

# Anti-Social Behaviour Policy



## 1. Purpose and Scope

- 1.1. 'Anti-Social Behaviour' (ASB) can take many forms, ranging from noise nuisance, criminal damage, verbal abuse and other types of criminality.
- 1.2. This policy establishes Clarion Housing's role in tackling ASB. It covers issues of ASB, harassment and hate crime. Unless stated otherwise, it uses the term ASB to incorporate harassment and hate crime. Domestic abuse and violence are dealt with through a separate policy and procedure, although we recognise that other forms of anti-social behaviour such as noise can be an indicator of domestic abuse and we will be sensitive to and consider this in our investigations.
- 1.3. We recognise that ASB can have a very disruptive effect on neighbourhoods and communities and does not just affect those who are directly involved in the situation. We take ASB seriously and aim to balance enforcement action and intervention with prevention.
- 1.4. 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.
- 1.5. This policy applies to customers of all tenures living in a home owned or managed by Clarion, including: general needs, supported and sheltered housing, temporary accommodation, market and intermediate rent, service users and licensees. It also applies to customers in leasehold and shared ownership properties. If necessary, we may take legal action under the terms of the tenancy agreement, lease, licence and other relevant legislation available to us.
- 1.6. Where managing agents manage homes on our behalf, and the obligation is written into the managing agent's agreement they will be required to meet the requirements of this policy.
- 1.7. Clarion Housing is 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 Clarion Housing to lead.
- 1.8. 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.
- 1.9. We recognise the importance of working collaboratively with the police and local authorities to support and encourage their role in enforcing the law. We will also use the evidence they

provide (such as details of calls or a criminal conviction) together with evidence we may obtain to take enforcement action where appropriate.

- 1.10. We recognise the detrimental effect that ASB can have on the lives of our residents and communities but it is important that complainants and victims of ASB are clear about both the circumstances in which we can intervene and the sanctions available to us. We will not raise expectations that we can take action where we cannot do so or where primary responsibility and powers lie elsewhere.
- 1.11. Clarion Housing 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.
- 1.12. We believe that everyone has the right to their chosen lifestyle providing this does not breach the terms and conditions of any tenancy agreement or lease and/or affect the quality of life of others. This necessitates a degree of tolerance of, and respect for the requirements and needs of other people, and we will promote this to tenants when responding to their concerns.

## **2. Policy Objectives**

- 2.1. This policy aims to ensure that:
  - Clarion Housing residents are able to enjoy occupation of their homes regardless of ethnicity, religion, sexuality, age, gender or disability.
  - Our staff and residents understand that we take ASB seriously and are committed to tackling it with our residents.
  - Residents understand that the most effective resolution is often for neighbours to resolve disputes locally themselves.
  - We take positive action, working closely with partner organisations, to encourage them to take the lead in tackling crime and serious ASB on our estates or in or around our property, and to ensure a collaborative approach is taken in tackling other forms of ASB.
  - We use evidence obtained from a range of sources, including statutory agencies to take enforcement action where appropriate.
  - Victims and witnesses of ASB receive a tailored response and appropriate support and advice.
  - We support initiatives to prevent ASB occurring.
  - All residents and customers are treated in a fair, equitable and consistent manner and we consider the needs and vulnerabilities of our customers when we respond, investigate or take enforcement action during the management of ASB complaints.
- 2.2. In order to achieve our objectives we will work to develop local partnerships with the police, local authority services and a wide range of community and voluntary groups with an interest in tackling ASB.

## **3. Definitions**

### **3.1. Anti-social Behaviour**

**Anti-social behaviour is defined by Section 2(1) of the Anti-social Behaviour, Crime and 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.

This definition sets the legal threshold that must be met in injunction applications, and in possession proceedings the discretionary grounds for possession define ASB as:

*Where the tenant or a person residing or visiting the property:*

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality,*
- (aa) has been guilty of conduct causing or likely to cause a nuisance or annoyance to the landlord of the dwelling-house or a person employed (whether or not by the landlord) in connection with exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects other functions, or*
- (b) has been convicted of – using the dwelling-house or allowing it to be used for immoral or illegal purposes, or an indictable offence committed in, or in the locality of, the dwelling-house.*

### **3.1.1 Absolute grounds for possession**

The Anti-social Behaviour Crime and Policing Act 2014 introduced absolute grounds (7a assured tenancies and 84a secure tenancies) for possession of a tenant's home.

We will consider using the absolute grounds for possession along with the other actions and enforcement powers available to us, where we assess that it is appropriate and proportionate ensuring that we comply with the pre-action protocols for possession cases.

## **3.2. Harassment**

3.2.1. Harassment can include a range of behaviours such as threats, verbal abuse, written abuse including via social media, damage to property, violent behaviour, stalking and behaviour causing or intended to cause alarm or distress. These are generally criminal offences and are the responsibility of the police. Where appropriate to do so, Clarion will take tenancy enforcement action against a perpetrator as a result of evidence obtained by the police or upon conviction.

