

Appendix 2 - City of London Housing Service - Overview of ASB remedies and actions

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| <p>The below summarises the actions and measures available to Estate Management staff and Housing Services senior management when considering cases of ASB, from lower-level incidents to more serious cases. This list is intended to serve as a guide for staff so they are aware what actions and tools are available to them. This list will inform the suite of procedure guides for staff which is currently being developed.</p> | |
| <p>Mediation</p> | <p>Mediation is a process in which a neutral third party helps two or more people in dispute to seek a mutually acceptable solution informally. Parties will be referred to an independent mediation service (for example Toynbee Hall or Southwark Mediation Service) who will assess the suitability of the people involved and if mediation is an appropriate option will arrange and facilitate meetings with the aim of resolving any issues and where necessary agreeing a solution or course of action that both parties agree to and can realistically achieve.</p> |
| <p>Tenancy Support</p> | <p>Tenancy Support aims to help people who are finding it difficult to maintain their tenancy and may be at risk of losing their home by providing them with a support worker who will be able to offer practical support and assist them in accessing services in the local community. This service will be built around individual issues contributing to or arising from ASB. The service is provided by the City and aims to work with people for a maximum of six months.</p> |
| <p>Involvement of Social Services</p> | <p>Local authorities with Social Services responsibilities have a duty, arising from section 17 of the Children Act 1989, to safeguard and promote the welfare of children within their area. If any child under 18 is a perpetrator or victim of ASB, social services may need to assess them to establish if the child is at risk of harm, and if there is a need for social services to become involved with the welfare of the child.</p> |
| <p>Voluntary Agreements - Acceptable Behaviour Contracts (ABCs)</p> | <p>An acceptable behaviour contract (ABC) or acceptable behaviour agreement is a voluntary written agreement between the person who is behaving antisocially and any other relevant parties (for example, the police, the council or social workers). The contract normally lasts for six months, and although not legally binding, if breached, can be used as evidence if enforcement action needs to be taken through the courts. The terms and conditions of the ABC will be discussed, read and agreed by everyone involved before it is signed. ABC's are designed to get the person who is behaving antisocially to take responsibility for their actions and improve their behaviour, and to allow them to understand how it affects other people. ABCs are flexible and informal so that they can be adapted to suit all sorts of situations, and aim to sort out differences and find a solution that helps everyone involved.</p> |
| <p>Family Intervention</p> | <p>Family intervention is more autocratic than tenancy support, and aims to bring stability to families' lives, prevent homelessness and improve opportunities for children through a 'whole family' approach. They are practical projects which focus on providing a structure for those living in chaotic circumstances. Projects combine intensive support</p> |

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| | <p>with focused challenge, and a key worker is tasked with co-ordinating the delivery of a variety of services designed to address ASB using a combination of support and sanction to motivate the family to change their behaviour. A contract (or behaviour support agreement) is drawn up between the family and key worker setting out the changes that are expected, the support that will be provided in order to facilitate that change and the consequences if changes are not made, or tasks are not undertaken.</p> |
| Parenting Orders | <p>Parenting orders aim to make parents accountable for the offending of their children, whilst at the same time, giving them the support necessary to take proper care and control of them. They require the Parent or Guardian to attend counselling or guidance sessions in order to receive help and support in dealing with their child(ren), and can also include specific requirements imposed by the Court. These could include seeing that the child/young person attends school each day, or is at home by a certain time each evening. This element can last up to 12 months.</p> |
| Tenancy sanctions and/or amendments | <p>Tenants can be subject to sanctions and/or amendments. Some of these may require court action.</p> <ul style="list-style-type: none"> • Introductory tenancies make it easier to evict occupiers if they exhibit ASB within the first 12 months of entering into their tenancy agreements. Tenants are offered secure status at the end of 12 months if no problems arise during the term of the introductory tenancy. Local authorities can now extend the initial 12 month period of an introductory tenancy by a further 6 months where there are continuing concerns about a tenant's behaviour. • For existing tenants who already hold an assured shorthold tenancy the City can (without going to court) refuse to allow them to exchange with another social tenant or to transfer or to bid on larger or smaller properties. <p>If we decide to go to court, we can also apply for a court order to suspend a tenant's right to buy, or apply for a court order to 'demote' someone's tenancy. A demotion order has the effect of ending the existing tenancy and replacing it with a less secure demoted tenancy. This removes the tenant's Right to Buy (where it applies) and their security of tenure for at least a year. At the end of a year, if we are satisfied with the tenant's conduct, it will revert back to a secure tenancy. The period of demotion can be extended in certain circumstances.</p> |
| Injunctions | <p>An injunction is a court order that prohibits a particular activity or requires someone to take action, e.g. to avoid causing a nuisance. Normally the ability to seek an injunction would be limited to the person(s) who actually suffered from the nuisance; however, landlords may apply for an injunction where it can be shown that the tenant in question is in breach of a tenancy condition not to indulge in particular sorts of behaviour, provided tenancy agreements are clearly and unambiguously drafted. Social landlords can now seek injunctions which allow the</p> |

