

Neighbour Nuisance and Anti Social Behaviour Policy 2018

This policy was adopted from East Kent Housing(EKH) who were responsible for delivering housing management on behalf of the Council until 1 October 2020. EKH is no longer trading and Canterbury City Council will be undertaking a full review of this Policy by December 2023

Version	Canterbury City Council
Responsible officer	TBC
Author	LT
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Changes approved by	Marie Royle
Related documents	

Introduction

Canterbury City Council believe that everyone has a right to live in an environment that allows them to enjoy their home and community. We recognise that anti-social behaviour (ASB) caused by a minority of tenants can be disruptive and distressing for neighbours, damage the sustainability of communities and adversely affect our ability to let our properties.

This policy sets out Canterbury City Council's approach to tackling Neighbour Nuisance and Anti Social Behaviour (ASB). This policy does not cover Domestic Abuse; a separate policy is in place. Our customer alerts policy covers incidents where tenants or their household members are abusive towards staff.

Wherever possible we will focus on preventative measures and early informal interventions and warnings to avoid the escalation of ASB. When necessary we will take enforcement action which will be measured, reasonable and proportionate based on the available evidence.

We expect our tenants, members of their family, including children or visitors to their home to show consideration and tolerance for their neighbours and the wider community.

We recognise we cannot tackle ASB amongst our tenants without the support and assistance of other internal departments and external agencies, therefore we will continue to place importance on, and enhance our working relationships with partner organisations sharing information whenever possible to support our case investigation.

Our aims and the purpose of this policy

Through our policy we aim to:

- Send a strong message to our tenants that ASB is unacceptable, try to reduce both the incidence and fear of ASB through preventative work, use early informal intervention and warnings whenever possible to avoid ASB escalating;
- Encourage residents to take responsibility for their own lives and communities, and to try to resolve their own problems in a reasonable manner;
- Encourage tolerance of, and respect for, others in the community;
- Make it easy for people to report ASB;
- Be clear about how we will manage ASB cases and be transparent about our decision making processes;
- Provide clear expectations to complainants and alleged perpetrators .

Policy context and legislative requirements

We have a range of legal powers to help us deal with ASB. These powers are contained in the Housing Acts of 1985 and 1996, the Anti-Social Behaviour Act 2003, and the Anti-social Behaviour, Crime and Policing Act 2014.

The tenancy agreements of the Council clearly sets out the standard of behaviour expected of tenants. The conditions related to Neighbour Nuisance and ASB are referred to in detail when a new tenant signs their tenancy agreement and new tenants are advised that should

they or their relatives/visitors cause a nuisance to those living in the local area they may put their tenancy at risk.

Canterbury City Council will also take into account our responsibilities under the Human Rights Act 1998 and Equality Act 2010.

In serious cases of ASB, Canterbury City Council may rely on the powers set out in the Housing Act 1985 (as amended by the Anti-social Behaviour, Crime and Policing Act 2014) to obtain possession of a property using the absolute ground for possession. Our use of these powers will be limited to the most serious cases and where we consider this to be a justifiable and proportionate response to the problem.

What is anti social behaviour?

Canterbury City Council have adopted the definition of ASB used in Section 2 of the Anti-social Behaviour, Crime and Policing Act 2014:

Which states Anti-social behaviour means –

- (a) Conduct that has caused or is likely to cause harassment, alarm or distress to any person.
- (b) Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- (c) Conduct capable of causing housing-related nuisance or annoyance to any person.

Some examples of behaviour that would be treated as ASB include but are not limited to:

- Intimidation and harassment
- The fouling of public areas, graffiti, fly tipping and nuisance vehicles
- Actual violence against people or property
- Hate behaviour that targets members of identified groups because of their perceived difference e.g. racial harassment.
- Using or threatening to use housing accommodation to manufacture, supply or sell drugs, or for other unlawful purposes.
- Excessive noise nuisance.

What is not considered to be Anti-Social Behaviour?

