.

The Council is a member of the ‘No Place for Hate’ campaign.

Hate crime and incidents affect community cohesion as a whole as well as the individual victim. It can undermine self-confidence and a person’s willingness to use services or take part in community events. This can lead to social exclusion and further marginalise already disadvantaged individuals and groups. It is essential that people know that when they report hate crime that the complaint will be treated seriously.

LBTH will work in partnership with our residents, partners and community representatives to:

* increase the level of reporting of hate crime/hate incidents by ensuring reporting methods are relevant and accessible
* deal effectively with reports by taking preventative and legal action against perpetrators who are tenants or leaseholders; and
* encourage good tenancy relations and equal opportunities between residents and all members of the local community.

# Domestic Abuse

Is defined as:

"Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality"

This includes so-called 'honour-based violence' and forced marriage. An adult is defined as any person aged 18 years or over. Family members are defined as mother, father, son, daughter, brother, sister, and grandparents, whether directly related, in laws or stepfamily.

We will not tolerate domestic abuse (DA) perpetrated by our tenants against their partners or others who live with them. We will work with the Police and other agencies to use existing legal remedies against any tenant using domestic abuse.

The Council’s Domestic Abuse team will be responsible for all good practice, training needs and representing LBTH at the Council’s Safety Planning Panel. We will also develop a bank of good practice within LBTH by training and supporting DA Champions in each area office and have developed a specific set of service standards for domestic abuse in consultation with our residents, which can be found on the website.

# Victim and Witness Support

We understand the victims and witnesses have distinct needs and that those needs will differ from person to person. Wherever possible we try to use other methods to minimise the burdens on complainants to collect evidence but realise that in some circumstances this may not be possible. As a result, we have developed a range of support measures which we can tailor to meet individual’s needs on a case-by-case basis. A witness includes someone who gives, or is able to give hearsay evidence. It includes someone who has given evidence but may give further evidence.

Witness harassment or intimidation is a criminal offence under the Criminal Justice and Police Act 2001. Sections 39, 40 and 41 of the 2001 Act create two new offences intended to increase protection of witnesses in all proceedings including civil proceedings for an injunction or an anti-social behaviour order, civil tort proceedings etc. Under the 2001 Act, it is an offence for a person to intimidate another person (the victim) where s/he knows or believes that the victim is, or may be a witness in any relevant proceedings, with the intention of perverting, obstructing or interfering with the course of justice. An offence is committed only where an act of intimidation occurs after proceedings are commenced. The maximum penalty is five years of imprisonment or unlimited fine or both. Intimidation includes threats against a person or against a person’s finances or property. It is irrelevant whether the act of intimidation is carried out in the presence of the victim, whether it is done to the victim or through a third party. Obstructing, perverting or interfering with the course of justice need not be the predominant purpose of the act.

Section 40 of the Criminal Justice and Police Act 2001 makes it an offence for a person to do an act which harms, and is intended to harm another person, or, if intending to cause another person to fear harm, he threatens to do an act which would harm the other person. In order to commit the offence, the person doing or threatening to do the act must do so knowing or believing that another person has been a witness in relevant proceedings and he must do or threaten that act because of that knowledge or belief. The act must be committed after the commencement of proceedings, and within a year of that commencement. The penalty is up to five year imprisonment or an unlimited fine or both.

Protection from Harassment Act 1997 – under section 1 of the Protection from Harassment Act 1997 the term “harassment” applies to a course of conduct which harasses or alarms another or which causes that person distress. The criminal offence of harassment is set out in section 2. There is also a civil remedy against harassment provided in section 3 in the form of a restraining injunction.

In addition, the Council’s Professional Witness Scheme can give evidence from their own direct observation of the anti-social behaviour or disorderly behaviour.

Witnesses’ attendance may be dispensed with by the court powers to admit hearsay evidence. Where witnesses are not attending the Claimant will have to serve a Civil Evidence Act Notice.

Special measures are also available in court to protect witnesses who are vulnerable or intimidated and find it difficult to give evidence in the best way possible. The measures can be allowed by the court if the witness suffers from a mental illness or have limited understanding, or have a physical disability or is suffering from a physical disorder or if their evidence is likely to suffer because they are afraid or distressed at giving evidence in the proceedings.

The Serious Organised Crime and Police Act 2005 introduced special measures which are applicable in hearings in the Magistrates court. The provisions were previously only available in criminal proceedings, but the extension should prove very useful in civil cases.

