

Title:	ANTI SOCIAL BEHAVIOUR (ASB) AND HATE CRIME POLICY
Purpose of Report:	The purpose of the report is to seek approval for the Contour Anti Social Behaviour Policy.
Status:	For approval.
Key Business Objectives/Policy Area:	Providing decent homes and decent neighbourhoods Providing excellent and efficient services
Financial Implications:	There are costs associated with taking legal action and paying for preventative measures such as professional witnesses. There are also costs associated with paying for mediation and continuous training for staff.
Diversity Implications:	It is essential that our strategy meets the diverse needs of our customers and is sensitive to individual support, communication and information requirements.
Relevant Consultative Action:	Customers who experience anti social behaviour will be consulted about the effectiveness of our policy and procedures.
Risk Potential: ----- High/Medium/Low	Medium
Risk Control:	In order to maintain the Association's reputation and to provide effective services to customers it is essential that the Association has robust policies in relation to this area of its business activity. The implementation of this area of activity will be overseen by the Assistant Director of Assistant Director of Customer Services. The policy will be reviewed every three years by the Board or more frequently where legislation / best practice dictates.
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Introduction

The Anti-Social Behaviour Policy (ASB) was approved by Contour Homes Board in August 2009. This new policy seeks to update the information which was presented to Board on that date and to request approval for this policy which incorporates changes to legislation since this date and the recommendations from a Serious Case Review.

The statutory basis of the ASB Policy is the Anti-Social Behaviour Act 2003. Section 12 of the Act requires Registered Social Landlords to publish a statement and summary of their procedures and policy relating to ASB. The Act also requires that from time to time the Association keep the policy and procedure under review. This revised policy has been produced in discharge of this obligation.

Dealing with ASB is a vital area for the company and more importantly our residents. Residents told us that dealing with ASB was the second most important thing we do as part of our consultations during the National Conversation- Our Policy seeks to ensure that we give the appropriate focus to this area of service to reflect this.

Good Practice from a range of organisations has been considered in producing this policy including

- Bolton at Home
- Manchester City Council
- Chevin HA
- Rugby City Council
- Sanctuary Housing
- South Derbyshire City Council
- Social Landlords Crime and Nuisance Group

All tenants and residents have the right to live peacefully in their neighbourhoods without having their lives unreasonably disturbed by the actions of others. The Association wishes to support tenants in a proactive and consistent manner to ensure that we act as a socially responsible landlord and that we contribute towards sustaining and supporting communities

Contour recognises that by providing a strong housing management service a real difference can be made to the quality of life of local residents.

We believe that working in partnership is key to successfully tackling anti-social behaviour and we aim to as inclusive as possible

Definition

There is no absolute definition of anti-social behaviour (ASB).

ASB is any activity that impacts on other people, their homes and/ or their communities, in a negative way, and the key to categorising behaviour as antisocial must be consideration of its impact on others. This can be subjective. Different people may be distressed or alarmed by different types of behaviour and activity.

The Crime and Disorder Act 1998 Section1(1) defines ASB as:

'acting in an anti-social manner that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself'.

We do not treat the following as anti-social behaviour

The following issues are not generally considered to be anti-social behaviour

- People walking across a wooden floor whilst wearing shoes
- People using washing machines – repeated use of machines late in the evening or at night is considered unreasonable
- People using the vacuum cleaner
- People mowing their lawns
- Children playing football outside is not considered anti-social behaviour, playing football inside flats or in communal areas is not acceptable
- Children playing outside and possibly arguing with each other is also not considered to be anti-social behaviour
- Cooking smells
- General family lifestyle noise e.g.:
 1. washing machine in day time hours
 2. people talking in their gardens
 3. general family noise when children come home from school
 4. friction between people who work during the day or are night workers.

Approach to Tackling ASB

The Association recognises that the vast majority of our tenants are law-abiding and committed to the homes in which they live. Despite this the Anti Social Behaviour (ASB) of minority of tenants, their families, friends or associates can create misery for our customers.

The Association is therefore committed to taking firm and appropriate action to not only deal with but

prevent ASB too.

Our policy will therefore reflect the key areas

Prevention

Enforcement

Rehabilitation

Supporting victims and witnesses

Performance

Complaints

Continuous Improvement based on customer feedback and good practice

We will work closely with our partner agencies to try and prevent nuisance and anti-social behaviour from occurring. We do however reserve the right to take action ourselves without reference to other agencies.

We will work with the other agencies in cases where both complainant and alleged perpetrator are an owner-occupier or a private tenant within our schemes.

