



## Corporate **POLICY STATEMENT**

### ***ANTI-SOCIAL BEHAVIOUR POLICY***

#### **1. Introduction**

The Council recognises that the problems created by Anti-social Behaviour (ASB) need to be addressed in a robust but proportionate manner. Residents are entitled to live in a quiet and peaceful environment and where appropriate the Council will aim to act quickly and efficiently to tackle incidents of ASB.

The Council's ASB Policy applies to tenants, residents, businesses, visitors and any other occupants. The same principles apply to members of staff and other people working on behalf of the Council.

In response to the Anti-social Behaviour, Crime and Policing Act 2014, Harlow Council has introduced a Corporate Policy, Procedures and Guidance.

This Policy should be read in conjunction with Harlow Council's Community Safety Teams Anti-social Behaviour Procedures and Guidance, Housing Management Anti-social Behaviour Procedures and Guidance and Environmental Health Services Procedures and Guidance.

#### **2. The Council's responsibilities in respect of Anti-social Behaviour**

The Council has a wide range of responsibilities to tackle anti-social behaviour. These arise from three distinct roles which are:

- The Council's role as a Responsible Authority of the Safer Harlow Partnership (SHP) as defined by the Crime and Disorder Act 1998. The Act states that the Council must work with the police and other agencies to reduce crime and disorder. Harlow Council makes a significant contribution when dealing with anti-social behaviour.

- The Council has a role in responding to anti-social behaviour affecting private properties, businesses and open public spaces.
- As a landlord the Council has a duty to respond to anti-social behaviour affecting the properties it manages. The Council's landlord duties and powers are in addition and compliment the duties and powers it has to deal with anti-social behaviour in the wider community.
- The Council has a range of responsibilities to deal with 'Environmental' ASB such as noise, litter, bonfires, dumped rubbish and abandoned cars. These responsibilities arise from a number of Acts, but in particular the Environmental Protection Act 1990.

Whilst these are distinct roles, there are very strong links between all four and close working arrangements have been developed between teams that deliver the various services. ASB is tackled by a number of different teams within the Council, each works to its own set of policies and procedures.

- The Council will consider all possible powers, civil and criminal, available to it and take appropriate action.
- The Council will forward reports of anti-social behaviour to the police where necessary.
- Enforcement action against anti-social behaviour can take an informal, quasi-legal, or legal form. Prompt, targeted action is sometimes more successful than drastic action for tackling ASB before it escalates.

### **3. What is Anti-social Behaviour**

The Anti-social Behaviour, Crime and Policing Act 2014 defines anti-social behaviour 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 or residential premises, or;
- (c) conduct capable of causing housing-related nuisance or annoyance to any person.

Anti-social Behaviour covers the range of behaviour from low-level nuisance to serious harassment, which can damage the quality of life and interfere with the ability of people to use and enjoy their home or community.

#### **4. Reporting and dealing with Anti-social Behaviour**

As part the Council's continued commitment to address anti-social behaviour and the perception that anti-social behaviour is a problem in Harlow, in partnership the Council will:

- Work to ensure reporting anti-social behaviour is as easy as possible. Take all reports seriously, by recording and investigating all cases, and keep victims informed of action taken.
- Ensure that all victims and witnesses are treated fairly, with dignity and respect; listen to victims and provide ongoing support where appropriate, particularly to those victims considered vulnerable.
- Support victims of anti-social behaviour by providing practical support in partnership with victim support agencies to address victim's needs.
- Share relevant information and intelligence on anti-social behaviour with partners; analyse information to identify repeat victimisation, known perpetrators and affected parties and respond speedily to such intelligence.
- Tell the public what the Council is doing to tackle anti-social behaviour so they have the confidence to report issues, and encourage residents to play their part in reducing anti-social behaviour.
- Ensure that the Safer Harlow Partnership provides suitable routes which communities or individuals can raise concerns when it is considered that anti-social behaviour is not being taken seriously.
- Through education and early intervention, work to reduce and where possible prevent anti-social behaviour and the perception that anti-social behaviour is a problem in the community.
- Respond in a timely manner to reports of breaches of anti-social behaviour enforcement measures.

#### **5. Working with partners in order to deliver an effective, value for money Anti-social Behaviour Service across the community**

The Council will play a full part as a lead member of the Safer Harlow Partnership and in partnership it will:

- Participate in relevant strategic or preventative initiatives, being mindful of its core activities, current workload and cost of participation relative to the likely benefits.
- Participate in multi-agency workgroups dealing with specific ASB issues.
- Work with registered social landlords, private landlords, letting agents, education establishments and businesses, providing professional advice and support as required so that organisations can act confidently to prevent or tackle ASB making use of their own resources.