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| | <p>requirement for positive actions, as well as prohibitions, to tackle ASB. These require civil standards of proof (balance of probabilities) to obtain, and are part of the approach to bring about long-term solutions as well as address immediate impacts for individuals/ communities affected by the behaviour.</p> |
| <i>Injunctions against unlawful use of premises</i> | <p>These are available where the conduct consists of or involves using or threatening to use housing accommodation owned by or managed by the City of London for an unlawful purpose.</p> |
| <i>Exclusion order and power of arrest</i> | <p>If a court grants one of the injunctions described above it may prohibit the defendant from entering or being in any premises or any area specified in the injunction. Additionally, a power of arrest can be attached to any provision of the injunction where the court is satisfied that either conduct consists of, or includes, the use or threatened use of violence, or there is a significant risk of harm.</p> |
| <i>Injunction against breach of tenancy agreement</i> | <p>Local authorities and housing providers can obtain injunctions against their tenants for a breach (or anticipated breach) of their tenancy agreements as a result of the respondent engaging or threatening to engage in conduct capable of causing a nuisance or annoyance to any person. Tenancy injunctions may also be granted against a tenant who allows, incites or encourages others to engage in or threaten to engage in this conduct. Courts may attach a power of arrest to these injunctions and/or exclude the respondent from their home or a specified area where satisfied that the conduct includes the use or threatened use of violence or that there is a significant risk of harm to any person.</p> |
| Eviction | <p>Eviction is the ultimate sanction against tenants who exhibit ASB. Eviction proceedings may be considered if a tenant or any person residing in the property (or visiting the property) has:</p> <ul style="list-style-type: none"> (a) been guilty of conduct which is, or is likely to cause, a nuisance or annoyance to a person residing, visiting or otherwise engaged in lawful activity in the locality, or (b) who has been convicted of: <ul style="list-style-type: none"> (i) using the property (or allowing it to be used) for immoral or illegal purposes, or (ii) an arrestable offence committed in, or in the locality of, the property. <p>Our tenancy agreements make it clear to tenants that ASB or illegal activity (whether by the tenant, people who live with the tenant or visitors) is not acceptable and may lead to the loss of their home.</p> <p>Local authorities can now expedite possession where a court has proven significant ASB or criminality in the locality of the property. The Anti-social Behaviour Crime and Policing Act 2014 does this through the introduction of three new grounds for possession, one of which is ‘absolute’ (which means that the court must grant possession if the ground is satisfied) and two of which are ‘discretionary’ (which means that the court will only grant possession if it thinks it reasonable to do so in the circumstances). The purpose of this is to expedite the</p> |

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| | <p>eviction of the most anti-social tenants to bring faster relief to victims.</p> <p>In order to meet the criteria for the new absolute ground for possession, the tenant, a member of the tenant’s household, or a person visiting the property must have met one of the following conditions:</p> <ul style="list-style-type: none"> • convicted of a serious offence (specified in Schedule 2A to the Housing Act 1985); • found by a court to have breached a civil injunction; • convicted for breaching a criminal behaviour order (CBO); • convicted for breaching a noise abatement notice; or • the tenant’s property has been closed for more than 48 hours under a closure order for ASB. <p>The Offence/breach needs to have occurred in the locality of the property or affected a person with a right to live in the locality or affected the landlord or his or her staff/ contractors.</p> <p>The first of the new discretionary grounds arises where the tenant, or a person residing in or visiting the premises, is guilty of conduct causing or likely to cause nuisance or annoyance to the landlord or anyone employed in connection with the landlord’s housing management functions. The conduct must be related to or otherwise affect those functions.</p> <p>The second of the new discretionary grounds arises where the tenant, or an adult residing in the premises, is convicted of an indictable offence which took place during and at the scene of a riot anywhere in the United Kingdom.</p> |
| <p>Community Protection Notices (CPNs)</p> | <p>CPNs are notices issued by the police or councils including people designated by councils to act for them. A CPN deals with unreasonable and persistent conduct which is detrimental to the quality of life in an area. If someone disagrees with a CPN, they can appeal to a magistrates’ court.</p> <p>A CPN requires the people responsible to stop or to do some action. CPNs can be issued to anyone including people who own or manage land and buildings, and can be posted on a building if the owner is not known. Before issuing a CPN, there must be a warning of the intention to do so. Breaching a CPN is an offence resulting in a fine. There are powers to issue a fixed penalty notice, to confiscate property, and enter property to do work and charge the cost to the offender.</p> <p>A CPN may be issued if the behaviour in question:</p> <ul style="list-style-type: none"> - has a detrimental effect on the quality of life of those in the locality; |