We will always seek to resolve a complaint at the lowest possible level. It is recognised that in most instances of minor dispute this will involve the complainant being advised to raise the issue tactfully with the individual concerned. In most instances this can resolve the issue before it escalates

We will **not transfer** complainants or perpetrators as a means of resolving nuisance or anti-social behaviour (except in exceptional circumstances); we will deal with the nuisance.

We want to create a climate where people feel confident in coming forward with information. All action taken in respect of information we receive from complainants will be agreed before action is taken. We may however take action against a perpetrator using hearsay evidence which may not always require the consent of a complainant.

We will provide complainants with a regular update on the progress of their case at least once every week unless an alternative agreement is made. This will commence from the point of complaint and continue until resolution and beyond if appropriate.

When a case reaches the court hearing stage, in addition to witness statements, we may use noise recording equipment, CCTV and/or professional witnesses where a situation warrants it.

We will, where possible, make environmental improvements, such as improving lighting or fencing where this will assist in preventing ASB (where budgets allow).

The Association will ensure that all instances of ASB are accurately recorded and monitored and that victims are encouraged to report problems to us.

The Association commits to fully investigating all reports and to taking the most appropriate course of

action.

The Association commits to seeking reconciliation in instances of neighbour disputes and early intervention to prevent problems escalating.

The Association commits to working proactively with partner agencies.

The Association commits to putting victims first and protecting confidentiality.

The Association commits to providing regular training for staff and additionally for tenants where this is requested and arrangements can be made.

The Association commits to learning from experiences and from complaints to ensure our approaches are responsive, flexible and reflect best practice

RELATED REGULATORY GUIDANCE

The Home Office and the Communities for Local Government department have published regular guidance to support evolving legislation. The most recent document published by the Home Office in March 2010 was "Tackling anti-social behaviour: Tools and powers – toolkit for social landlords" which sets out the landlord's role in tackling antisocial behaviour, protecting communities. This is now under review and further guidance is expected later on in 2011.

In developing this policy, we are committed to working within the Tenant Services Authority (TSA) regulatory framework which means that we set out what we should be doing. As far as anti-social behaviour is concerned, our objectives fall within the TSA standard 4, Neighbourhood and Communities, which deals with neighbourhood management, local area co-operation and anti-social behaviour.

The Chartered Institute of Housing, HouseMark and the Social Landlord Crime & Nuisance Group have recently introduced 'Respect – ASB Charter for Housing' which replaces the former government driven 'Respect Standard for Housing Management'. Contour Homes are signatories to this new standard.

Other Relevant Legislation is detailed at Appendix 1

MONITORING /REVIEW OF THE POLICY/PERFORMANCE

The policy will be reviewed in discharge of our obligations under Section 12 of the Anti Social Behaviour Act 2003.

This policy will be reviewed after a period of no more than 3 years or sooner if legislative, regulatory changes or best practice require us to do so.

Quarterly Reports will be prepared for the Customer Services Committee.

The Association will consult with customer representatives including the Shape My Service Group, Tenants Associations, the Read and Review Group and other fora as appropriate.

Periodically the Association will consult with victims of ASB to get feedback on our policy and procedures.

The Association will participate in 'best practice' initiatives with other service providers.

Key performance indicators will be established for compliance with various stages of the procedure.

POLICY STRATEGY

The Association will adopt the following definitions:-

Anti Social Behaviour – Circular 02/07 Tenancy Management: Eligibility and Evictions provides that in relation to ASB, Associations adopt the definition “conduct which is capable of causing a nuisance or annoyance to any person which directly or indirectly relates to or affects the Housing Management function of the relevant landlord. This definition is taken from Section 153 of the Housing Act 1996.

Hate Crime – The Association defines Hate Crime as harassment, intimidation or ASB that is suffered by individuals because of their colour, race, nationality ethnic origin, or sexual orientation. The Association accepts the 'Macpherson' Report's definition of a racist incident as 'any incident which is perceived to be racist by the victim or any other person'

In line with the Anti-Social Behaviour Act 2003;

- 5.1.1 A policy statement on our stance towards ASB will be displayed in our Offices
- 5.1.2 Our ASB policy and procedures will be available to anyone who requests them
- 5.1.3 Our ASB statement has been published on the Association's website
- 5.1.4 Our ASB statement will be issued to all new tenants
- 5.1.5 The Association will make full use of all current and future legislation in dealing with ASB. The Association will have a zero tolerance approach to all hate crime on any grounds of sex, race, colour, language, religion, national or social origin, political or other opinion, association with minority, property, birth or other status, disability, sexual orientation, or any other individual characteristic which may be used to negatively discriminate against a person.

