

ASB, Harassment & Hate Crime Policy



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1. Purpose

- 1.1 This policy sets out mhs homes approach to preventing and tackling ASB. It covers issues of ASB, harassment and hate crime. Unless stated otherwise, we use the term ASB to incorporate harassment and hate crime.
- 1.2 We recognise that ASB can have a significant negative impact on our customers and communities where they live. We take ASB seriously and aim to balance enforcement action and intervention, with prevention.
- 1.3 We will adopt a supportive approach when dealing with victims, witnesses and alleged perpetrators, and will be flexible in our approach to managing incidents, working in partnership with both internal and external partners to tackle it.
- 1.4 mhs homes are committed to taking effective action and using the powers available to us, where we consider they can provide effective remedy. But we recognise that residents and other agencies share this responsibility and it will not always be appropriate for mhs homes to lead.
- 1.5 mhs homes recognises and accepts its role as a responsible landlord to tackle and prevent ASB but we also recognise that residents and other agencies share this responsibility.

2. Who does this affect?

- 2.1 This policy applies to customers of all tenures living in a home owned or managed by mhs homes, including: general needs, sheltered housing and market rent. It also applies to customers in leasehold and shared ownership properties. If necessary, we may take legal action under the terms of the lease and other relevant legislation available to us.
- 2.2 The term 'we' and 'our' relates to all concerned unless otherwise stated.
- 2.3 Customers are responsible for the actions of their occupants and invited visitors.

3. Legislation and Regulation

- 3.1 There are a range of regulatory requirements and legislation that address different aspects of dealing with ASB.
- Housing Acts 1985, 1988 and 1996 – provides grounds for possession and seeking injunctions
 - Anti-Social Behaviour Crime & Policing Act 2014 - introduced a mandatory ground for possession for ASB; introduced a new civil injunction, abolished the ASBO and introduced new powers such as the Community Trigger.
 - Homes and Community Standard - set out by the Regulator for Social Housing
 - Equality Act 2010 - consolidating, updating and supplementing the numerous prior Acts and Regulations, that formed the basis of anti-discrimination law
 - The Crime and Disorder Act 1998 - enables the Police to charge individuals for racially aggravated offences.
 - Anti-terrorism Crime and Security Act 2001 - extended the scope of the Crime and Disorder Act by creating new specific religiously aggravated offences

4. What is Anti Social Behaviour?

- 4.1 Anti-Social Behaviour is defined by Section 2(1) of the Anti-Social Behaviour Crime & Policing Act 2014 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.
- 4.2 The following is not an exhaustive list, but examples of ASB can include;
- Verbal Abuse / Harassment / Threats
 - Hate Related (harassment based on race, gender, disability status, religion, age or sexual orientation)
 - Vandalism / damage to property
 - Pets / Animal Nuisance
 - Nuisance from vehicles
 - Drugs / Substance misuse / Drug Dealing
 - Alcohol Related
 - Domestic Violence / Abuse
 - Other Physical Violence
 - Litter / Rubbish / Fly Tipping
 - Garden Nuisance
 - Misuse of communal areas / public spaces / loitering
 - Prostitution / Sexual Acts / Kerb Crawling
 - Other criminal behaviour / crimes

Domestic Abuse including Honour Based Violence is covered specifically under the Domestic Abuse Policy.

- 4.3 Harassment is a personalised form of anti-social behaviour aimed at a particular person it can take a variety of forms but is unwanted behaviour that has the effect of violating dignity or creating an intimidating, hostile, humiliating or offensive environment. Examples include;

- Violence or threats of violence toward a person or their property
- Abusive or insulting words or behaviour, to include letters, phone calls and text messaging.
- Writing threatening, abusive or insulting graffiti near the victims home
- Any behaviour that leaves the victim humiliated and or intimidated

Some forms of harassment may precede an incident of hate crime motivated by prejudice based on the protected characteristics as defined in the Equality Act 2010.

4.4 Hate Crime complaints are treated very seriously. We define a hate crime or incident as an incident that is considered by the victim to be motivated by prejudice or hate, such as;

- Racist behaviour and racial harassment
- Homophobic or transphobic behaviour
- Disability related harassment
- Faith related harassment

The behaviour reported may be considered a crime in law and we will take appropriate action. If the property where the complainant lives has been a target of vandalism or personal graffiti we will deal with this as a matter of urgency. Our target for removing personal graffiti is 24 hours.

4.5 We have a separate policy for domestic abuse and honour based violence, but recognise that some reports of noise nuisance, disturbances and or anti-social behaviour could be an indicator of potential domestic abuse and or safeguarding issues (e.g. complaints about noisy arguments could suggest that a domestic argument is taking place).

We will ensure that any potential indicators for domestic abuse and or safeguarding matters, are actively considered as part of our ASB investigation and will take appropriate actions including raising safeguarding alerts in line with our policies and procedures.