Canterbury City Council will not investigate normal behaviour occurring at unusual times because of different working patterns, one off parties where there is no evidence the incident will reoccur, smoking or cooking odours or clashes of lifestyle due to cultural differences.

We accept people have different lifestyles and it is important that we are realistic when advising complainants what we can and cannot do in relation to a complaint of ASB or neighbour nuisance.

Not all inconsiderate behaviour by neighbours is antisocial behaviour. Noises that arise out of the ordinary and reasonable use of a property are not breaches of tenancy and will not be subject to enforcement action.

Below are examples of issues which may upset or disturb people and which are unlikely to be dealt with as ASB are:

- Babies crying
- Children playing (including balls games)
- Cooking smells;
- Doors and drawers being shut
- Dishwashers, hoovers, tumble dryers, washing machines and or other household appliances
- Dropping of objects/moving of furniture
- General talking
- Heavy footfalls (people walking on floors or upstairs)
- Flushing toilets and running water
- Lights switches being turned on and off
- Loud talking or laughing
- One-off or isolated incidents e.g. a party or an argument or altercation
- People carrying out DIY jobs.
- Families arguing and shouting between themselves.
- Sexual noises,
- Shift workers leaving home.
- Slamming doors
- Toilet flushes
- Where there is no breach in the tenancy ie: people staring or being inconsiderate
- Noise transference due to poor sound insulation.

This list may, from time to time, include other low level nuisance issues.

Complaints that Canterbury City Council may not be the lead Investigator of

There are some types of complaints that while we recognise they may constitute ASB or neighbour nuisance we may not be the lead investigator of. These are ;

- Complaints about tenants of another housing provider, a private tenant or owner occupier
- Environmental issues such as abandoned cars, bonfires and fly tipping.
- Harassment and intimidation;
- Hate crime;
- Highways related matters including parking illegally or inconsiderately on land outside of a tenancy boundary;
- Illegal or immoral activity;
- Hoax calls to emergency services;
- Threatening behaviour and verbal abuse;
- Violence to person
- CCTV related nuisance
- Drug dealing
- Smoking cannabis
- Safeguarding or welfare concerns

When incidents of this type are reported to Canterbury City Council we will provide advice and signposting to the agency best placed to investigate these allegations and work with partner agencies where required, to support resolution of these issues. Where a clear breach of tenancy has been proven by a partner agency, Canterbury City Council may rely on this and consider taking tenancy enforcement action.

Our expectations of tenants

Tenancy agreements are the legally binding contracts that tenants and their landlords sign and which sets out the terms and conditions for both parties. Our tenancy agreements and leases contain clauses on ASB. These clauses make clear to residents what type of behaviour they are responsible for and what type of behaviour is not acceptable. Tenants are responsible for the behaviour of those who live with them and their visitors, this includes children and pets.

We will make clear to complainants from the outset whether what they are reporting to us as ASB is something that we can realistically and appropriately investigate. We will clarify our position if it is unlikely we can effectively investigate the matter if other statutory bodies are unwilling to support it. If this is the case, an explanation will be given as to why, and alternatives for how the complainant could deal with the issue themselves will be offered.

We expect complainants to take responsibility for minor personal disputes with their neighbours and we will offer advice on how to approach their neighbour in the first instance.

In cases where it has been identified that there is a housing-related neighbour dispute, and both parties are willing to engage to reach a resolution, the Housing Officer will determine whether a referral to an independent mediation scheme would be appropriate.

We will be clear with complainants if we feel another agency would be better placed to investigate their issue, for example the Police or Local Authority. We will provide advice on what agency would be more appropriate and provide their contact information, but we would expect complainants to liaise directly with those agencies thereafter.