**6. Anti-social behaviour will be addressed firmly, fairly and proportionately**

The Council will:

- Take any reasonable early action to protect people and property.
- Investigate the circumstances and seek to understand all the facts of any matter reported to the Council.
- Use the tools and powers available to the Council under current legislation, Council policy and according to the Council's best professional judgment.
- Take into account (and adjust the Council's approach as necessary) when a victim or a perpetrator is a vulnerable person.
- Not necessarily intervene in low level disputes between households concerning minor lifestyle differences.
- With the consent of people involved, the Council may refer suitable low-level cases to a mediation service.

**7. Concerns for children, young people or vulnerable adults**

During the course of an investigation an Officer may come across a person whose welfare may raise concerns. Whether or not the subject has a direct connection to the case under investigation, it remains the duty of Officers to ensure that these concerns are properly logged and the Council's Safeguarding Policy is adhered to.

## **8. Information Sharing**

Where appropriate, the council will share information with relevant partners so the council can carry out its functions and duties in accordance with the Crime and Disorder Act 1998.

The Council will work within the provisions of the Data Protection Act which provides a background for the sharing of information and the need for confidentiality and privacy.

## **9. Discretion**

This policy commits the Council to deal with anti-social behaviour in a way that will be fair and, in all important respects, consistent across cases of a similar kind. However, its services are constantly evolving and each anti-social behaviour case the Council deals with is likely to be unique in some or other aspect. This means that the Council may occasionally use its discretion to vary its approach from that described in this policy.

## **10. Complaints**

- 10.1.** Where members of the public feel that positive action is not taking place to deal with anti-social behaviour they can complain by contacting the Council and requesting a copy of the Complaints Procedure which provides step by step guidance on making a complaint.
- 10.2** Where members of the public have made three complaints of ASB or one complaint of Hate Crime in a qualifying six month period where no action has been taken the complainant can make an application for an Anti-social Behaviour Case Review (Community Trigger).
- 10.3** Any application for ASB Case Review will adhere to the Essex model as agreed by all councils and the Office of the Police and Crime Commissioner (OPCC)
- 10.4** ASB Case Reviews that meet the threshold for review will be managed in accordance with the Council's ASB Case Review Guidance:

<http://www.harlow.gov.uk/anti-social-behaviour-case-review-guidancepdf>

## **11. Tools available to tackle Anti-social Behaviour**

### **11.1 Mediation**

In many cases of anti-social behaviour, mediation can be an effective tool, solving the issue by bringing all parties to the table. This can be very effective in neighbour disputes and lifestyle differences and similar situations where it is difficult to identify the victim and the perpetrator.

For mediation to deliver long-term solutions, those in dispute should agree a solution. Mediation can be arranged by the Council's Community Safety Team, Housing Services and Environmental Health Service. It is not for the mediator to establish a solution to the issue as, in most cases, they will have already tried this with each party unsuccessfully. For mediation to deliver long-term solutions, those in dispute should agree a solution.

### **11.2 Acceptable Behaviour Contracts**

Acceptable Behaviour Contracts are a voluntary contract between a perpetrator of anti-social behaviour and the agency or agencies acting to prevent that behaviour usually the Council and the Police. The contract will contain a number of anti-social behaviour acts that the person has been involved in and agrees not to continue together with positive measures.

The acceptable behaviour contract is not legally binding and usually lasts for six months. If a person fails to attend the interview or does not agree to sign, the contract may be used as evidence in any further court action. If the person breaches the conditions of the contract, enforcement action may be taken and this may include seeking an injunction, acceptable behaviour contracts are a tool available to the Council's Community Safety Team, Housing Services and Environmental Health Service.

### **11.3 Civil Injunctions**

Anti-social Behaviour Orders were introduced by the Crime and Disorder Act 1998. They are Civil Orders designed to protect the public from behaviour that causes or is likely to cause harassment, alarm or distress.

The Anti-social Behaviour, Crime and Policing Act 2014 introduced the Civil Injunction which replaced Anti-social Behaviour Orders and the Anti-social Behaviour Injunction.

The purpose of the civil injunction is to offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from escalating and can be applied for by councils, social landlords and the police, including the British Transport Police.

The civil injunction can be used to deal with a wide range of behaviours, many of which can cause serious harm to victims and communities in both housing and non-housing related situations.

