



NUISANCE AND ANTI-SOCIAL BEHAVIOUR POLICY AND SUMMARY OF PROCEDURES

Introduction

A1 Housing Bassetlaw recognises that people are entitled to live their lives the way they want to, provided that the rights of others are respected. To preserve these rights A1 Housing will investigate all reports of ASB and take the appropriate action to protect the safety and security of the community.

What is anti social behaviour?

ASB may mean different things to people; in general ASB can be defined as:

- Behaviour that causes or is likely to cause harassment, alarm or distress.

The law defines anti-social behaviour in the Crime and Disorder Act 1998, as 'behaviour, which causes or is likely to cause harassment, alarm or distress to one or more people who are not in the same household as the perpetrator.'

The law also defines ASB specifically for landlords in the Housing Act 1996 as conduct which:

- Is capable of causing nuisance or annoyance to any 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

Examples of anti-social behaviour might include:

- Noise nuisance
- Intimidation or harassment
- Aggressive or threatening language or behaviour
- Racist and homophobic abuse
- Litter, rubbish and fly tipping
- Graffiti, vandalism and criminal damage.
- Uncontrolled pets and animals.
- Use of property for criminal, immoral or other illegal purposes.

This list is not exhaustive and A1 Housing accepts that other conduct may fall within the definition of ASB.

Our approach to anti social behaviour

Whilst you are still a tenant of Bassetlaw District Council, A1 Housing is responsible for ensuring that all tenants keep to their tenancy agreement. A1 Housing tenants must not cause nuisance or anti-social behaviour or allow their visitors to cause nuisance or anti-social behaviour.

A1 Housing will take firm action to eliminate anti social behaviour. Our intention is to deal firmly but fairly with anti social behaviour, to deter such behaviour and to encourage others to come forward as witnesses.

A1 Housing will aim to use all reasonable means to prevent ASB. We have developed proactive protocols and measures together with other partnership agencies to prevent and deter ASB within the community, and will maintain the exchange of information and joint working.

Our commitment to customers:

- To investigate all complaints of anti social behaviour promptly.
- To attempt to resolve any disputes between neighbours.
- To consider legal action against any person who continues to behave in an anti social manner.
- To protect witnesses by all possible means.
- To work with the police and other agencies in stopping nuisance neighbours.
- To work with residents to make the neighbourhood a good place to live
- To resolve complaints within a maximum of 3 months
- To achieve a culture of respect and tolerance

Our standards of service when someone makes a complaint about anti social behaviour:

- We will arrange to talk with the complainant as soon as we can, and within a maximum of 5 working days.
- We will discuss the situation and advise on what can and cannot be done.
- Complainants may be asked to keep a detailed diary of events.
- We will work with the people involved to try to resolve the problem, and explain clearly what is happening at each stage
- We will offer support for people suffering from anti social behaviour
- We will maintain confidentiality where requested

The duty on A1 Housing's tenants:

Bassetlaw District Council's tenancy agreement specifies that:

The tenant is responsible for the actions of anyone residing in or visiting the premises, therefore the tenant must ensure:

- the tenant or a person residing in or visiting the tenancy does not cause nuisance, harassment, danger or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, in particular on the grounds of race, colour, nationality, ethnic origin, sex, sexual orientation, religious or political belief, age or disability
- the tenant or person residing in or visiting the premises does not commit an arrestable offence in or in the locality of the premises
- no violence, danger, nuisance or verbal abuse is caused or threatened by the tenant to any officer or Member of the Council either in the offices or elsewhere

All tenants are provided with a copy of the tenancy agreement at the outset of their tenancies and the most important clauses relating to anti-social behaviour are explained to them. There are many other clauses in the tenancy agreement that tenants have to keep, for example, maintaining their gardens. If the tenant does not perform any of these clauses then A1 Housing will ensure that corrective action is instigated.

