

# Anti-social behaviour & Hate crime

## Policy and Procedure

### 1. Our Aim

West Kent believes that everyone must work together to improve community safety and reduce anti-social behaviour (ASB).

Our vision is to be a leading partner in supporting local communities to be clean, safe and green. In practice this means,

- Preventing problems before they occur
- Encouraging reasonable behaviours through targeted work
- Promoting resident responsibility
- Working in partnership with others
- Enabling individuals and communities to report issues and feel listened to
- Supporting vulnerable households, or identifying those most at risk of harm
- Providing opportunities for those causing harm to change their behaviours.

An essential part of dealing with anti-social behaviour, Hate Crime and prevention is working together with our partners within Community Safety Partnerships and other statutory and voluntary agencies to create safer neighbourhoods.

We will deal effectively with any person who directly or indirectly affects the day-to-day operations of West Kent, its residents, staff and contractors. We will do this by preventing anti-social behaviour happening, getting anti-social behaviour to stop, through supporting both the perpetrator to change their behaviour and the victim and when necessary enforcing the tenancy conditions in appropriate circumstances; including using legal action.

We will meet key legislation and duties relating to ASB, Hate Crime and tenancy management.

We will publish a statement of our ASB policy and procedure that is available to the public.

### 2. What is anti-social behaviour?

Definitions set out by the Anti-social Behaviour, Crime and Policing Act are set out in appendix 1.

West Kent considers anti-social behaviour to be but is not limited to:

- Behaviour that unreasonably interferes with other people's rights to the use and enjoyment of their home and community.
- Acting in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons.

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- Behaviour that uses or threatens to use our property for unlawful and or immoral purposes, such as illegal drug possession, production, intent to supply controlled drugs and/or permit any person to use our properties for any of the above.
  - Using our property that has resulted (or is likely to result) in nuisance to the community or there has been (or likely soon to be) disorder near our property associated with the use of the property.
  - Violence or threats of violence by residents, their family and/or visitors.
  - Harassment and intimidation including racial, homophobic and Hate Crime.
  - Untaxed and abandoned vehicles on our land; this includes our car parks and garage areas and may include vehicles declared as SORN but not agreed with us.
  - Environmental problems such as graffiti, fly tipping, litter, overgrown gardens, untidy driveways or properties being kept in poor condition and animals that are causing a nuisance.
  - Noise that the average person would find unreasonable.

### West Kent will not usually take action in circumstances such as those listed below

- Tit-for-tat petty arguments between residents<sup>1</sup>
- Parking issues on Kent County Council Highways
- Clash of lifestyles including cooking smells
- Baby's crying, children's play or children falling out with each other
- One-off party, bonfire etc.

However, in these cases, residents are advised to resolve these issues through mediation. Respecting their neighbours right to enjoy their home and act in an adult manner to resolve differences.

## 3. What is Hate Crime?

The Association of Chief Police Officers distinguishes between a hate incident and a hate crime. A hate incident is:

*"Any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate."*

*Whilst a hate crime is defined specifically as:*

*"Any hate incident, which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate." <sup>2</sup>*

Hate incidents / crimes can occur in a variety of forms. The following are a list of examples: physical assault, verbal abuse and threats, damage to property or belongings, threatening or abusive behaviour including spitting, offensive graffiti, throwing eggs or other items at property, arson or attempted arson, offensive jokes.

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<sup>1</sup> Where this is evidenced to be persistent and causing significant harm, we will consider our role to intervene and manage as anti-social behaviour  
<sup>2</sup> Challenge it, Report it, Stop it': Government's Plan to Tackle Hate Crime March 2012

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Tackling Hate Crime matters because of the damage it causes to victims and their families but also because of the negative impact it has on communities.

We will work to prevent Hate crime happening in the first place by challenging attitude and behaviour towards that hatred and encourage early intervention to reduce the risk of incidents escalating.

West Kent will take the strongest action possible against perpetrators of Hate crimes where it has the power and evidence to do so and the consent of the victim. Hate crime is a criminal offence and the police must be involved, subject to the victim's wishes.

We recognise that many Hate incidents /crimes go unreported and will encourage our residents to report Hate incidents whether they are victims of, or witnesses to such incidents (and will publicise reporting schemes where these are in place).