3.2.2. Racial harassment is where harassment is perpetrated against individuals or groups *because* of their colour, race, nationality or ethnic or national origins, when the victim believes that the perpetrator was acting on racial grounds and/or there is evidence of racism. Again, these are generally criminal offences that are the responsibility of the police and Clarion will take tenancy enforcement action against a perpetrator as a result of evidence obtained by the police or upon conviction.

### 3.3. Hate Crime

3.3.1. The police record a crime as a hate crime if the victim or anyone else believes it was motivated by hostility based on any of 5 personal characteristics: disability; gender identity; race; religion and sexual orientation. This includes crime against a person's property as well as the person themselves. A victim does not have to *be* a member of the group to which the hostility is targeted.

### 3.4. Domestic Abuse

3.4.1. We have a separate policy for domestic abuse, 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.

3.4.2. The Anti-social Behaviour, Crime and Policing Act 2014 legislates that it a criminal offence to force someone to marry. We have a zero-tolerance approach to forced marriage and manage all cases in line with this policy, our Domestic Abuse Policy and where appropriate, our safeguarding policies.

### 3.5. What is not considered as ASB?

3.5.1. Reports around ball games, disputes over boundary issues, actions which amount to people being unpleasant (e.g. staring at or ignoring people), parking and other neighbourhood issues are not generally considered to be ASB. Residents should report any illegal drug use and supply to the police, where it does not have any other associated ASB issues.

3.5.2. Reports due to different lifestyles or every-day living situations which are not intended to cause nuisance or annoyance are not generally considered as ASB.

3.5.3. This includes: children playing and babies crying, household noise due to every-day living (e.g. proportionate TV, music / radio noise, noise from electrical items such as washing machines or vacuum cleaners 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. These are examples of possible reports that are not ASB and it is not intended to be a definitive list.

3.5.4. Although these are some examples of behaviour we do not generally consider to be ASB, we know that sometimes low level and repeated incidents treated in isolation which may not appear serious or even as ASB, may be having a serious impact on the victim's life.

3.5.5. Therefore for low level reports of 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.

## 4. Policy Statement

### 4.1. To effectively prevent and tackle ASB, harassment and hate crimes we will:

- a) demonstrate leadership, accountability and commitment in working with statutory partners to tackle ASB so that we all fulfil our respective responsibilities and give a clear message to everyone that we take ASB seriously.
- b) ensure staff are well-trained, have the knowledge and confidence to identify and investigate incidents/reports of ASB and work collaboratively alongside appropriate agencies who are leading on such cases.
- c) clearly explain to all new tenants at the sign up of their tenancy and welcome visits, the terms of their tenancy that relate to ASB and causing nuisance, so that expectations and consequences are clear.
- d) explain to residents that it is their responsibility to try and resolve disagreements and neighbour disputes by talking to each other and reach a solution based upon mutual understanding. Where resolution is not possible we may suggest mediation where we believe it could assist in resolving a situation.
- e) log all reports of ASB and any referrals to statutory bodies and monitor the outcomes.
- f) respond sensitively to the victim and adopt high standards of confidentiality when dealing with victims and witnesses.
- g) adopt a victim-centred approach in responding to harassment and hate crime.
- h) report incidents to the police on behalf of vulnerable victims or support such victims in doing so, where they feel intimidated to report incidents themselves (third party reporting) and where we have the victim's agreement to do so.
- i) develop robust local partnerships and multi-agency working to address ASB through a range of diversionary activities or enforcement action and to share experience and expertise. This may include joint working with the police, local authority services, and participation in local Multi-Agency Risk Assessment Conferences and co-option to Community Trigger procedures where appropriate to do so, as well as a range of other statutory agencies and other agencies.
- j) develop formal information sharing protocols and partnership agreements that comply with the Data Protection Act 2018 to allow us to respond quickly to ASB.
- k) ensure we consider a range of interventions (e.g. Acceptable Behaviour Contracts (ABCs), tenancy support, warning letters – this list is not exhaustive) to deter or prevent ASB and where appropriate take legal action by way of injunctions and/or possession proceedings – using mandatory grounds where applicable.
- l) encourage local residents and community groups to prevent and resolve ASB and other community tensions to promote inclusive and sustainable communities. We will work with those groups to help support community initiatives that prevent ASB and diversionary activities to help prevent residents or their children from becoming involved in.
- m) provide advice and support to victims and witnesses. As part of our investigation into tenancy breaches, in appropriate cases we will consider the use of professional witnesses, and we will make referrals to Victim Support and other relevant support agencies.
- n) promote the view that individuals have the right to their chosen lifestyle providing it does not impact adversely on the quality of life on others.

- o) where it is necessary, appropriate and proportionate, publicise the outcome of ASB legal action to act as a deterrent to reassure communities and confirm our commitment to taking ASB seriously.
- p) 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.