Special measures include:

a) Screens – to ensure that the witness does not see the perpetrator; a screen is placed around the witness box so that the witness and defendant cannot see each other

b) Live Link – allowing a witness to give evidence from outside the court room; the witness sits in a room away from the courtroom where the case is being tried and gives evidence through a live TV link.

c) Evidence in private – the court can be cleared of most people, except legal representatives and other essential personnel; and

1. Video recorded evidence in chief – this allows the interview with a witness that was recorded before the hearing to be played to the court. That is before the trial, the witness is recorded on video answering questions asked by a legal representative. The video is shown as the witness’s evidence-in-chief (main spoken evidence before cross-examination). The witness is questioned by the other side before the trial. The questioning is recorded on video and shown instead of the witness being questioned live at the trial.

Where it is known that a particular defendant may be violent or potentially violent as a result of mental illness or known to have any firearms and weapons or likely to be violent to a witness attending the hearing or have a criminal record of violence, the court officials should be alerted. If court staffs fear a breach of peace, the police should be alerted to attend court if necessary.

# Prevention and Early Intervention

The Council recognises that responding to ASB is not just about addressing unacceptable behaviour as or after it has occurred. We use preventative measures in order to sustain tenancies by working with the Council, Police, NHS and other social landlords and partner agencies.

## Prevention measures

The main preventative measures we will use include:

* a tenancy agreement that contains clear prohibitions on ASB conduct
* a robust sign-up process that includes a section on ASB
* Probationary Tenancy scheme
* designing out ASB through environmental schemes i.e. THH Pirate Radio Project
* Neighbourhood Housing Officers working jointly with Crime Prevention Officers
* ASB apprenticeship scheme for developing local employment possibilities for residents
* collating data from caretaking teams to identify ‘hot spots’
* Good Neighbour Agreements or ABCs
* settling in visits by neighbourhood housing staff
* training staff to signpost vulnerable residents to support services
* weekly intelligence meetings with ASB Officers
* use of re-deployable CCTV units
* introduction of a virtual concierge system; and
* sponsoring ASB literature in local schools.

Where preventative measures have not proved successful the Council has at its disposable a wide range of interventions that can be used to engage perpetrators and intervene to stop behaviour escalating.

## Intervention Measures

The list below indicates the most common interventions used by LBTH:

1. Warning letters

Warning letters may be used to advise a person in the first instance of the nuisance being caused and will detail any action that will be taken if the nuisance continues i.e. risk of losing a tenancy or forfeiture of a lease. So depending on the seriousness of the incidents, before taking any legal enforcement action perpetrators of low-level anti-social behaviour, hate crimes or harassment may be warned that they should stop their unacceptable behaviour. If they fail to stop, legal action might follow. Warnings may be enough to deter perpetrators from further anti-social behaviour. Otherwise, if the incident is serious, legal action may be commenced immediately without prior warning to the alleged perpetrator.

1. Acceptable Behaviour Contracts (ABCs)

Acceptable Behaviour Contracts (ABCs) are interventions designed to engage the individual in recognising their behaviour and its negative effects on others, in order to stop the offending behaviour. ABCs are written agreements between an anti-social behaviour perpetrator and their Landlord, Youth Inclusion Support Panel or the Police. ABCs are usually used for young people but can also be used for adults.

The ABC consists of a list of anti-social acts that the perpetrator agrees not to continue and outlines the consequences if the contract is breached. Contracts usually last for one year but can be renewed if both parties agree.

ABCs are not legally binding, but can be cited in court as evidence in ASBO applications or in eviction or possession proceedings.

The benefits of using ABCs are widespread but the main benefits are that they are informal, voluntary agreements that can be used for all ages and dealt with in-house without incurring any legal or court fees.

1. Family Intervention Project (FIP)

Family Intervention Project (FIP), which was established to deal with the causes of ASB within the home, classroom and local community. This is a new way to deal with a small number of highly problematic families and restore safety to their homes and to the wider community.

The primary objective of family intervention projects is to stop the anti-social behaviour (ASB) perpetrated by these families. FIPs use a twin-track approach with help for the families to address the causes of their behaviour, alongside supervision and enforcement tools to provide them with the incentives to change. A key worker 'grips' the family, the causes of their poor behaviour and the agencies involved with them, to deliver a more coordinated, intensive response.