We will be pro-active in tackling the various barriers that residents from diversity groups experience in reporting Hate incidents /crimes through our Community Safety Partners. We will deal with all reports of Hate incidents/ crimes with sensitivity and by offering appropriate support referrals for the victims/witnesses.

We will use resident publications and other media to encourage reporting and seek to deter incidents /crimes by publicising the action we take against perpetrators, working with external agencies tackling Hate crimes and making new tenants aware of their tenancy obligation not to perpetrate Hate crimes.

## 4. Our Objectives

### Preventing problems before they occur

- Designing out crime and anti-social behaviour in new build schemes and through environmental improvements.
- Liaising with other agencies including West Kent Extra (WKE) to organise inclusion activities for target audiences.
- Giving new tenants a one year 'starter tenancy' to help assist them to maintain their tenancy successfully.
- Excluding some applicants for housing with an ASB / criminal history (see [Exclusion policy](#)), using local lettings plans, sensitive lets and neighbour respect agreements for allocating new schemes.

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## Encourage reasonable behaviours and promote resident responsibility

- Publish good neighbour relations through leaflet and campaign materials, tenancy sign ups and starter tenancy visits.
- Develop and publish neighbourhood agreements, and Clean Safe Green charters in partnership with others in targeted areas.
- Identify funding in partnership with others to support local initiatives to prevent and deter environmental-crime such as fly tipping.
- Work with partners to promote responsible dog ownership.
- Work in partnership with mediation services and encourage self referrals.
- Regular estate inspections to identify ASB and environmental issues i.e. graffiti, fly-tipping, broken street lighting.
- Use Acceptable Behaviour Agreements, Neighbourhood Agreements to support change.

## Work in partnership with others

- Be proactive with our community safety partners, work jointly on cases where appropriate.
- Sharing personal information and details of behaviour relevant to the an investigation under information sharing protocols and/or information allowed under Data Protection Act and the Crime and Disorder Act.
- Support and train staff in information sharing, handling sensitive information and partner roles.
- Working with other agencies or services including social services, GPs, drug and alcohol support, anger management etc. to enable perpetrators to source support to change their behaviour.
- Referring complainants to police to report Anti-social behaviour, crime and disorder.
- Referrals to Community Safety Partnerships and participating in multi agency groups including task and finish groups for individual cases.
- Liaison with other landlords and / or the Local Authority.
- Work closely with police, including police community support officers, Neighbourhood Police Officers and KCC Wardens.
- Referrals to 'floating support' schemes and other support for vulnerable persons and victims and witnesses of Anti-social behaviour and Hate crime.
- Referrals into Troubled Families programme to discuss potential intervention where a locally defined criteria is met.

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## Enabling individuals and communities to report issues and feel listened to

- Ensure staff are trained to log and deal with ASB pro-actively and efficiently.
- Ensuring staff involve partners, and use interventions available including those from other agencies.
- Provide opportunities for residents to find out about our work and speak with those working in their area through local meetings and groups, newsletters and local surgeries in priority areas when required.
- Monitor trends and satisfaction feedback to review our services.
- Working and supporting Police and Local Authorities in measures designed to give victims and communities a say in the way Anti-social behaviour is dealt with. For example through Community Triggers and the Community Remedy<sup>3</sup>.

## Support vulnerable households, or identify those most at risk of harm

- Carrying out Risk Assessments for repeat and vulnerable victims when cases are reported (usually not on environmental cases).
- Offering a sensitive and helpful 'right person right answer first time' contact.
- Improving home security (e.g. extra locks, door chains), when necessary.
- Liaising with police to install panic buttons, personal alarms, CCTV, and to inform Community Safety Units where appropriate.
- In cases of violence/harassment, liaise with specialist police units.
- Advising victims of domestic abuse on legal options they can apply for with solicitors, such as injunctions.
- Applying for injunctions on ASB perpetrators, when serious and necessary.
- Maintaining regular contact and updating the victim / witness on progress.
- Liaise with police over National Witness Protection Scheme where witnesses at serious risk of harm wish to transfer to a new location.
- Referring to Victim Support and Kent Witness Service.
- Provide advice and guidance on court procedures.
- Provide support to victims and witnesses during and after court hearings.