Preventing anti social behaviour

A1 Housing aims to prevent anti-social behaviour. To achieve this we use the following tools:

- Introductory tenancy scheme - where all new tenants are on probation for the first year and have fewer rights than secure tenants
- Mediation – neighbour disputes are referred to an independent mediation service for resolution
- Multi agency working – making use of joint protocols with the Police and other agencies for working together
- Tenancy support – offer floating support to vulnerable tenants to assist them in living independently and complying with their conditions of tenancy
- Suspension and exclusion – we will refuse to re-house an applicant where it has been proven that they have caused serious anti social behaviour
- Enforcement of conditions of tenancy - where there is a breach of a condition of the tenancy then enforcement action will be taken
- Demotion of tenancy – where a secure tenant can be demoted to being on probation for a year if they cause a nuisance

- Possession action/eviction - if a tenant does not comply with the tenancy agreement after warnings have been given then action to re-possess the property will be taken
- Acceptable behaviour contracts – where the person causing the nuisance agrees by written contract to stop their unacceptable behaviour
- Injunctions – where someone is required to stop doing something by law, where there is a threat of violence the court granting an injunction can include a power of arrest without warrant
- Anti-social behaviour orders (ASBO) - where a person 10 years or over who has caused ASB then an ASBO can prevent that person from particular conduct and/or exclude them from an area
- Undertakings – when a tenant is being taken to court to re-possess the property, the court may order them to give an undertaking or promise to the court not to cause the nuisance in the future
- Noise monitoring equipment – where the nuisance is being caused by noise then this will be recorded and used as evidence to prove the noise level
- Professional witnesses – we will use professional witnesses to obtain evidence of ASB in appropriate cases
- Social Landlords Crime and Nuisance Group – A1 Housing Bassetlaw are a member of this group which enables us to have access to up to date best practice information and training for staff
- Respect Standard for Housing Management – A1 Housing have achieved this standard and aim to foster a culture of respect and tolerance within housing estates

Dealing with Hate Crime

A1 Housing is committed to tackling any form of hate crime. Hate Crime can be defined as behaviour that deliberately seeks to intimidate, harass or threaten individuals on the basis of belonging to a vulnerable or a minority group that is different to theirs.

Anyone who taunts, abuses or harasses people over their:

- Race
- Colour
- Nationality
- ethnic origin
- sex
- sexual orientation
- religious or political belief
- age
- or disability

could be committing a hate crime

Committing hate crime is a breach of A1 Housing tenancy conditions and we will take action against tenants who do this.

A1 Housing are part of the Bassetlaw Hate Crime Forum where information on hate crime is shared between the Police and other agencies. This information can be used to take action on those people causing hate crime.

Racial Harassment

Hate crime includes racial harassment, A1 Housing recognises that racial harassment is a serious problem. If a person tells us that they are experiencing racial harassment we will investigate it thoroughly and do all we can to stop it.

A racist incident is any incident perceived to be racist by the victim or any other person.

Harassment not only includes physical attacks on persons and damage to property, but also verbal abuse and other behaviour which deprives people of the peaceful enjoyment of their homes on grounds of racial origin.

Our standards of service when someone makes a complaint about racial harassment:

- We will treat any complaint of racial harassment as a serious complaint, and a Housing Management Officer will speak to you on the same day you make your complaint
- We will remove any offensive graffiti and repair any damage to your property as a priority
- Together with Nottinghamshire Police we will provide advice on additional security to your home where there is a risk of further harassment
- Help with re-housing is available to those suffering harassment who need another home
- We will take action against those who are committing racial harassment This could include: Injunction proceedings; possession proceedings; criminal action in partnership with Police; Anti Social Behaviour Order
- We will report all incidents of racial harassment to the Nottinghamshire Common Monitoring Project
- We will liaise with all appropriate partners to ensure that those experiencing racial harassment receive the appropriate support; and that those who commit racial harassment are dealt with quickly and effectively

Domestic Violence

Domestic violence is where one person acts in a violent way to another member of the household. This will have the effect of the victim having to live in fear and quite often causes nuisance to neighbours.

A1 Housing's tenancy agreement states to tenants:

You must not inflict domestic violence or threaten violence against any other person (either living with you or in another council home). Evidence of domestic violence does not rely on a criminal charge and we may take legal action based on evidence from the victim or other witnesses.

A1 Housing offers advice and help to victims of domestic violence and is committed to working with other agencies as a member of the Nottinghamshire Domestic Violence forum.