1. Mediation

Mediation will be used to help residents resolve neighbour disputes. It is a voluntary free process but refusal to engage with mediation could in some cases be used as evidence if a case goes to court. We remain independent in the process and engage the services of external specialist mediators.

Mediation has proved particularly successful in situations involving:

1. noise nuisance
2. car parking disputes; and
3. nuisance from pets.
4. Referrals to Support Services

Referrals to Support Services may be necessary for both victims and perpetrators of ASB. Our ASB team use a number of agencies within the Borough who offer short term support for those residents most at risk.

In addition to the above we will also consider the use of:

i. Housing Injunctions

ii. Intervention Orders

iii. Individual Support Orders

iv. Parenting Contracts

v. Parenting Orders; and

vi. Noise Abatement Notices.

# Enforcement Measures

Enforcement will always be used as the last resort when prevention and intervention measures have not proved successful. LBTH ASB staff have been fully trained in the use of enforcement tools and powers available to social landlords and work closely with our legal representatives to ensure any action taken is proportionate and necessary.

The list below indicates the most common enforcement tools used by LBTH:

## Community Protection Notice (CPN)

The community protection notice (CPN) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community’s quality of life by targeting those responsible. A CPN is a notice that imposes requirements on the individual or body issued with it e.g. a requirement to stop doing specified things or/and a requirement to do specified things or/and a requirement to take reasonable steps to achieve specified results.

A CPN can be issued by Council officers, Police officers, Police community support officers (PCSOs) if designated, and Social landlords (if designated by the council) , if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation: is having a detrimental effect on the quality of life of those in the locality; is persistent or continuing in nature; and is unreasonable.

A CPN can be issued against any person aged 16 or over or a body, including a business. A CPN can only be issued for behaviours that are persistent or continuing and unreasonable. Also before a CPN can be issued, a written warning must be issued to the person committing anti-social behaviour.

Breach of a CPN is a criminal offence. A fixed penalty notice can be issued of up to £100 if appropriate. A fine of up to level 4 (for individuals), or £20,000 for businesses. On conviction for an offence of failing to comply with a CPN, the prosecuting authority may ask the court to impose a remedial order and/or a forfeiture order. A remedial order may require the defendant to carry out specified work (this could set out the original CPN requirements) or to allow work to be carried out by, or on behalf of, a specified local authority. Following conviction for an offence under section 45 of the 2014 Act, the court may also order the forfeiture of any item that was used in the commission of the offence. This could be spray paints, sound making equipment etc. Where items are forfeited, they can be destroyed or disposed of appropriately. In some circumstances, the court may issue a warrant authorising the seizure of items that have been used in the commission of the offence of failing to comply with a CPN.

## The Criminal Behaviour Order (CBO)

The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence (including hate crimes) in any criminal court.

The court will grant a CBO, if it is satisfied, beyond reasonable doubt, that the offender has engaged in behaviour that caused, or was likely to cause, harassment, alarm or distress to any person; and that the court considers making the order will help in preventing the offender from engaging in such behaviour. CBO will include the details of what the offender is not allowed to do (prohibitions) as well as what they must do (requirements).

The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court. The prosecution, usually the Crown Prosecution Service (CPS), but in some cases it could be a local council, may apply for the CBO after the offender has been convicted of a criminal offence. The prosecution can apply for a CBO at its own initiative or following a request from a council or the police. The CBO hearing will occur after, or at the same time as, the sentencing for the criminal conviction. It is a criminal offence if an offender fails to comply, without reasonable excuse, with either the requirements or prohibitions in the CBO. The court has the power to impose serious penalties on conviction, including on summary conviction in the magistrates' court: a maximum of six months in prison or a fine or both OR on conviction on indictment in the Crown Court: a maximum of five years in prison or a fine or both. Special measures are available in proceedings for CBOs in the case of witnesses who are under 18 and vulnerable and intimidated adult witnesses (sections 16 and 17, Youth Justice and Criminal Evidence Act 1999).

## Civil Injunction

Under the Anti-social Behaviour, Crime and Policing Act 201 (ASBCPA) , a court may grant an injunction against a person aged 10 or over (“the respondent”) if the court is satisfied, on the balance of probabilities, that the respondent has engaged or threatens to engage in anti-social behaviour AND that the court considers it just and convenient to grant the injunction for the purpose of preventing the respondent from engaging in anti-social behaviour. An injunction may for the purpose of preventing the respondent from engaging in anti-social behaviour prohibit the respondent from doing anything described in the injunction and/or require the respondent to do anything described in the injunction.