<sup>3</sup> The Anti-Social Behaviour, Crime and Policing Act sets out two measures designed to give victims and communities a say in the way anti social behaviour is dealt with: The Community Trigger, gives victims the ability to demand action, starting with a review of their case where a locally defined threshold is met. The Community Remedy gives victims a say in the out of court punishment of perpetrators for low level crime and anti social behaviour.

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## 5. Our case management principles

When we receive a complaint of Anti-social Behaviour.

### In all cases we will:

- **Register** the complaint / incident on our 'Case Manager' IT system.
- **Treat** the complaint seriously responding promptly and professionally.
- **Contact** the complainant within five working days.
- **Assess** the seriousness of the complaint.
- **Be Honest** and tell the complainant when they should speak to the person themselves first, or if the complaint is not reasonable.
- **Keep in regular contact** until the case is closed.

### When it is appropriate we will:

- **Recommend** referral to mediation services to resolve the problem amicably.
- **Interview** perpetrators and give them opportunities and support to improve or change behaviour.
- **Collect** evidence by issuing incident logs for complainants to complete.
- **Support** and protect the complainant and other witnesses.
- **Refer** criminal cases to the police to deal with.
- **Refer** the case through to partners for a joint approach including police, social services and environmental health departments.
- **Consider** using other methods to collect evidence in serious cases including covert / overt camera deployment.

### In serious cases such as physical violence, serious threats of violence or Hate Crime we will

- Advise the victim to contact the police immediately
- Treat as a priority and offer the victim an appointment within one working day of the incident being reported
- Discuss the case with our community safety partners and identify and take appropriate action with them
- Look at ways to get the victim away from the problem, if this is best for their safety. Where we believe a resident is in need of emergency accommodation, we will provide advice and support on accessing emergency accommodation provided by the local authority.

### Closing cases

At the closure of each case<sup>4</sup>, we will write to the complainant with an explanation of the closure action enclosing a customer satisfaction questionnaire for the complainant to complete and return. The information from these questionnaires will be used as performance indicators and to review procedures where necessary.

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4 Not including cases dealt with and closed immediately, e.g. when complaint unjustified, issue dealt with (e.g. rubbish removed) or referred through to mediation.

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## Formal warnings of legal action

Where there is evidence of nuisance and / or annoyance, the person will be warned that we can take action (including against their tenancy if they are our tenants), should the problem continue. Where problems persist and they are serious, we can serve a formal warning by

- Informing a 'Starter Tenant' they are at risk of their tenancy being ended
- Serving a Notice of Seeking Possession (NOSP)
- Serving a Notice Seeking Demotion
- Issue a warning letter
- Asking the perpetrator to sign an Acceptable Behaviour Agreement (ABA).

We may also ask other Community Safety Partner agencies such as Social Services, education, Probation or Youth Offending Service, to lead other action in partnership with us.

## Legal Action

If problems continue after formal warnings and are having a substantial effect on neighbours, the community, or how we manage our stock, or the incident is very serious, we will ask our solicitors if we have enough evidence to go to court for:

- A Possession Order on their home, and/or
- Injunction to Prevent Nuisance or Annoyance (IPNA) to stop causing the problem or threats (includes non West Kent tenants) and/or
- An Injunction with an Exclusion Order and a power of arrest
- A Demotion Order, which puts a tenant on a one year tenancy with less protection and rights.

The decision to give any of these Orders rests with either a Judge or magistrate. We will not apply to court if our solicitor thinks the evidence gathered is not good enough to be successful, the complainants may not be good witnesses because of inconsistencies or prejudices, or if other more appropriate action can be taken such as criminal charges.

In the most serious of anti-social behaviour we will consider applying for possession on mandatory grounds for tenants who have an assured shorthold tenancy or an assured tenancy where anti-social behaviour or criminality has already been proven by another court and one of five set conditions identified by the ASB, Crime and Policing Act 2014 have been met for the use of the absolute ground for possession, ground 7A<sup>5</sup>.

In cases whereby there has been serious nuisance, disorder, offensive or criminal behaviour on the premises and/or near the premises associated with the use of the premises we may also ask the police or local authority to make an application for a 'Closure Notice' on the premises.

We may also ask the police or Local Authority, following a warning, to issue a 'Community Protection Notice'. The 'Notice' can be issued to address litter, dog fouling, noise, car repairs etc where the behaviour is detrimental to the local community's quality of life and the behaviour is unreasonable and persistent.

