

Chair's foreword, introduction and conclusion to be completed once content finalised

DRAFT Anti-Social Behaviour on Estates Task Group Report

Chair's foreword

To be completed once report finalised

Executive Summary

To be completed once report finalised

Introduction

Westminster has a unique population made up of residents, the business community, visitors and tourists. Our estates are also diverse places with a mixture of social housing, leaseholders and private tenants. Reducing crime, disorder and Anti-Social Behaviour (ASB) is a major concern for Westminster residents.

Living in the vibrant, diverse and dynamic city that is London, we expect our residents to accept a certain level of noise from day-to-day living and be tolerant of other people's life-styles. However, we also expect our residents to behave in an acceptable manner at all times.¹

Following the decision to bring housing management services in-house from April 2019, the Housing ASB team is now part of the council. This is an appropriate time to review how that function is performing and how it is integrated with other parts of this council. Although we touched on some wider ASB issues, the focus of this task group was ASB on council-managed housing estates.

What is anti-social behaviour (ASB)?

Anti-social behaviour is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder, that may make many people's lives a misery – from litter and vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours.

Westminster Housing Service currently defines anti-social behaviour as:

- Acting in a manner that causes or is likely to cause harassment, alarm or distress to any person.
- Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- Conduct capable of causing nuisance or annoyance to any person which directly or indirectly relates to or affects our housing management functions.
- Using or threatening to use residential premises for immoral or illegal purposes.²

¹ City of Westminster's Statement of Policies and Procedures on Tackling Anti-Social Behaviour which was published in May 2014 and was reviewed in March 2019

² City of Westminster's Statement of Policies and Procedures on Tackling Anti-Social Behaviour which was published in May 2014 and was reviewed in March 2019

How we categorise ASB

On our estates, we use the Housemark ASB Benchmarking Categories which are based on the National Standard for Incident Recording 2011. Examples of activities by category that may cause ASB include but are not limited to the following:

- Verbal abuse/harassment/intimidation/ threatening behaviour
- Hate related incidents
- Domestic abuse
- Physical violence – other than domestic abuse
- Alcohol related nuisance – including drunken behaviour.
- Drug / substance misuse & dealing
- Noise
- Litter / rubbish / fly-tipping
- Vehicle nuisance
- Pets and animal nuisance -
- Misuse of communal areas/ public space/ loitering
- Vandalism and damage to property - including graffiti, criminal damage
- Prostitution/sexual acts/kerb crawling
- Garden nuisance

The Council's general approach to ASB³

In summary, the council's general approach to ASB is based on the following principles:

- We will not tolerate ASB in any form.
- We expect our residents to behave in an acceptable manner at all times.
- Tenancy agreements and leases set out the standards of behaviour.
- We will respond promptly to all reports of ASB and in accordance with our published service standards.
- We will treat all complaints impartially and maintain confidentiality at all times.
- We will support and advise complainants, victims and witnesses of ASB throughout the process of tackling the problem.
- Any action we take will be reasonable and proportionate.
- We will take full account of the impact of the ASB on the complainant and wider community.
- We actively promote prevention to foster an environment where anti-social behaviour is less likely to arise in the first place. We currently invest around £1.5 million per year to provide security improvements, tackle crime and disorder and divert young people from anti-social behaviour.
- By using appropriate and timely intervention we aim to resolve complaints at the earliest opportunity.
- We use our enforcement powers in appropriate circumstances and in particular where all other attempts at resolution have either failed or have been exhausted.
- We continue to develop a wide range of initiatives to combat nuisance, harassment and ASB, based on learning from resident and stakeholder feedback and comparing our performance with other organisations.

Recommendations:

³ City of Westminster's Statement of Policies and Procedures on Tackling Anti-Social Behaviour which was published in May 2014 and was reviewed in March 2019

1. Review the definition of Anti-Social Behaviour to ensure it includes all relevant issues and that it captures issues reported through all channels.
2. Review the way that ASB issues are recorded so that all issues and complaints related to a particular property or individual are recorded.
3. Ensure residents who raise concerns or complaints about ASB issues are kept up to date on the status and outcome of their complaint. Residents who raise concerns should be confident that their case will be dealt with confidentially.
4. Ensure all of the council's call centres are integrated in a way that allows all housing related ASB issues to be captured and recorded.
5. Where necessary acquire and install appropriate case management systems that will enable the council to record all the reported issues.
6. Produce appropriate leaflets and update the council's website to be clear on how issues can be reported, what constitutes unacceptable behaviour and potential penalties. Literature should also include contact details of relevant services both within the council and the council's partners.
7. Produce guidance about who to contact about different types of complaint and emergencies.