An application for an injunction may be made without notice being given to the respondent. An injunction under section 1 of the ASBCPA 2014 may have the effect of excluding the respondent from the place where he or she normally lives (“the premises”) only if the respondent is aged 18 or over, the injunction is granted on the application of a local authority, OR the chief officer of police for the police area that the premises are in, or if the premises are owned or managed by a housing provider, that housing provider, and the court thinks that the anti-social behaviour in which the respondent has engaged or threatens to engage consists of or includes the use or threatened use of violence against other persons, or there is a significant risk of harm to other persons from the respondent.

A court granting an injunction under section 1 of ASBCPA 2014, may attach a power of arrest to a prohibition or requirement of the injunction if the court thinks that the anti-social behaviour in which the respondent has engaged or threatens to engage consists of or includes the use or threatened use of violence against other persons, or there is a significant risk of harm to other persons from the respondent. Where a power of arrest is attached to a provision of an injunction, a Police Constable may arrest the respondent without warrant if he or she has reasonable cause to suspect that the respondent is in breach of the provision. Otherwise, where no power of arrest is attached to the injunction, if the person who applied for an injunction thinks that the respondent is in breach of any of its provisions, the person may apply for the issue of a warrant for the respondent’s arrest. The court has the power to remand a perpetrator in custody or on bail after they have been arrested for suspected breach of the injunction (with or without warrant).

## Possession proceedings

Eviction or Forfeiture of Lease is used if the anti-social behaviour is considered serious or remains persistent and, despite attempts to engage, perpetrators continue to cause harassment, alarm and distress to the community. LBTH will then make an application to the courts to recover possession of the properties. Whether possession (or demotion) order can be obtained depends on the nature of the tenancy. Most tenants will be either secure or introductory tenants under the relevant Housing Acts. The landlord must apply to court for an eviction order in most cases before a tenant can be lawfully evicted. The Court will consider whether the ground for possession is made out and whether it is reasonable to make an order for possession (s.84 HA 1985) and whether to exercise its discretion to postpone possession or suspend the order upon terms (s.85 HA 1985).

## New Absolute Ground for Possession

The ASBCPA 2014 introduces a new absolute ground for possession of secure and assured tenancies where anti-social behaviour or criminality has already been proven by another court. The new ground can be used in addition to or in the place of the existing grounds set out in Schedule 2 to the 1985 Act. The test to be met before the court would grant a possession order is that the tenant, a member of the tenant’s household, or a person visiting the property has been convicted of a serious offence (specified in Schedule 2A to the Housing Act 1985) or found by a court to have breached a civil injunction or convicted for breaching a criminal behaviour order (CBO) or convicted for breaching a noise abatement notice or the tenant’s property has been closed for more than 48 hours under a closure order for anti-social behaviour. The offence/breach needs to have occurred in the locality of the property or affected a person with a right to live in the locality or affected the landlord or his or her staff/ contractors. If the above test is met, the court must grant a possession order (subject to any available human rights Defence raised by the tenant, including proportionality) where the correct procedure has been followed. Unlike the existing discretionary grounds for possession, the landlord will not be required to prove to the court that it is reasonable to grant possession. This means the court will be more likely to determine cases in a single, short hearing. The court will not be able to postpone possession to a date later than 14 days after the making of the order except in exceptional circumstances, and will not be able to postpone for later than six weeks in any event.

## Closure Powers

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. The power comes in two stages: the closure notice and the closure order which are intrinsically linked. The closure notice can be used by the council or the police out of court. Following the issuing of a closure notice, an application must be made to the magistrates’ court for a closure order, unless the closure notice has been cancelled. A closure notice can be issued for 24 hours if the council or police officer (of at least the rank of inspector) is satisfied on reasonable grounds that the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public; or that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring. Before issuing a notice the police or council must ensure that they consult with anyone they think appropriate. This should include the victim, but could also include other members of the public that may be affected positively or negatively by the closure, community representatives, other organisations and bodies, the police or local council (where not the issuing organisation) or others that regularly use the premises.