Partnership Working

A1 Housing recognises that it can not solve all anti-social behaviour by working alone and has developed joint working with:

- Police
- ASB Team Bassetlaw District Council
- Victim Support
- Bassetlaw Community Safety Partnership
- Young People's Services
- Youth Offending team
- Sporting Chance
- Education Services

A1 Housing is committed to working in partnership with the Police and the ASB Team and has developed protocols on information sharing to assist in dealing with ASB.

Resident Involvement

A1 Housing values the views of its tenants and has an established Anti- Social Behaviour Working Party involving tenants to discuss and implement ASB policy issues and measure performance on tackling ASB.

Vulnerable Witnesses

A1 Housing recognises that for many people it is difficult for them to come forward and complain about the behaviour they are experiencing. A1 Housing will offer support to complainants and act quickly for those who are too frightened to give evidence.

We have a referral agreement with Bassetlaw Victim Support and can offer alternative ways of gathering evidence, such as Dictaphones or surveillance cameras.

Vulnerable Perpetrators

Where enforcement action has been taken consideration will be given to any necessary rehabilitation work for the perpetrator. A1 Housing will work with other agencies to ensure that appropriate rehabilitation services are offered to those who have committed anti-social behaviour. This could include referrals to:

- Tenancy Support Agencies
- Drug Action team
- Mental Health team
- Youth Services
- Sporting Chance
- Social Services

Prevention of Homelessness

A1 Housing will work with the Council's Homeless Team to ensure that any tenant at risk of losing their home due to anti social behaviour, or any other breach of their tenancy conditions, is aware that they are liable to be found intentionally homeless.

If someone is intentionally homeless the Council will have no duty to find or provide accommodation.

Where appropriate the Council's Homeless Team will carry out joint visits with A1 Housing Officers to ensure perpetrators of anti social behaviour are fully aware of this position.

Publicity

A1 Housing will publicise action taken where it is deemed reasonable and necessary to do so. The general public need to know what a perpetrator is not allowed to do and to reassure the community that action is being taken to stop anti-social behaviour.

Summary of procedure

Who deals with complaints?

Complaints concerning A1 Housing Bassetlaw Housing tenants are dealt with by the Housing Management Officers.

Complaints about problems in the Retford area can be directed to 01777 713205, complaints about problems in the Worksop area can be directed to 01909 533426.

Contact details of the Housing Management Officers and areas they cover can also be found on our website www.a1housing.co.uk

Complaints concerning anti social behaviour caused by owner-occupiers and tenants of other landlords will generally be passed on to the Council's Anti Social Behaviour Team.

Complaints concerning Noise caused by owner-occupiers and other tenants are dealt with by Bassetlaw District Council's Environmental Health Services, on 01909 533533.

How to make a complaint

Complaints may be made over the telephone or face to face. It is best to speak to the officer who will actually be dealing with the complaint. If the officer is not available a message can be left and they will contact the complainant as soon as possible.

For a face-to-face interview it is best to make an appointment to see the officer concerned. This will ensure that they are available and have set aside enough time to take full details of the complaint. A home visit can be arranged for people who are unable to get to our offices.

All complainants will be contacted within 5 working days, and where the complaint is of a serious nature the complainant will be contacted within 24 hours.

Receiving a complaint

When a complaint is received the person who takes the initial complaint will enter the details onto the SX3 Computer system.

All complaints are logged and then referred to either:

- Housing Management Officer (HMO) if the complaint involves a tenant of A1 Housing
- Anti Social Behaviour Team if there is no involvement of an A1 tenant

The HMO will also make an assessment of the complaint in respect of validity, seriousness and urgency and where necessary take advice from a line manager or the ASB co-ordinator. The HMO should also check the house file and computer records for previous complaints.

Investigation

Investigations will be carried out either by a HMO or by the ASB Team, who will retain responsibility for the management of the enquiry unless this is transferred to another officer with the consent of the line manager or the ASB Co-ordinator.

The initial investigation will ascertain who is affected by the behaviour and to what degree, details of the behaviour and who is responsible for it, and when and where it is being committed.