5. What is no considered ASB?

- 5.1 Complaints about different lifestyles or every-day living situations which are not deliberately intended to cause nuisance or annoyance are not generally considered as ASB.
- 5.2 This includes; children playing and babies crying, household noise due to every-day living and DIY during reasonable hours (as defined by local authorities), one-off parties, BBQs and celebrations, cooking odours and reasonable household smells, smoke, minor car maintenance and minor disputes between neighbours or personal differences.
- 5.3 Although these are some examples of behaviours, we would not generally consider to be ASB, we understand that sometimes repeated incidents, individual seen as low level, may cumulatively having a serious impact on the victim's life.

- 5.4 Therefore, for low level ASB, if the behaviour is persistent and deliberate and is found to be having a harmful impact on a person or they are at risk or potentially at risk then we will investigate the matter as ASB in line with this policy.

6. What is no considered ASB?

- 6.1 We will ensure that our staff are trained and have the knowledge and confidence to support customers and work in partnership to resolve ASB.
- 6.2 There are restrictions on legal remedies available to mhs homes; however, properties owned by Heart of Medway Housing Association, a registered social landlord do have access to the additional legal powers. We will take effective, appropriate and proportionate action to tackle ASB, using a full range of interventions and if necessary the use of the legal framework available to us.
- 6.3 Reporting anti-social behaviour can be made by contacting the Customer Team on 01634 565333, email address contactus@mhs.org.uk or via our website reporting tool, by letter or in person at our Broadside office.
- 6.4 All reports of ASB will be treated in the strictest confidence and the identity of the complainant will not be revealed without their consent. All reports will be taken seriously, fully investigated and the complainant involved in agreeing actions to be taken.
- 6.5 Where ASB is the result of criminal activity we will expect residents to report criminal behaviour to the police and we will expect the police and other statutory agencies to take action where they have sufficient evidence to do so.
- 6.6 We will contact the complainant within 72 hours to discuss the complaint and contact the perpetrator within 5 days. Where there is harassment, severe violence or a threat of severe violence we will make contact within 24 hours.
- 6.7 mhs homes will not always carry out a full investigation for one off instances. We would expect residents to try and resolve most problems themselves first by speaking to their neighbour.
- 6.8 Complainants will be able to speak to a member of staff in private and in a convenient safe environment. Where possible they will be given the opportunity to speak to a member of staff of the same sex or of the same ethnic origin if they feel more comfortable doing so. If required, translation services and documents in alternative formats can be provided.
- 6.9 We will always try to resolve matters amicably by talking to those concerned and by offering suitable advice and / or mediation. Anti-social behaviour can be

caused by people in the wider community so we will work in partnership with other agencies, groups and with other landlords to resolve any problems.

- 6.10 Our focus will be to try a work with the perpetrators and complainants to resolve the situation before resorting to legal action. However, where necessary, we will use legal action options such as:
- Acceptable Behaviour Agreements (ABA)
 - Injunctions
 - NOSPs
 - Evictions
 - Absolute ground for possession
- 6.11 We will work in partnership with the Police and Local Authority, share information and use the early intervention tools available to us.
- 6.12 As part of our investigation into tenancy breaches, in appropriate cases we will work in partnership with other agencies to make sure that the correct support is offered to the complainant and the necessary referrals made. These may include, Citizens Advice Bureau, Victim Support, Mediation, Social Services and tenancy support services.
- 6.13 Our aim is to resolve instances of ASB rather than remove a complainant from the situation. However, if appropriate we will advise and support a complainant in finding temporary accommodation if required and will also consider rehousing if this is felt necessary using our Social Priority process. This will be assessed by the Assistant Director of Customer Services on an individual basis, and if agreed, the complainant will be offered like for like accommodation.
- 6.14 We will support witness to attend court by covering the travel costs of witnesses
- 6.15 We will take action to evict a perpetrator where it is reasonable and proportionate to do so and the evidence is sufficient and robust enough for a successful possession action.
- 6.16 Customers can implement the **Community Trigger** with the Local Authority if they feel their complaint has not been responded to. This gives the victim the ability to demand action, starting with a review of their case.

7. What is no considered ASB?

- 7.1 This policy aims to satisfy the requirements of the Neighbourhood and Community Standard, as required by the Regulator for Social Housing. The standard requires registered providers to demonstrate:
- a) that tenants are made aware of their responsibilities and rights in relation to ASB
 - b) strong leadership, commitment and accountability on preventing and tackling ASB that reflects a shared understanding of responsibilities with other local agencies

- c) that a strong focus exists on preventative measures tailored towards the needs of tenants and their families
- d) that prompt, appropriate and decisive action is taken to deal with ASB before it escalates, which focuses on resolving the problem having regard to the full range of tools and legal powers available
- e) that all tenants and residents can easily report ASB, are kept informed about the status of their case where responsibility rests with the organisation and are appropriately signposted where it does not
- f) provision of support to victims and witnesses

7.2 We will only share information that meets the requirements of the Data Protection Act 1998. Confidentiality and impartiality will be exercised by mhs homes at all times.

8. Equality Statement

This policy applies to customers of all tenures living in a home owned or managed by mhs homes. mhs homes wants to make sure that no person receives less favourable treatment from the organisation on the grounds of age, disability, gender reassignment, marriage, civil partnership, pregnancy, religion or belief, race, sex or sexual orientation.

This policy will be reviewed in three years' time or earlier if required by legislation, new significant guidance or in response to specific incidents.