A closure order can subsequently be issued if the court is satisfied that a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or that the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public; or that there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring. A Closure Order can close premises for up to six months and can restrict all access. Both the notice and the order can cover any land or any other place, whether enclosed or not including residential, business, non-business and licensed premises.

An offence is committed when a person, without reasonable excuse, remains on or enters premises in contravention of a closure notice or a closure order. Breaching a closure notice or temporary order is a criminal offence carrying a penalty of either imprisonment for a period of up to three months or an unlimited fine or both. Breaching a closure order is a criminal offence carrying a penalty of either imprisonment for a period of up to six months or an unlimited fine, or both. It is also a criminal offence to obstruct a police officer or local council employee who is serving a closure notice, cancellation notice or variation notice or entering the premises; or securing the premises. This offence carries a penalty of either imprisonment for a period of up to three months or an unlimited fine, or both.

## Demotion Orders

Under sections 14 and 15 of the ASB Act 2003 tenants that choose not to respect their homes or the communities they live in could face losing their home unless their behaviour changes. If a tenant behaves anti-socially or allows a member of their household or visitors to do so the landlord can apply to the court for a demotion order ending the tenant's existing tenancy and replacing it with a less secure demoted tenancy. This removes the tenant's Right to Buy and security of tenure for at least a year. At the end of a year if the landlord has been satisfied by the tenant's conduct of the tenancy a review will take place to reinstate the original status.

## Suspending Right to Buy Claims/Right to Mutual Exchange

This is a power introduced under the Housing Act 2004 to withhold consent to mutual exchange and to suspend a right to buy because of anti-social behaviour. We will actively seek to suspend resident’s rights under the act in circumstances where ASB has been persistent.

## Dispersal Power

The new dispersal power under the ASBCPA 2014, is available to uniformed police officers and designated PCSOs to deal with individuals engaging in anti-social behaviour, crime and disorder not only when they have occurred or are occurring, but when they are likely to occur and in any locality. The power is preventative as it allows an officer to deal instantly with someone’s behaviour and nip the problem in the bud before it escalates.

Two conditions must be met for a direction to be given: namely that; the officer must have reasonable grounds to suspect that the behaviour of the person has contributed, or is likely to contribute, to: members of the public in the locality being harassed, alarmed or distressed; or crime and disorder occurring in the locality AND that the officer considers that giving a direction to the person is necessary for the purpose of removing or reducing the likelihood of anti-social behaviour, crime or disorder. The test includes behaviour that is likely to cause harassment, alarm or distress, allowing the dispersal to be used as a preventative measure. In authorising the dispersal power the inspector (or above) must have regard to Articles 10 and 11 of the European Convention on Human Rights that provide for the right for lawful freedom of expression and freedom of assembly.

The dispersal power is for use in public places, this includes places to which the public has access by virtue of express or implied permission. Under the 2014 Act, the power can be used in any locality. The power is available to disperse individuals without a requirement that two or more people be engaged in the offending behaviour. There is an additional power to confiscate items associated with the behaviour of the person being directed to disperse, for example alcohol, offensive material, noisy equipment or eggs and other missiles used for Halloween “tricks”. The period of a person’s exclusion from a specified area has been extended to a maximum of 48 hours and there is no longer a requirement for the police officer or PCSO to definitively establish the person’s age as the new power is available if the person appears to be aged 10 or over. Failure to comply with the direction is a summary only criminal offence which will be dealt with in the magistrates’ court or youth court for people under the age of 18. On conviction it carries a maximum penalty of a level 4 fine and/or three months imprisonment, although those people under the age of 18 cannot be imprisoned. Failure to surrender items is also a criminal offence with a maximum penalty of a level 2 fine.

# Joint Enforcement Patrols

Joint Enforcement Patrols are undertaken by ASB staff working alongside the Police Safer Neighbourhood Teams outside of office hours to provide a reactive response to residents ASB complaints and provide a highly visible presence in our neighbourhoods.

# Enforcement Officers

LBTH Enforcement Officers are a team of accredited officers who are a highly visible resource who patrol LBTH estates. They will provide responses to anti-social behaviour and environmental crime such as issuing Fixed Penalty Notices for dog fouling and littering.

# The Equality Act 2010

The Act also allows a service provider to take positive action so as to enable existing customers to overcome or minimise a disadvantage arising from a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation).

The Equality Act 2010 creates a duty on public bodies to have due regard when carrying out their functions to eliminate conduct which the Act prohibits; the need to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and the need to foster good relations between people who share a relevant protected characteristic and people who do not.