What type of ASB is in Westminster?

The top three categories of ASB in 2018 and 2019 were noise (41.2%); verbal abuse, harassment and intimidation (23.2%) and drug use and drug dealing (12.3%), this reflects the national average.

Case category* 2018	Category totals	% of overall ASB
Noise	174	41.2%
Verbal abuse/harassment/ intimidation/ threatening behaviour	98	23.2%
Drugs/ substance misuse/ drug dealing	52	12.3%
Misuse of communal areas/ public space or loitering	34	8.1%
Hate related incidents	13	3.1%
Vandalism and damage to property	13	3.1%
Physical Violence	10	2.4%
Litter/ Rubbish/ Fly-tipping	7	1.7%
Criminal behaviour/ crime	6	1.4%
Domestic abuse	5	1.2%
Alcohol related	3	0.7%
Pets and Animal Nuisance	3	0.7%
Nuisance from vehicles	2	0.5%
Garden nuisance	1	0.2%
Prostitution/ sexual acts/ kerb crawling	1	0.2%
Total number of case categories	422	

*First category under which a case is logged. Cases may involve multiple issues.

Noise

Noise cases have seen a decrease of 9% between 2018 and 2019, but account for the largest category of cases in both 2018 & 2019.

Noise nuisance makes up almost a third of the Housing ASB team's total case load. These cases are difficult to resolve as people have different lifestyles and evidence is hard to gain. The council's first response to noise complaints is always encouragement of self-management and intervention before enforcement.

The ASB team can usually only consider enforcement if there is evidence of persistent noise taking place and this has been professionally witnessed (usually by an environmental health officer from the noise team). If the noise team act, the ASB team will consider this as a breach of tenancy and will consider what action is proportionate. This may be a warning letter, a letter before action from solicitors or a civil injunction. In serious cases where a noise abatement notice is breached the council can consider serving a notice of seeking possession on mandatory grounds under the ASB, Crime and Policing Act 2014.

The Westminster housing website advises:

Complaints about, for example, household noise, are often reported to us as anti-social behaviour. Common complaints include children playing, doors closing, furniture being moved and hearing footsteps.

These matters would not be considered anti-social behaviour. Your neighbour may not be aware that they are causing a problem and you may be able to resolve the issue quickly and easily without reporting it. Our brand new 'dear neighbour' cards can help you to do this. Download a card or pick one up from your local Area Service Centre. The cards can be dropped off anonymously to let your neighbour know they may have caused a noise."

Recommendations

8. Ensure that, when recording ASB issues, a differentiation is made between a case being closed and a case being resolved to the satisfaction of the original complainant.
9. Ensure that all lessons learnt from ASB cases are captured and produce a guide for officers.
10. Recruit residents as ASB champions on each estate to help promote ways that residents can raise ASB issues, flag any issues with council officers and other partners and help identify ways of addressing ASB.

The Housing ASB team records the reason for closing an ASB complaint. The most common reason for closure of a case is early intervention by housing management staff, which is followed by an informal warning. This illustrates the Housing ASB team's approach to ASB, which is to deal with complaints as tenancy management issues where possible.

Closure reason 2018/19	All cases	Noise cases
CCTV Installed	1	
Eviction	5	2
Informal warning (verbal or written)	148	49
Management Transfer of Perpetrator	1	
Notice of proceedings for possession (NPP)	2	1

Notice of Seeking Possession (NSP)	9	3
Notice of Seeking Possession on mandatory grounds for possession	1	
Other early intervention by housing management staff	228	67
Other enforcement action specified in ASB Act 2014	1	
Perpetrator Visit / Interview	57	16
Referral of Complainant to support or counselling service	1	
Referral to or provision of drug or alcohol support services	1	
Referral to MARAC or similar advocacy	2	
Referral to or provision of mediation	20	11
Referral to or provision of mental health/ community care services	11	2
Referral to another agency or group	28	11
Referral to Police	51	5
Surrender of property by ASB perpetrator	5	2
Voluntary agreement to stop ASB (e.g. ABC)	11	
N/A	1	

The case closure statistics above show how the case came to an end, but not if that result was to the satisfaction of the resident who raised the complaint. The performance of the Housing ASB service is currently measured using a KPI based on the results of a survey. The survey is completed by complainants and is about their satisfaction with the way their case was handled. When a case is opened on the system, it can be low, medium or high risk, or record only, this classification is made with a national risk assessment matrix which comprises 14 questions based around vulnerability, the individual and what they are experiencing. Cases marked as record only are not surveyed as they are cases where we are not the lead agency working on it. For example, if the report is a police matter, and so would not be appropriate for survey.