If the nature of the complaint infers hate crime, violence, severe anti social behaviour and/or harassment then it will be classed as a Category A complaint and the investigation will be carried out quickly, in accordance with the flow chart attached.

The complainant will be issued with an incident log to keep a track of events.

Action

The HMO will agree an action plan with the complainant that details what will happen with their complaint.

Once we are sure the tenancy conditions have been broken we have the power to use our “traffic light system”

Stage One – The Yellow Warning

This is a formal notification to let tenants know they are breaking the tenancy conditions. We will tell them how we came to this decision and what they must do to make things right. The yellow warning will stay on the tenants file for one year and if they continue to repeat the offences, the next stage will be activated.

Stage Two – The Orange Warning

This may be served if tenants do not comply with the yellow warning or the incident is more serious in nature. The orange warning will remain on tenant’s file for two years.

Stage Three – The Red Warning

This is the final stage in the “traffic light system” and the first stage of eviction proceedings. If tenants receive a red warning their name may be passed to our solicitors for possession proceedings. The red warning will remain on tenant’s files for three years. A red warning will also be issued if tenants have been convicted of using their home or allowing it to be used in connection with drug dealing or other illegal purposes. We may bypass the lesser warnings and go straight to a red warning if the breach is serious enough.

Throughout the investigation the complainant will be kept informed of the progress of the case and any necessary support will be provided.

Mediation

In many cases, dealing with arguments between neighbours through the Courts or by the Police is not the most appropriate method.

Mansfield Mediation Service is an independent service that will aim to get both sides to agree a way forward, by listening and talking through the dispute. For example by agreeing reasonable times and volumes for music to be played. Solutions will not be imposed, but agreed by both sides. HMOs can refer a case to mediation at the request of one or both sides to a dispute. If mediation is tried, and later fails, this may strengthen the case for taking legal action. If either side refuses to take part in mediation, it could weaken their case in Court.

Acceptable Behaviour Contracts

These will normally be drawn up by HMOs or the Anti Social Behaviour Team and signed by the perpetrator. The idea is that a range of limits on behaviour will be agreed with the perpetrator and drawn up in a signed agreement. These can also be used with young people and backed up by a Parental Control Agreement that is signed by the parent or responsible adult.

Contracts might cover such items as:

- Times when the person is required to be at home
- Limits to volume or timing of music being played
- Offensive or threatening language or behaviour
- Keeping away from certain people or places

Anti-Social Behaviour Orders (ASBO's)

These may be used as a follow on from an Acceptable Behaviour Contract, if that contract does not work. They would only normally be used in the case of serious and persistent anti social behaviour. Responsibility for applying for an ASBO lies with the ASBC.

An ASBO can be attached to a conviction for a criminal offence, applied for as an addition to a possession or demotion order or applied for on a "stand-alone" basis. These orders will normally seek to place limits on a person's behaviour including, for example:

- Using or threatening violence
- Getting somebody else to use or threaten violence on your behalf
- Behaviour in the home or local area
- Bans on drinking or other behaviours in public places
- Exclusion from a particular area, district, borough or county

Either the Council or the Police can apply for an ASBO, but these applications will normally be made jointly.

Injunctions

These may be made as well as or instead of an ASBO. An injunction can be obtained through the County Court and can be used either to make somebody do a particular thing or, more usually, to prevent somebody doing a particular thing. Injunctions would normally only be used where the behaviour falls into category A. Injunctions can be made against an A1 Housing tenant or against any other person to prevent anti social behavior

Injunctions may also be made to prevent unlawful use of housing accommodation owned by the landlord. If there is violence, threatened violence, or significant risk of harm, then a named person could be prevented from entering a particular property or particular area.

The Court may add a power of arrest to an injunction, and if an injunction is broken then the guilty person may be fined or even imprisoned.

Demoted Tenancies

If a secure tenant, or a member of their household or visitor, is carrying out anti-social behaviour, the Council can apply to the County Court for a Demotion Order.

A Demotion Order has the effect of making the tenancy similar to an introductory tenancy. At the end of the demoted tenancy period, if there has been no further anti-social behaviour, the tenancy reverts to a secure tenancy. If on the other hand there is further anti-social behaviour, or another breach of the Conditions of Tenancy, then the Council can apply to the County Court for possession, using a similar procedure to that for introductory tenants.