Preventative work

Canterbury City Council recognises that one of the most effective ways to tackle ASB is to take preventative and supportive measures to discourage ASB from occurring in the first place and take a range of measures including:

- Allocating properties in accordance with the allocations and lettings policies
- Using Introductory Tenancies, where applicable, to take action when a new tenant breaches the conditions of their new introductory tenancy agreement
- Explaining the clauses about ASB in the tenancy agreement to new tenants before they sign their tenancy agreements.
- Providing and publicising information on what constitutes ASB
- Providing information on what a tenant can do to combat ASB and what we can and cannot do to help
- Working with the Councils to target resources to improve the layout and environment on the estates we manage
- Co operating and work with Multi Agency Partnerships

Early intervention and warnings to help resolve ASB

In some cases ASB can be resolved through the use of early warnings and interventions. These interventions include but are not limited to

- Written or verbal warnings
- Joint visits with the Police or other agency representatives
- Prompt action for repairs as a result of anti social behaviour e.g. the removal of graffiti · Referral to Environmental Health to investigate a statutory nuisance · Referral to the Mediation Service
- Acceptable Behaviour Agreements
- Support for vulnerable alleged perpetrators on a case by case basis · Extension of Introductory and Starter Tenancies, where
- Multi agency partnership working

Enforcement action

We may consider taking legal action to address ASB if other interventions and warnings have failed. However in the case of ASB which endangers life or property we will consider if immediate legal action is necessary. Any legal action taken will be considered on the grounds of proportionality and will take into account a perpetrator's capacity as well as issues raised under the Human Rights Act 1998 and Equality Act 2010.

We may consider applying to the County Court for an injunction. Depending on the severity of the behaviour, this could be with/without notice; with/without power of arrest and with/without an exclusion order. Where we wish to apply for an injunction affecting someone under the age of 18 we will apply via the Youth Courts and will consult with Youth Offending Teams (YOT) and other agencies as appropriate, prior to the application of an injunction. Where possible we will seek to make an order for positive requirements, encouraging the perpetrator to remedy their behaviours. Positive requirements will be considered on a case by case basis and may be subject to availability of additional services in the area.

We may take formal legal action when other informal interventions to tackle ASB have failed or where the incident is so serious there has been a danger to life or property, Where applicable and appropriate, we will apply to court for a possession order. In some circumstances, an ASB case may meet the threshold for an application to court for a possession order on the absolute grounds. In order to apply for possession on the absolute grounds, one of the following must apply.

- Been convicted of a serious offence
- Been found guilty of a breach of ASB injunction
- Been convicted of a breach of their Criminal Behaviour Order
- Had their property be subject to a Closure Order
- Been convicted of an offence of breach of their Abatement Notice

Reporting anti-social behaviour

Tenants and others can report anti-social behaviour to Canterbury City Council:

- In person at one of our offices or during a scheduled visit by a member of our staff.
- By telephone: (our up to date contact numbers are available on our web site at <https://www.canterbury.gov.uk/>
- Online using our ASB reporting form at <https://www.canterbury.gov.uk/>

We believe that anyone reporting ASB plays a key role in its successful management. Complainants are expected to co-operate with reasonable requests to assist Canterbury City Council to progress reports of ASB. This may mean agreeing to self-resolution actions, keeping to appointments, keeping records of incidents or taking part in mediation. We may not be able to take further action to resolve the ASB without reasonable cooperation from complainants which may include complainants providing witness statements and/or attending court.

How will Canterbury City Council respond to complaints of ASB

Canterbury City Council will arrange an initial interview by phone or in person with the complainant in response to all emergency cases (cases involving serious threatened or actual violence, or hate behaviour), within 2 working days of the initial report. We contact complainants in all other cases within four working days of the initial report. Correspondence sent to the enforcement team to update case information will be responded to within 10 working days, in accordance with Canterbury City Council Customer service Standards.

If a complaint does not constitute ASB or falls outside of our remit as a landlord, we will contact the complainant and advise them of our reasons for not investigating their allegation. Where Canterbury City Council will not be the lead investigator of a complaint our officers may if appropriate signpost the complainant to other services or agencies who may be able to assist or to other sources of information which may be of help to them. If a complainant disagrees with a decision not to accept a complaint or they have additional information that has not yet been considered, they can ask for the decision not to investigate to be reconsidered.