A civil injunction is issued by the County Court and High Court for those over eighteen and in the Youth Court for under eighteens. Breach of an injunction is not a criminal offence, but the breach must be proven to the criminal standard, that is, beyond reasonable doubt. Guidance for Civil Injunctions can be found in the Council's Community Safety Team Anti-social Behaviour Investigation Procedures.

#### **11.4 Criminal Behaviour Orders**

A Criminal Behaviour Order is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court.

A Criminal Behaviour Order can deal with a wide range of anti-social behaviours following the individual's conviction for a criminal offence. It is a criminal offence if an offender fails to comply, without reasonable excuse, with either the requirements or prohibitions in the Criminal Behaviour Order. 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. Guidance for Criminal Behaviour Orders can be found in the Council's Community Safety Team Anti-social Behaviour Investigation Procedures.

#### **11.5 Community Protection Notice**

A Community Protection Notice is intended to deal with particular ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible.

A Community Protection Notice can be issued if the Council is 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 which is persistent or continuing in nature and is unreasonable.

Possible sanctions for breach of the notice include a fixed penalty notice, paying for remedial work or forfeiture of items. Guidance for Community Protection Notices can be found in the Council's Community Safety Team Anti-social Behaviour Investigation Procedures.

## **11.6 Public Space Protection Order**

Councils have the power to make Public Space Protection Orders, these are intended to deal with a particular nuisance or problem in a specified area that is detrimental to the local communities quality of life, by imposing conditions on the use of that land. They are designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. Duration of Public Space Protection Orders are valid for a period of three years.

Sanctions for breach of an order include a fixed penalty notice or summary conviction in the magistrate's court to a fine not exceeding £500. Guidance for Public Space Protection Orders can be found in the Council's Community Safety Team Anti-social Behaviour Investigation Procedures.

## **11.7 Anti-social Behaviour Injunction**

The Housing Act 1996 sections 153a, 153b, 153c, and 153d enable social landlords to apply to the court for an injunction to prevent anti-social behaviour, unlawful use of premises and breaches of conditions of tenancy. An injunction is a civil remedy obtained through the County Court and either compels a person to do something or forbids a person from doing something.

The Housing Act 1996 also allows for a power of arrest in relation to a breach or an anticipated breach of the terms of the tenancy agreement. Guidance for Anti-social Behaviour Injunctions can be found in the Council's Community Safety Team Anti-social Behaviour Investigation Procedures.

## **11.8 Demoted Tenancy**

Sections 14 and 16 of the Anti-social Behaviour Act 2003 allow the local housing authority to apply to the court for a demotion order, which when applied to a secure tenancy results in a non-secure tenancy. This removed the tenants "Right to Buy", Right to Exchange", and their security of tenure for a minimum of one year. If, however, the behaviour of the tenant is modified within this period, a new secure tenancy agreement is issued. Guidance for Demoted Tenancies can be found in the Council's Housing Service's Management Anti-social Behaviour Procedures.

## **11.9 Possession Orders**

Possession proceedings allow landlords to apply for and possibly take back possession of a property in cases where there has been a breach of the tenancy.



A Notice of Seeking Possession will be served in the first instance and then an application to the County Court for a hearing must be made. It is at this hearing the judge will decide if it is reasonable for the perpetrator to lose their home. Guidance for Possession Orders can be found in the Council's Housing Service's Management Anti-social Behaviour Procedures

### **11.10 Amendments to the Discretionary Grounds for Eviction**

Section 98 of the Anti-social Behaviour Crime and Policing Act 2014 inserted new provisions into the 1985 and 1988 Acts to enable the landlord to seek possession where a tenant (or a person living in or visiting the tenants home) is guilty of conduct likely to cause nuisance or annoyance to the landlord, or someone employed in connection with the landlords management functions. There is no requirement for this conduct to have taken place within the locality of the tenant's home. Guidance for amendments to the discretionary grounds for eviction can be found in the Council's Housing Service's Management Anti-social Behaviour Procedures.

### **11.11 Closure Orders**

Section 4 of The Anti-social Behaviour, Crime and Policing Act 2014 Act gives the Council and/ or the Police powers to issue a closure notice in respect of premises that are being used, or are likely to be used, to commit nuisance or disorder.

Following service of the notice an application must then be made for a Closure Order to the Magistrates Court within 48 Hours. An order can be granted for up to 3 months initially and possibly extended to 6 months during which time entering or remaining in the premises is an offence and the property will be sealed.