The survey is completed by an external company called KWEST following the case being closed on our system. KWEST make a phone call to the complainant and will also try email if they cannot reach the person by phone. KWEST ask the complainants two open questions about their satisfaction with the way their case was handled, and if they are happy with the outcome when the case was closed. Feedback from customers is used to create development plans for individual case managers. **However, the service is not measured on the outcome of the case.**

Legal powers

The council has a number of powers as a landlord, freeholder and local authority which sit within different teams. They include:

- A civil injunction
- Community protection notice
- Criminal behaviour order
- Public Spaces Protection Order
- Closure powers
- Noise Abatement Notice

Civil Injunction⁴

Civil injunctions are used to stop or prevent individuals engaging in ASB by quickly nipping problems in the bud before they escalate. They are aimed at preventing conduct that:

- (i) causes or is likely to cause, harassment, alarm or distress to any person; or
- (ii) causes nuisance or annoyance to a person in relation to that person's occupation of residential premises or the conduct is capable of causing housing-related nuisance⁵ or annoyance to any person.

Civil injunctions are taken through County Court. The injunction will include prohibitions and can also include positive requirements to get the perpetrator to address the underlying causes of their anti-social behaviour. They can also include a power of arrest and exclusion of the tenant from their home if the ASB includes the use, or threatened use of violence against other persons or significant risk of harm to other persons from the perpetrator. A civil injunction can be applied for with or without notice. Breach of a civil injunction is a civil contempt of court punishable by up to 2 years in prison and/or an unlimited fine.

Community Protection Notice⁶

Community Protection Notices are designed to tackle the behaviour that has a detrimental effect on the quality of life of those in the locality and is persistent, ongoing and unreasonable by targeting those responsible. The Community Protection Notice (CPN) can deal with a range of behaviours; for instance, it can deal with noise nuisance and litter on private land. The CPN can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti-social behaviour occurring again. A written warning must first be issued informing the perpetrator of problem behaviour, requesting them to stop, and informing them of the consequences of continuing. **However, an advance warning does not have a formal period before which the Council can seek a CPN.** A CPN can be issued including requirement to stop things, do things or take reasonable steps to avoid further anti-social behaviour. Failure to comply with a CPN is an offence in respect of which the Council can issue a Fixed Penalty Notice (FPN) of up to £100 or prosecute in the magistrate's court. CPNs can allow councils to carry out works in default on behalf of a perpetrator. On conviction the Magistrates Court can also order the forfeiture of any item and/or authorise the seizure of items that have been used in the commission of the offence.

Criminal Behaviour Order (CBO)⁷

⁴ Sections 1 to 21 of the Anti-social Behaviour, Crime and Policing Act 2014.

⁵ "Housing-related" means directly or indirectly relating to the Councils housing management function. This can also be used to tackle housing issues such as hoarding and flooding of premises by water because for instance the tenant has left the water tap running.

⁶ Sections 43 to 58 of the Anti-social Behaviour, Crime and Policing Act 2014.

⁷ Sections 22 to 33 of the Anti-social Behaviour, Crime and Policing Act 2014.

The Council can request that the CPS pursue a Criminal Behaviour Order. The CBO can be used to deal with a wide range of anti-social behaviours following an individual's conviction for a criminal offence; for example, threatening others in the community, persistently being drunk and aggressive in public, or to deal with anti-social behaviour associated with a more serious conviction, such as for burglary or street robbery. The CBO can also be used to address the anti-social behaviour of gang members, for example to prevent them from affiliating with certain individuals or to require them to attend a job readiness course to help them get employment.

However, an application for a CBO does not require a link between the criminal behaviour which led to the conviction and the anti-social behaviour it addresses, for it to be issued by the court. Agencies must make proportionate and reasonable judgements before applying for a CBO, and conditions of an order should not be designed to stop reasonable, trivial or benign behaviour that has not caused, or is unlikely to cause, harassment, alarm or distress to victims or communities. A CBO can include both prohibitions and requirements such as attendance at an anger management course

Public Spaces Protection Order (PSPO)

Public Spaces Protection Orders are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring. PSPO's have a maximum duration of 3 years and the Council must consult with the police and community representatives before publishing the PSPO.

Recommendation

11. Review the security in housing blocks and look at the feasibility of limiting access to the blocks that residents live in as opposed to having access to all areas of an estate.