Support for complainants

We encourage and support complainants and others affected by ASB to continue to live at home and work with us to resolve the problem, rather than to move away from the problem. We will agree an action plan with the complainant and keep them and any witnesses informed of the progress of the case, which will include timescales for action.

If required we will review security measures for witnesses and ensure that they are well prepared for court. We may provide transport to court, an escort at court and follow up support if necessary.

We recognise the potential for vulnerable people who are the perpetrators of ASB to also be the victims of ASB because of the abusive and exploitative behaviour of others. In these cases we will make appropriate safeguarding referrals and referrals to support agencies where we cannot provide support ourselves.

Where feasible and applicable, we will seek to include positive requirements within any ASB injunction applications.

We will make appropriate referrals to our tenancy sustainment team who will work with other agencies such as mental health teams, drug action teams and community based organisations, to try to establish support packages for both victims and vulnerable perpetrators.

Canterbury City Council officers are trained to investigate and manage cases of ASB and all of our staff have access to the up to date policies and procedures for managing ASB. We will not tolerate abuse towards our employees, resident representatives or voluntary workers and will take action in accordance with our ASB and customer alerts policy against anybody who directs abuse against our employees, resident representatives or voluntary workers.

Confidentiality

Canterbury City Council officers will deal with complaints of ASB in confidence and with discretion and sensitivity.

Our policy is not to accept anonymous complaints, however, in exceptional circumstances, where the reported nuisance is extreme, can be evidenced, and is deemed to be having a significant effect on others in the community, we will investigate as appropriate.

If someone is making a complaint on behalf of another person, we will require that person's authorisation to proceed with investigating the complaint.

Information sharing and data protection

We seek the complainant's permission prior to the disclosure of information to other parties such as the other party, legal representatives or any other interested party. We will share information provided to us without explicit consent, if it is required to prevent and detect crime or there is a serious safeguarding concern.

Full details of how we store and use personal information about our customers can be found on our web site and in our [privacy notice](#) and we may share information about both complainants and alleged perpetrators in the following circumstances.

Section 115 of the Crime and Disorder Act 1998 allows Canterbury City Council and its partners to share information for the purpose of preventing and detecting crime and disorder.

Canterbury City Council will share information in accordance with the Kent and Medway Information Sharing Agreement. Canterbury City Council has signed up to this agreement, which sets out:

- What information is going to be shared
- What powers in law give the ability to share information
- How information is going to be shared
- Who the partners to the agreements are; and

- Any necessary security requirements

Case closure

When considering whether it is appropriate to close an investigation, the housing officer will take into account the following factors.

- Whether the anti-social behaviour has ceased
- If another partner agency is leading the investigation and intervention
- Whether a lack of evidence from a witness(es) prevents further action being considered
Whether intervention in the form of mediation has assisted in resolving matters
- Where there are several parties involved, making counter allegations with no independent witnesses to the incident(s)

Training and guidance for staff

Canterbury City Council is committed to:

- Ensuring its staff are aware of the importance of dealing with reports of incidents of ASB quickly and effectively and provide complainants with practical help, advice, information and support
- Ensuring new staff are aware of and understand the ASB policy and procedure as part of the induction process
- Ensuring staff can prioritise complaints
- Being clear about the standards expected of staff and ensuring they have the confidence and knowledge to investigate incidents and reports of ASB
- Supporting staff and encouraging learning to understand the legislation and powers available to tackle anti social behaviour
- Ensuring staff are sensitive to issues of diversity, sustainability and homelessness
- Doing what we say we will do and not making promises we cannot keep · respecting the confidentiality of all our tenants and leaseholders

Monitoring and review

Monitoring is necessary to ensure that Canterbury City Council delivers the aims and objectives set out in this policy. Canterbury City Council employs a range of mechanisms to report, monitor and review our ASB service including benchmarking performance against other organisations in the South East.

Canterbury City Council will regularly monitor its performance on ASB and report this to the Canterbury City Council Board. This policy will be reviewed at least annually, to address any changes in legislation, regulatory powers, best practice or operational issues.