The Association will utilise a victim centred approach in initiating or co-ordinating solutions to anti-social behaviour problems.

The Association will adopt a multi-agency approach and will work where possible with the police, local authorities, social services departments as well as other support agencies. This approach will relate to prevention, enforcement and rehabilitation.

This policy will be read in conjunction with the Lettings Policy, Starter Tenancies Policy, the Complaints Policy, the Vulnerable Tenants Policy, and Confidentiality and Access to Information Policy

All staff will abide by the Association's Equal Opportunities Policy when dealing with cases of ASB, Hate Crime and Neighbour Nuisance.

In every case there will be consideration of the following;

1. The effect that the nuisance or annoyance has had on the 'victim' and other members of the community.
2. Any continuing effect the nuisance or annoyance is likely to have.
3. The continuing effect on the Association and its employees.

Confidentiality, speed and an informed point of contact are key to building confidence and trust in our service and driving future reporting.

The Association will terminate a tenancy when all other actions have been considered.

Training and Support for Staff

We will provide support to staff who feel threatened or at risk from any alleged perpetrator. This may include risk assessments, advice, counselling, and action being taken against alleged perpetrators.

Any incident where a member of staff feels threatened should be reported directly to their line manager.

We will ensure that staff are confident in their ability to identify and investigate incidents and reports of anti-social behaviour by providing appropriate training, refreshers and updates on relevant legislation.

We will also ensure that all relevant staff are aware of this policy and procedure which will be reviewed in line with legislation and feedback from monitoring.

The Responsibility of Complainants

When we receive a report of anti-social behaviour or neighbour nuisance we will, as part of our investigation, always try to contact the complainant to find out as much information as we can. It is important therefore that all complainants recognise the importance of working with us to resolve their complaint. They should do this by responding to our calls and/or letters, collecting information on the nuisance and to be available for pre-arranged meetings or home visits.

Failure to do so may lead to the case being closed due to lack of contact with the complainant. If a case warrants it, we may ask a complainant and/or witness to provide us with a statement and attend court. It is important therefore that all complainants understand that this may be a course of action pursued as a means of resolving the nuisance.

All complainants have a responsibility not to make malicious or unreasonable complaints about their neighbours, visitors or anyone engaged in lawful activity around their property. We take malicious complaining very seriously and will take action against anyone found to be doing so. We may treat malicious complaints as harassment and appropriate action will be taken in these circumstances.

Anonymous complaints will be accepted and recorded. Staff will endeavour to use discretion and judgement in deciding whether anonymous information warrants further investigation. However it is

recognised that a complaint made anonymously may restrict the scope of any investigation or action which the Association may take.

Outline Procedure

A comprehensive Anti-Social Behaviour procedure has been produced which is available to all staff and upon request by residents

Reporting Anti-Social Behaviour.

Residents may report anti-social behaviour either in person, by telephone, email or by the Out of Hours ASB reporting line.

Lettings

All potential tenants will be assessed in terms of their previous tenancy history at the point of application. This will include seeking references from previous landlords wherever possible. A decision to suspend from the housing register will only be made should the Association consider that the applicant or a member(s) of the applicant's household poses a genuine risk to the community in terms of their likelihood of causing anti social behaviour.

All applicants will be advised of the Appeals process should their application be rejected and will have the reason for the decision fully explained to them.

In exceptional circumstances the Association may agree to house a previous perpetrator of ASB as part of a strategic approach towards rehabilitating an offender in partnership with support agencies such as the Police/ Social Services etc. In such instances a specific, tailored tenancy agreement may be developed in conjunction with our legal advisors to ensure that the Association and other tenants are adequately protected. Consideration may also be given to offering the applicant a Family Intervention Tenancy or other tailored support package.

If it is discovered that false information has been provided on an application form or information which may have affected whether an applicant would be rehoused was not disclosed action may be taken in respect of seeking possession of the property.

The Association will develop Starter Tenancy and Local Lettings schemes with the approval of the Board as a tool to assist in preventing and tackling ASB.

Enforcing Tenancy Conditions

The Tenancy Agreement will clearly set out the standards of behaviour expected of tenants. All tenants will be fully advised of their obligations and the consequences of their behaviour. Express clauses will be included in the agreement to combat unacceptable behaviour.

The Neighbourhood Officer will implement the Association's policy and procedures in relation to ASB on an area basis. The NO will discuss all serious instances of ASB with the Regional Manager. Cases which require legal action or where the victim is deemed to be vulnerable will be passed to the Community Safety Team.