The practical effect is that public bodies will have to consider how their policies and service delivery will affect people with the protected characteristics.

The Equality Act, expressly protect tenants against discrimination in relation to eviction e.g. s.15 and 35, the Equality Act provides specific rights for disabled people in relation to their homes. The definitions of direct discrimination includes discrimination arising from disability, indirect discrimination, harassment and victimisation. The Act makes it unlawful to discriminate against, harass or victimise a person when providing a service (which includes the provision of goods or facilities) or when exercising a public function. The Act makes it unlawful to discriminate against, harass or victimise a person when disposing of (for example, by selling or letting) or managing premises.

In Article 8 (HRA 1998) defences against eviction, it is for the tenant to show that the possession order is disproportionate. However, under the Equality Act, once the possibility of discrimination is made out, the burden of proof then passes to the landlord to show that the eviction is justified. Once the court has satisfied itself that a disability discrimination issue arises, it must fully consider whether the eviction is justified i.e. is proportionate. This means the Court must consider whether there is any measure short of eviction which might achieve the landlord’s aims, and that the Court must balance the impact on the tenant against the importance of the landlord’s aims. It cannot be taken for granted that the twin aims (i.e. the landlord (1) exercising their property rights and (2) complying with their duties as to the allocation and management of its stock) will justify discrimination.

# Partnership working

The Council is committed to working in partnership with other services and agencies to develop multi-agency responses to managing cases of anti-social behaviour.

This includes:

* Ensuring effective partnerships with other Council services (including, Environmental Health, Community Safety and Legal Services) and with the Police to deliver a joined up response to complaints of anti-social behaviour
* Contributing to achieving the aims of the LBTH Community Safety Partnership to:
* Make communities safer
* Reduce anti-social behaviour
* Provide high quality services for victims of anti-social behaviour
* Work with local communities to determine their priorities and find solutions
* Ensure that we all work together effectively
* Participating in Safer Communities Operations Group, which meets bi-weekly to agree a multi-agency approach to cases of anti-social behaviour
* Contributing to the development and implementation of protocols for joint working and information sharing between agencies with the aim of improving communication and case management.

# Performance Monitoring

The Council commissioned an online database and case management system for the effective management and monitoring of ASB reports, investigations and enforcement actions.

We will monitor performance in dealing with reports of anti-social behaviour. We have identified Key Performance Indicators that will demonstrate the main areas that need to be actively and effectively addressed when dealing with ASB.

The performance targets we will use are:

* the number of anti-social behaviour reports per month
* satisfaction levels of the reporter regarding how we handled their case, how we kept the reporter up to date and the outcome
* the percentage and numbers of successful legal proceedings cases, including injunctions, Anti-Social Behaviour Orders and evictions
* the percentage and numbers of successfully resolved cases without the need of legal action
* the percentage and numbers of successful Acceptable Behaviour Contracts; and
* the percentage and numbers of successful mediation cases.

# Data Protection and Information Sharing

Any information provided to us, will be treated in the strictest confidence. We respect the rights of our customers to confidentiality and will only share information in accordance with the Data Protection Act 1998 and the Crime and Disorder Act 1998.

Within the requirements of the Crime and Disorder Act 1998, the Council and our partners are signatories of the Community Safety Partnership Information Sharing Protocol. This enables us to request and share information with partner agencies for the prevention and detection of crime and disorder.

Signatory agencies include the Police, Fire Service and other Social Landlords in the Borough.

# Training

Staff who will be instrumental in implementing the policy and procedure will receive regular training in order to ensure that they remain familiar with its requirements and objectives. This will be supplemented as required by specific training in operational procedures, changes in legislation /case law, new initiatives, and developments in best practice.

Joint training sessions will be undertaken involving staff and resident members, as well as partner agencies where it is both appropriate and practical to do so.

# Protecting staff

Dealing with complaints of anti-social behaviour can result in confrontation, verbal abuse and threats of physical violence. The Council has a duty to provide its staff with a safe and healthy working environment and will therefore take appropriate steps to minimise the risk to its staff.

The Tenancy Agreement prohibits the use or threat of violence, harassment or intimidation against any Staff or Agents by tenants, members of their household and visitors and the Council will take appropriate legal action against perpetrators.

# Policy Review

The policy will be reviewed on an annual basis.