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5 The conditions are 1. Convicted for a 'serious' housing related offence as specified in Schedule 2A to the Housing Act 1985; 2. Found by court to have breached a civil injunction; 3. convicted for breach of a Criminal Behaviour Order (CBO); 4. The tenant's property has been closed for more than 48 hours under a Closure Order for ASB; 5. Convicted for a breach of an abatement notice or order.

Other powers may be available to the Police or Local Authorities that may be more appropriate such as Dispersal Powers, Public Spaces Protection Orders and/or Criminal Behaviour Orders to tackle the most persistently anti-social behaviour individuals who are also engaged in criminal activity.

Equally, on occasions it may be more appropriate for other agencies to take action, such as NHS and Social Services.

West Kent will promote cases in the media when we take successful legal action, to let neighbourhoods know we can and will take action against serious ASB and Hate Crime.

## 6. Fairness

We are committed to treating everyone with whom we come into contact fairly. We will take into account any particular needs victims or perpetrators may have. We will provide information that is easy to understand.

We will ensure perpetrators and victims are clear about the action West Kent is taking, and what action could be taken if problems continue and there is evidence. This may mean using a third party or advocate when necessary. We will also refer them to other agencies such as Social Services and support providers if necessary. We may also contact the person's GP or Community Psychiatric Nurse if necessary to obtain information.

When there are incidents, we will take into account the effect the behaviour is having on the community. However, we will also take into account problems caused as a result directly or indirectly of drug abuse, alcohol abuse, mental health, and disability, ethnic or cultural diversity. We may liaise with other agencies; take action or a mixture of both, depending on the case. Referrals may be made to our partnership agencies and signposting people to agencies for 'self help'.

Before considering legal action against a disabled tenant, West Kent will consider equality legislation and will have a case meeting to help establish:

- Whether the behaviour is a result of disability<sup>6</sup>
- Whether the disability is a physical or mental impairment which has a substantial, long-term and adverse effect on his or her ability to carry out normal day-to-day activities
- How it can be addressed?
- What actions and intervention is appropriate?

The assessment should take account of any known disability, as well as uncovering undiagnosed problems. The meeting will also take into account the effect of the behaviour on neighbours and the community.

<sup>6</sup> Conditions that are not considered to be an impairment for the purposes of the Equality Act 2010 include: - addiction to alcohol, cigarettes or other drugs - unless they result from drugs that have been prescribed by a doctor, or other medical treatment; seasonal allergic rhinitis (including hay fever); a tendency to start fires; a tendency to steal; a tendency to physically or sexually abuse other people; exhibitionism; and voyeurism

## 7. Monitoring

Neighbourhood Housing Managers / Team Leaders will monitor cases with their staff at review meetings to ensure that the policy is being followed, timescales met and cases closed. These meetings and monthly reports from the IT system may flag up needs to treat areas as 'focus areas' to concentrate staff resources in certain areas. The Community Safety Team will review cases passed for legal action, to ensure cases have been managed well together with any identified trends.

### We will review:

- New cases reported every 24 hours
- Number of new Anti-social Behaviour cases reported overall; by category; by Ward reviewed every 6 months
- Trends in types of ASB, locations and any other patterns year on year
- Review of successful interventions to manage and stop anti-social behaviour
- Customer feedback on services received
- Outcomes of interventions and campaigns.

### We will report through:

- 1:1 meetings with all staff managing ASB and Hate Crime
- Quarterly housing management meetings
- Bi-annual trend reports to Operational Management Team, Executive Team, People & Property Committee
- Externally published communication materials such as Neighbourhood News, Annual Reports, Stakeholder newsletters.

## 8. Review

This policy will be reviewed every three years and/or as required by any major changes in legislation.

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## Appendix One

### Definitions

#### Anti-social behaviour

The ASB, Crime and Policing Act 2014 Part 1 defines ASB as;

- 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.

'Housing related' means directly or indirectly relating to the housing management functions of –

- a) Housing provider
- b) A Local Authority

The housing management functions of a housing provider include -

- a) Functions conferred by or under any enactment;
- b) The powers and duties of the housing provider as the holder of an estate or interest in housing accommodation.