Full and accurate details of all appropriate information relating to the case will be recorded on the ASB database.

Consideration will always be given to the most appropriate course of action depending on the circumstances including mediation, legal intervention Anti Social Behaviour Contracts and Good Neighbour Agreement. A range of methods will be adopted to resolve the case depending on its seriousness

These will include the following;

1. Mediation

This will usually be the first course of action unless the anti-social behaviour is so severe from the outset that it would be inappropriate. Mediation can be offered internally by Housing staff. If this is refused or the situation requires it, external mediation may be offered. Mediation will only be arranged when both parties agree to it.

Where we have offered mediation as a resolution, and this is refused by the complainant, we will close cases and remove them from our active case list. If the alleged perpetrator refuses to participate in the process, this may result in tenancy enforcement action being taken.

If the dispute is between an Association tenant and a tenant of another landlord, the Neighbourhood Officer should contact the other landlord as early as possible and work closely with their representative in trying to resolve the problem.

All details of discussions will be recorded and any agreements confirmed in writing.

Mediation will not normally be offered as a solution in instances of hate crime unless the perpetrator has already expressed remorse and the victim has expressly agreed to this action. .

2. Transfer

If no agreement can be reached between the disputing parties the Regional Manager may consider that the only viable option available is to transfer one or both of the parties on management grounds.

Such cases will be treated in accordance with the Lettings Policy for a transfer, or alternatively assistance from the Local Authority or another Registered Provider.

Transfers will only be approved in situations where it is considered that no other viable option exists, examples may include:-

- Where we have been unable to take enforcement action due to the individual circumstances of the case.
- Where the situation is having a detrimental impact on the scheme.

3. Legal Action

If mediation either fails or is inappropriate the Association will consider taking enforcement action. This may include working with the Association's appointed legal advisors.

There are a variety of legal options now available to Registered Providers through the application of the tenancy agreement and other legal tools such as the ASB act 2003 and the Crime and Disorder Act 1998, these include Anti Social Behaviour Injunctions, Anti Social Behaviour Orders and demotion of tenancies. Registered Providers may also work with partner agencies such as the police in seeking Dispersal Orders, Premises Closure Orders and Drinking Banning Orders.

The Association will consider each case on its individual merit and will determine the most appropriate and effective course of action.

Where the nature of the problem affects the wider community the Association will work with the local authority and Police to consider the use of Anti Social Behaviour Orders and other legal remedies to provide for a coherent strategic approach.

Obtaining Evidence

1. Witness Evidence

The best form of evidence is usually that which is provided first hand by witnesses. We will always encourage witnesses to ASB to provide information to us in the form of witness statements and diary sheets.

2. Professional Witnesses

In order to obtain a Possession Order, witness evidence will need to be gathered for consideration by the courts. Tenants may be reluctant to act as witnesses, or may not be best placed to witness the behaviour when it occurs. In such circumstances, consideration may be given to the appointment of professional witnesses to work with the Association's legal advisors.

The approval of the Community Safety Manager will be required for the use of Professional Witnesses.

Housing staff will be provided with training and support to assist in taking witness statements.

3. Video Surveillance

Where evidence is proving difficult to gather consideration will be given to the use of video surveillance. Due to issues of confidentiality and 'Data Protection' the Association will only instruct suitably licensed and approved contractors to provide such evidence.

The usage of such contractors will be subject to the approval of the Community Safety Manager.

Video recordings provided by customers directly may also be used.

Advice should be sought from the Association's legal advisors on the permissibility of any video recording as evidence.

All evidence obtained will comply with the Regulatory and Investigatory Powers Act

Witness Support

In situations where tenants are willing to give evidence, but require support during the process of gathering evidence, preparing the case for Court, at the Court hearing itself or immediately afterwards, the Association will make use of reputable witness support scheme where appropriate.

Housing staff will also offer support to victims including keeping in regular contact and referral to specialist support agencies. In extreme situations this may include the provision of additional security measures, rehousing or injunctions.

Where witnesses are required to give evidence in court we will provide a full explanation of what people should expect and offer a pre-court visit in advance of the hearing (where possible).

Witnesses can expect to receive the following support throughout court hearings:

- Transport to and from the court;
- A separate waiting room for our witnesses (where possible);
- An escort during the hearing (this will usually be the officer who has been managing the case);
- Compensation for loss of earnings;
- Refreshments and lunch through the hearing.