As the landlord, where a Closure Order is granted, possession proceedings should commence as soon as possible after the order has been made, unless there are extenuating circumstances not to seek a possession order. Guidance for Closure Orders can be found in the Council's Community Safety Team Anti-social Behaviour Investigation Procedures.

### **11.12 Statutory Noise Nuisance**

Part III of the Environmental Protection Act 1990 provides a statutory regime to deal with certain specified matters some of which that might also constitute antisocial behaviour. The most relevant example is noise crossing the boundary

between premises, which if in general it meets the definition of a nuisance at common law will be a statutory nuisance.

The Council will carry out a reasonable investigation of alleged statutory nuisances, and if it is satisfied that a nuisance exists, will serve a statutory notice on the person responsible requiring that the nuisance be abated. It is an offence to fail to comply with an Abatement Notice, and the Council also has powers to abate the nuisance itself including in the case of noise, seizure of noise-making equipment, and recover the cost of doing so in Court from the person responsible. On conviction, the Court may impose a fine of up to £ 5,000, may impose a daily penalty for ongoing offences, and may order any property seized to be forfeited.

Should these measures prove insufficient to abate nuisance, further measures such as an application for a Criminal Behaviour Order (described above) on conviction may be considered appropriate.

Complaints about noise that might be a Statutory Nuisance are dealt with in accord with the Council's approach to investigation of Statutory Nuisances, explained in the Advice Note for service users.

**Anti-social Behaviour, Crime and Policing Act 2014 - Outline of the new powers**

**APPENDIX 2**

New Power	Old Powers	Test	Details
<p><b>Civil Injunction</b></p> <p>Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014. Application for Injunction against a person aged 10 or over</p>	<ul style="list-style-type: none"> <li>• Anti-social Behaviour Order (ASBO) on application</li> <li>• Anti-Social Behaviour Injunction (ASBI)</li> <li>• Drinking Banning Order (DBO) on application</li> <li>• Individual Support Order (ISO)</li> <li>• Intervention Order</li> </ul>	<ul style="list-style-type: none"> <li>• On the balance of probabilities;</li> <li>• Behaviour likely to cause harassment, alarm or distress (non-housing related anti-social behaviour); or</li> <li>• Conduct capable of causing nuisance or annoyance (housing-related anti-social behaviour); and</li> <li>• Just and convenient to grant the injunction to prevent anti-social behaviour</li> </ul>	<ul style="list-style-type: none"> <li>• Civil order in County Court or High Court or High Court for over 18s and Youth Court for 10-17yr olds</li> <li>• Positive requirements can be included aimed at getting the perpetrator to address the underlying causes of their anti-social behaviour</li> <li>• Local councils, social landlords, police Environment Agency &amp; NHS Protect can apply</li> <li>• Breach is not a criminal offence</li> </ul>
<p><b>Criminal Behaviour Order</b></p>	<ul style="list-style-type: none"> <li>• Anti-Social Behaviour Order on conviction (CRASBO)</li> <li>• DBO</li> </ul>	<ul style="list-style-type: none"> <li>• If the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or likely to cause harassment, alarm or distress to any person; and</li> <li>• The court considers that making the order will help prevent the offender from engaging in such behaviour</li> </ul>	<ul style="list-style-type: none"> <li>• Issued by any criminal court for any criminal offence</li> <li>• Crown Prosecution Service (CPS) is most likely to be the applicant whether through their own initiative or following a request from the police or council</li> <li>• Breach is criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt</li> <li>• The ASB does not have to relate to the criminal offence being dealt with but maybe linked as a cause/effect</li> <li>• Consultation requirement with Youth Offending Teams for under 18's</li> </ul>