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| | <ul style="list-style-type: none"> - is of a persistent or continuing nature; and - is unreasonable. <p>A written warning is issued first, informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing. If this does not stop the ASB, a Community Protection Notice (CPN) is issued including a requirement to stop things, do things or take reasonable steps to avoid further ASB.</p> <p>What happens if the CPN is breached?</p> <ul style="list-style-type: none"> - A breach is a criminal offence. - A fixed penalty notice can be issued of up to £100 if appropriate. - A fine of up to level 4 (for individuals), or £20,000 for businesses. <p>The CPN can deal with a wider range of behaviours for instance, it can deal with noise nuisance and litter on private land open to the air. The CPN can be used against a wider range of perpetrators than previous legislation allowed for.</p> |
| Public spaces protections orders | These orders enable local authorities to prevent individuals or groups committing ASB in public spaces. |
| Involvement of the Police | Where ASB is occurring or has been unable to be resolved, in certain circumstances the police can become involved. Although police have the power of arrest which can be exercised if the situation dictates, often the situation may be dealt with by giving a verbal or written warning to the perpetrator. Unless the crime is sufficient to warrant immediate arrest and/or criminal charges, there are other remedies available to the police: |
| <i>Penalty notices</i> | Police can issue one-off fines (penalty notices) to people behaving in an anti-social manner. Fixed penalty notices (FPNs) are generally used to deal with environmental offences such as litter, graffiti noise and dog fouling. |
| <i>Penalty Notices for Disorder (PNDs)</i> | PNDs are issued for more serious offences, such as throwing fireworks, being drunk and disorderly, petty stealing or damaging property. They can be issued to anyone over 16 years old. Penalty notices are not the same as criminal convictions, but failure to pay the fine can result in higher fines or imprisonment. |
| <i>Criminal behaviour orders (CBOs)</i> | <p>CBOs replaced Antisocial Behaviour Injunctions (ASBIs), Antisocial Behaviour Orders (ASBOs) & Criminal Antisocial behaviour Orders (CrASBOs) from January 2015.</p> <p>Issued by any criminal court against a person who has been convicted of an offence to tackle the most persistently anti-social individuals who are also engaged in criminal activity. These can also require positive action to address the behaviour.</p> <ul style="list-style-type: none"> - Issued by any criminal court for any criminal offence. - The ASB does not need to be part of the criminal offence. - Order will include prohibitions to stop the anti-social behaviour but it can also include positive requirements to get the offender to address the underlying causes of the offender's behaviour. - Agencies must find out the view of the youth offending team (YOT) for applications for under 18s. |

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| | <p>What if a CBO is breached?</p> <ul style="list-style-type: none"> - Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt. - For over 18s on summary conviction: up to six months imprisonment or a fine or both. - For over 18s on conviction on indictment: up to five years imprisonment or a fine or both. - For under 18s: the sentencing powers in the youth court apply. <p>Consultation requirement with YOTs for under 18s. No need to prove “necessity” unlike Anti-Social Behaviour Orders. Scope for positive requirements to focus on long-term solutions.</p> |
| <i>Dispersal powers</i> | <p>If an area is identified as having a particularly persistent problem with anti-social behaviour then the police can grant a Dispersal Order. This gives police officers and PCSOs the power to direct groups or individuals to leave the area and not return for up to 48 hours. Refusal to leave a dispersal area is an offence and that person can be arrested. This power is aimed at preventing ASB, not at disrupting the lives of the law-abiding community.</p> |
| <i>Closure powers</i> | <p>These enable the local authority or police to close premises for 48 hours (notices) or up to 6 months, and limit or restrict all access, where disorder or nuisance (serious or criminal in the case of an order) is occurring.</p> |