In all cases that have been resolved following a court hearing, officers will continue to support witnesses for a period of time afterwards. The length of time required will vary for each case and it will be agreed with witnesses on an individual basis.

Witnesses who give evidence can receive advice from the Victim Support who runs the Witness Service in every criminal court in England and Wales to give information and support to the witness and their families in court.

Vulnerable Victims

We recognise the importance of supporting the most vulnerable residents living in our community and we will offer a referral to the support agencies with which we work.

All reports by victims of anti-social behaviour will be assessed in terms of their vulnerability at the first point of contact. Where a victim is deemed to be vulnerable the case will be managed by the Community Safety Team and appropriate referrals to support agencies will be made.

If we receive a complaint of anti-social behaviour about someone we believe to be vulnerable we will try to work with them and their support service to help them modify their behaviour. We may take tenancy enforcement action if a vulnerable person does not engage with us or other appropriate providers.

Sometimes, perpetrators of anti-social behaviour are vulnerable and suffer from a range of different issues. These residents may be alleged to be responsible for causing antisocial behaviour in their communities but they can equally be the victims of anti-social behaviour. If an alleged perpetrator has mental health issues, we work closely with other agencies to establish mental capacity which means

that they have to be able to understand the action we are taking against them. Dealing with vulnerable perpetrators is a lengthy process and we need to ensure that those who are suffering understand the process and the difficulties as well as the fact that we are unable to divulge confidential information about individuals.

We actively support the multi-agency approach towards safeguarding vulnerable adults and children; ensuring that those who may be at risk of abuse receive appropriate support and protection. In particular, we take domestic violence and Hate Crime very seriously and we encourage reports of incidents to be made to us.

Closing Cases

We will close cases where the situation has been resolved and the complainant is happy for us to do so. In certain circumstances we will close cases even if the complainant does not want us to. We will only do this if we are satisfied that we have done everything we can and that it is reasonable and proportionate to resolve the complaint. We will record the reasons for closing cases and advise people about what they can do next.

We will not assume that a situation has improved if we have not heard from the complainant in a while. We will try and make contact with them before passing a case for closure. We will do this by writing to them, telephoning and/or conducting a home visit.

Only when all these have failed will a case be passed for closure on the grounds of no contact. We will also close a case where the complainant has failed to respond to our requests for information.

Feedback and Monitoring

We will monitor the efficacy of our policy and procedure through feedback from residents who have used this service. All residents will receive a feedback form after a case has been closed. A pre-paid envelope will be sent with the feedback form to be returned to the Community Safety Manager for collation and analysis.

We will set a target of 85% for residents who are satisfied with the way their case has been dealt with by the organisation. Housemark, the benchmarking service found that Registered Providers with a target of 85% were typically in the top quartile of performing organisations.

We will produce data every quarter on

1. Number of New Cases
2. Number of Closed Cases
3. Action Taken to resolve ASB
4. Number of days taken to resolve complaint
5. Types of ASB recorded for period
6. Repeat perpetrators by closed cases

Publicising Success

Publicity is essential if local communities are to support us when tackling anti-social behaviour. Where applicable, we will publicise successful results of both legal and voluntary actions that we have taken in the Inside newsletter and at times, the local media.

When we obtain an Anti-Social Behaviour Order (ASBO) or Anti-Social Behaviour Injunction (ASBI) in Court we will produce information for all relevant parties. This will include details of the name and age of the perpetrator, together with a list of the prohibitions and the expiry date of the Order. It will also contain details of who to contact should the Order be breached.

This information can only be published providing the Court Judge has not imposed any reporting restrictions on the case being heard.

We will also, from time to time, publish a statistical summary showing the numbers of cases, actions, resolutions and court results to our tenants and partner agencies through a variety of means.

Complaints

Victims and perpetrators of Anti Social Behaviour have access to the Associations complaints procedure. The Association will also advise complainants of their right to make contact with the Housing Ombudsman. The Association will record all complaints and will ensure that it has an appropriate strategy for learning from complaints.

Delegated Authority

Monitoring of effectiveness of Anti social behaviour policy.	Assistant Director of Customer Service
Initial screening of new applicants	Housing Options Team
Agree course of action relating to a case	Neighbourhood Officer/Community Safety Officer
Appointment of professional witness	Community Safety Manager
Approval of use of video surveillance	Community Safety Manager
Approval to apply for Tenancy Demotion	Regional Manager
Issue of (Tenancy) Demotion Order	Regional Manager
Application for eviction warrant	Community Safety Officer
Approve application to evict	Community Safety Manager/Board