## 5. Specific Standards

### 5.1. We will categorise ASB complaints as follows:

**Crime (category 1)** – we will work with the police on a collaborative basis to tackle criminal activity in our neighbourhoods; we will take action to enforce tenancy conditions and refer victims to relevant support agencies, while the police investigate the criminal behaviour and bring charges against the perpetrator. We will not generally lead on resolving such incidents, but in some serious cases if it is appropriate to do so, we will explore our options for taking our own legal action such as an *ex parte* injunction.

**Noise (category 2)** – we will investigate cases within 5 working days when our threshold is met. We will initially encourage customers to try and resolve noise nuisance from neighbours between themselves and advise customer to report excessive noise to their local council's environmental health team. We will try to work with the local environmental health service that have statutory powers to tackle noise nuisance and serve abatement notices on those responsible for the noise.

**Other forms of ASB (category 3)** – we will investigate other cases of ASB within 5 working days when our threshold is met.

### 5.2. ASB Thresholds

5.2.1. Clarion will not conduct a full investigation into every report of ASB as often noise or other ASB is a one-off event or we would expect the resident to try and resolve the problem themselves first by speaking to their neighbour. Where the ASB requires something to be removed, such as discarded drugs paraphernalia or dumped rubbish in communal areas, we will remove the items but will not investigate the problem unless the threshold is met.

5.2.2. The thresholds for categories 2 (noise) and 3 (other ASB) are:

- three separate incidents reported in the last 7 days by the same person or a member of the same household
- five separate incidents reported in the past 28 days by the same person or member of the same household
- two separate incidents reported in the past 28 days by two or more people from different households.

No threshold will apply if we consider the complainant to be particularly vulnerable and that we have a duty of care.

- 5.3. We reserve the right not to investigate a case, even when the threshold is met, where we have evidence that the complainant is being unreasonable, vindictive or vexatious. In such instances, the complainant will be informed that we will not be taking further action in relation to that specific complaint and why.



- 5.4. We may also use our discretion to act before a threshold is met for:
- serious one-off events where the incident has been investigated by the police or environmental health and they ask us to get involved where they feel it would help and we concur with their assessment
  - at a time of our choosing, based on local intelligence (e.g. if several residents make isolated complaints about the same household over a period of time).
- 5.5. We will record category 2 and 3 complaints to establish the frequency, severity and duration of the problem. Once it is clear that the problem is persistent and the thresholds are met we will start our investigation within 5 working days.
- 5.6. We will remove racist and other offensive graffiti within 24 hours (weekdays).
- 5.7. Further details on each category will be set out in our ASB procedures. Clarion Housing reserves the right not to investigate a case where we feel the complainant is being unreasonable, vindictive or vexatious.
- 5.8. If an ASB complaint has been received it will be dealt with through this policy and not complaint policy.

## **6. Customers' Right to Appeal**

- 6.1. If a resident is dissatisfied with our response to tackling ASB or objects to the enforcement action we decide to take against them if they, a member of their household or a visitor to their home are found to be the perpetrator(s) of ASB, they can appeal against this by making a complaint via the Clarion Complaints policy.

## **7. Key Legislation**

- 7.1. There is a range of relevant legislation that addresses different aspects of ASB. Much of the legislation gives powers to the police and local authorities and we will work with them to maximise the tools available to tackle ASB on our estates:
- Housing Acts 1985, 1988 and 1996 – provides grounds for possession and seeking injunctions.
  - Protection from Harassment Act 1997.
  - The Crime and Disorder Act 1998 – enables the police to impose charges 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.
  - Anti-social Behaviour Act 2003 – along with the Housing Acts provides guidance to social landlords to take action against residents causing nuisance in or around their property and estates.
  - Racial and Religious Hatred Act 2006 – creates a new offence of stirring up hatred against people on religious grounds.
  - ASB, Crime and Policing Act 2014 – introduced a mandatory ground for possession for ASB; introduced a new civil injunction, abolished the ASBO and introduced a range of

other new powers such as the Community Trigger for the police, social landlords and local authorities to tackle ASB.

## 8. Compliance and Monitoring

8.1. Clarion aims to comply with the expectations set out in the Home Office July 2014 statutory guidance for frontline professionals in relation to the 2014 ASB, Crime and Policing Act. This policy complies with the regulatory requirements of the social housing regulator's Neighbourhood and Community Standard which requires registered providers to work in partnership with other agencies to prevent and tackle anti-social behaviour in the neighbourhoods where they own homes, and specifically to publish a policy on how they work with relevant partners to prevent and tackle anti-social behaviour (ASB) in areas where they own properties. It 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.

We will monitor the implementation of this policy through regular analysis of customer feedback, case reviews and reports on the specific service standards. Information on cases is kept secure and confidential; we keep records of all interviews and telephone calls in relation to each case. We log information relating to tenancy type, race, gender, tenant vulnerability and type of antisocial behaviour.

<b>Associated Documents:</b>	<ul style="list-style-type: none"><li>• Vulnerable Residents Policy</li><li>• Domestic Abuse Policy</li><li>• Safeguarding Policy</li><li>• CCTV Policy</li></ul>
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