New Power	Old Powers	Test	Details
<p><b>Dispersal Power (Police power)</b></p>	<ul style="list-style-type: none"> <li>• Dispersal Order</li> <li>• Direction to leave</li> </ul>	<ul style="list-style-type: none"> <li>• Contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed (or the occurrence of crime and disorder); and</li> <li>• Direction necessary to remove or reduce the likelihood of the anti-social behaviour, crime and disorder</li> </ul>	<ul style="list-style-type: none"> <li>• Powers for Police Officers in uniform and PCSO's if designated by the Chief Constable</li> <li>• Dispersal for up to 48 hours within a specified area</li> <li>• Under 16s can be returned home or taken to a place of safety</li> <li>• Powers to confiscate any item that could be used to commit ASB, crime or disorder</li> <li>• Breach is a criminal offence</li> </ul>
<p><b>Community Protection Notice (CPN)</b></p> <p>Part 4, Chapter 1 of the Anti-Social Behaviour, Crime and Policing Act 2014 issue of Community Protection notices</p>	<ul style="list-style-type: none"> <li>• Litter clearing notice</li> <li>• Street litter control notice</li> <li>• Defacement removal notice</li> </ul>	<p>Behaviour has to:-</p> <ul style="list-style-type: none"> <li>• Have a detrimental effect on the quality of life of those in the locality;</li> <li>• Be of a persistent or continuing nature; and</li> <li>• Be unreasonable</li> </ul>	<ul style="list-style-type: none"> <li>• Applies to individuals aged 16 and over, organisations and businesses</li> <li>• Council officers, police officers, PCSO's (if designated by the council) can issue them</li> <li>• CPN follows a written warning when behaviour persists</li> <li>• Breach is a criminal offence</li> </ul>
<p><b>Public Spaces Protection Orders (PSPO)</b></p> <p>Part 4, Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act authorise Public Spaces Protection Order</p>	<ul style="list-style-type: none"> <li>• Designated Public Place Order (DPPO)</li> <li>• Gating order</li> <li>• Dog control order</li> </ul>	<p>Behaviour being restricted by the order has to:-</p> <ul style="list-style-type: none"> <li>• Be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;</li> <li>• Be persistent or continuing in nature; and</li> <li>• Be unreasonable</li> </ul>	<ul style="list-style-type: none"> <li>• Council makes a PSPO after consultation with the police, P&amp;CC and other relevant bodies)</li> <li>• Can be enforced by police officers, PCSO's &amp; council officers</li> <li>• Breach is a criminal offence</li> <li>• Will replace any existing DPPO's &amp; need to be renewed after 3 years</li> <li>• Order must be published in accordance with regulations (usually by notice in local paper</li> </ul>

New Power	Old Powers	Test	Details
<p><b>Closure Power</b></p> <p>Part 4, Chapter 3 of the Anti-Social Behaviour, Crime and Policing Act 2014 Issue a Closure Notice and application for closure order in respect of premises used or likely to be used to commit nuisance or disorder</p>	<ul style="list-style-type: none"> <li>• Premises Closure order</li> <li>• Crack house closure order</li> <li>• Noisy Premises Closure order</li> <li>• S161 Closure Order</li> </ul>	<p>The following has occurred, or will occur, if the closure power is not used:-</p> <p>Closure notice (up to 48 hours)</p> <ul style="list-style-type: none"> <li>• Nuisance to the public; or</li> <li>• Disorder near those premises.</li> </ul> <p>Closure order (up to 6 months)</p> <ul style="list-style-type: none"> <li>• Disorderly, offensive or criminal behaviour;</li> <li>• Serious nuisance to the public; or</li> <li>• Disorder near the premises</li> </ul>	<ul style="list-style-type: none"> <li>• Police and Council can move quickly to close premises which are being used, or likely to be used, to commit nuisance or disorder</li> <li>• Closure notice – up to 48hrs (can be issued by ENC)</li> <li>• Closure Order – up to 3 months in first instance, can be extended to six months (Both require Magistrates approval)</li> <li>• Breach is a criminal offence</li> </ul>
<p><b>Absolute Ground for Possession (social private landlord power)</b></p> <p>Part 5, of the Anti-Social Behaviour, Crime and Policing Act 2014 serve notice of proceedings for possession on absolute grounds for anti-social behaviour in respect of any dwelling let under a secure tenancy</p>	<p>NEW POWER</p>	<p>The tenant, a member of the tenant's household, or a person visiting the property has met one of the following conditions:-</p> <ul style="list-style-type: none"> <li>• Convicted of a serious offence (specified in Schedule 2A to the Housing Act 1985);</li> <li>• Found by a court to have breached a civil injunction;</li> <li>• Convicted for breaching a Criminal Behaviour Order (CBO);</li> <li>• Convicted for breaching a noise abatement notice; or</li> <li>• The tenant's property has been closed for more than 48 hours under a closure order for ASB</li> </ul>	<ul style="list-style-type: none"> <li>• Social landlords and private sector landlords can apply</li> <li>• Can apply to the tenant, a member of the tenant's household or a person visiting the property</li> <li>• Grounds include: <ul style="list-style-type: none"> <li>i. Convicted of a serious offence</li> <li>ii. Found by a court to have breached a civil injunction</li> <li>iii. Convicted for breaching a CBO</li> <li>iv. Convicted for breaching a noise abatement notice.</li> <li>v. Tenant's property has been closed for more than 48 hrs under a closure order for ASB</li> </ul> </li> </ul>