Notice Seeking Possession (NSP)

This is served on secure tenants when they have failed to rectify a breach of their tenancy conditions or have caused a serious nuisance. It is the first legal step taken by A1 Housing to apply for possession of the property.

Legal Action for Introductory Tenants

Most new Council tenants, unless they have been secure tenants of other Landlords, are given an introductory tenancy for a period of 12 months. If they break their conditions of tenancy the Council can obtain a Possession Order from the County Court using a different procedure to that used for secure tenants. If they successfully complete their introductory tenancy they will be granted a secure tenancy

Serving a Notice of Proceedings for Possession (NPP)

This is served on Introductory tenants who have failed to stick to their tenancy conditions, It is the first legal step taken by A1 Housing to apply for possession of the property.

Tenants have the right of appeal against an NPP and the appeal will be heard by the Introductory Tenancies Appeal Board.

Possession Proceedings

The Council can apply to the County Court for a Possession Order. In the case of an introductory or demoted tenancy, provided the correct procedures have been followed; the Court has to make the order.

In the case of a secure tenancy, the Court does not have to grant an Order and must be satisfied that there is a valid reason for possession on one of the grounds specified in the Housing Act 1985. They must also be satisfied that it is reasonable to grant a Possession Order. The Court will normally expect us to have pursued other remedies in order to deal with the behaviour.

An order may be outright or suspended, the Court's decision will be based on the evidence given by Council officers and any other witnesses.

A suspended order means that the tenant cannot be evicted unless they break the terms of the order; so, if the anti-social behaviour stops then the tenant will remain. An outright order means that the tenant will be evicted. Tenants have rights to request a "stay" or postponement of eviction, which the Courts may grant if they wish.

Undertakings

An undertaking is a formal promise given by a tenant to the Court not to cause or allow nuisance to be caused. Possession proceedings have to be undertaken in order that the tenant can give the undertaking to the Court at the hearing. The judge will decide for how long the undertaking will be in force, usually about 6 to 12 months. In most cases where an undertaking is given the matter will be adjourned generally.

If the tenant breaches the undertaking then possession proceedings can be reinstated quickly and the failure to keep the undertaking is considered to be contempt of court for which the tenant could be sent to prison or fined.

Eviction

In the event of a possession order being granted or further anti-social behaviour following a suspended possession order being obtained we will apply to the Courts for a warrant of execution to evict the tenant.

Performance Measures

A1 Housing aims to provide an excellent service and will keep the following performance measures on dealing with anti-social behaviour:

- Number of new ASB cases reported
- New cases by category
- Actions taken to resolve ASB
- ASB case status by live resolved or closed
- Resolved cases by last action taken
- Cases resolved within 3 months
- Satisfaction with the handling of ASB
- Satisfaction with the outcome of ASB

A summary of these performance measures will be reported to the A1 Housing Board and the Anti- Social Behaviour Working Party, Joint Housing Advisory Group and Performance Champions.

Nuisance & Anti Social Behaviour Procedure Flowchart

Initial Complaint Received
Initial details of complaint recorded on SX3 System and nuisance database

- HMO Investigates including:
- Face to face interview
 - Provide incident log
 - Within 5 working days
 - Agree action plan with complainant

IS ANY FURTHER ACTION NECESSARY?

YES

Collect evidence from other sources, e.g. Neighbours, Police etc.

- INTERVIEW ALLEGED PERPETRATOR

NO

- CONFIRM IN WRITING TO COMPLAINANT:
- PLACE ALL RECORDS OF INTERVIEWS,
- CLOSE CASE

Make an assessment of action to be taken

Refer mediation to

Monitor situation

Issue yellow stage warning letter

Resolve within 3 months
Close cases at any stage when nuisance ceases

Successful Yes/No

If no further problem after 28 days
Close case
Inform both parties

Issue orange stage warning letter

Issue Red stage warning letter

Issue NSP/NPP
Apply to Court for Possession

YES

Case closed

NO

CATEGORY 'A'