Closure powers⁸

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. A Closure Notice is issued out of court in the first instance. Flowing from this the Closure Order can be applied for through the courts. A Notice can close premises for up to 48 hours but cannot

⁸ Sections 76 to 93 of the Anti-social Behaviour, Crime and Policing Act 2014

stop owners or those who habitually live there accessing the premises. An Order can close premises for up to six months and can restrict all access. Both the Notice and the Order can cover any land or any other place, whether enclosed or not including residential, business, non-business and licensed premises.

Consultation is required prior to serving the Closure Notice. Before issuing a notice, the council must ensure that they consult with partners and anyone else they think appropriate. This should include the victim but could also include other members of the public that may be affected positively or negatively by the closure, community representatives, other organisations and bodies, the police or local council (where not the issuing organisation) or others that regularly use the premises. There may also be people who use the premises as access to other premises that are not subject to the closure notice but may be impacted on by the closure.

Working with the police, Westminster has undertaken two closure orders in past year. The process of obtaining a closure order involves consultation with every relevant partner to establish potential other options and assess the vulnerability of the tenant. Partial closure orders are also available and can be used more flexibly, for example, to provide a resident with temporary respite.

Recommendation

12. Investigate increasing the use of closure orders with a view to increasing their frequency in more cases where possible.

Noise Abatement Notices⁹

The Council has the power to take steps to stop a noise nuisance occurring (EPA 1990) and to take away noise making equipment (e.g. stereos) without notice to stop noise (NA 1996). The Council can issue a noise abatement notice. A noise abatement notice is a legal order requiring an individual to control the amount of noise coming from their property. Failure to comply with the notice by continuing to make excessive noise is an offence and may lead to the Council applying for a Warrant at the Magistrates Court.

Environmental Health then has the power to enter property and take away noise making equipment. If the Warrant is granted, the seizure will take place as soon as possible.

Use of legal powers

The Council clearly has a number of useful tools at its disposal to address ASB. We were told that some practitioners will say that going to court is a last resort. However, we believe that **the council should go to court when facts warrant it, there is sufficient evidence and importantly, when residents would expect the council to act.**

The council also has powers as a landlord. Westminster's tenancy agreements have requirements for tenants to make sure their guests do not cause ASB. Westminster also has

⁹ Environmental protection Act 1990, section 81, Noise Act 1996, Section 10

powers as a freeholder and can forfeit a leaseholder's property. The threat of forfeiture can be an effective tool. The council should use these powers when appropriate.

The council should be clearer with residents about what the council's powers are, both by communicating those powers and doing so in a clearer way.

The council's powers are currently being exercised across different teams and there is not enough joined up working across these teams to identify the most effective power to address an issue. The council should develop toolkits that teams can use to identify how cases should be resolved and what the council's powers are. The council should track cases and be willing to take more test cases.

Recommendations

13. Use more legal letters (from legal services, not the housing team) to enforce and warn of enforcement against ASB issues as this sends a stronger message.
14. Set up workshops between the ASB team, legal team and other partners enabling all agencies to learn more about what tools they have at their disposal. These workshops should be used to develop a resource for officers.
15. Investigate the number of cases that are unresolved and establish a review mechanism that increases the use of legal proceedings in more cases.

Evidence gathering issues

The amount and quality of evidence required to prove ASB is fact sensitive and dependant on the legal power that the council is trying to use. A serious one-off incident could be enough, there is not always a need for a long history of evidence to be collected.

The use of resident evidence depends on the issue. For an issue such as noise nuisance, the council cannot rely just on a resident's evidence. Statutory noise cases require evidence gathered by a professional noise officer. However, for other ASB cases, a resident's evidence may be more useful. In some cases, it is one person's word against another without corroborating evidence. In these cases, officers can do things like carry out a door knocking exercise near to the time of the alleged ASB. This can discover corroborating evidence and act as a deterrent for the ASB being repeated. However, it may be that the noise has stopped by the time the officer arrives, this can make gathering evidence difficult.

Although residents should be encouraged to come forward to make complaints and provide evidence (and supported by the council when they are) some residents may not want to for fear of reprisals. In these cases, officers can present hearsay evidence in court.

Vulnerable residents

As part of our work, task group members were interested in the placement of vulnerable residents who may be the victims of, or cause, ASB.

The council has a duty to prevent someone from losing their home as well as helping someone that has become homeless. ASB cases predominantly involve single adults, and

those individuals are usually over 35 with a number of vulnerabilities. Of the clients who approached the Housing Solutions Service for housing advice in 2018/2019, 995 were single adults (56%). 87% of single households who the council accepted a duty to in 2018/2019 were accepted under the priority need category as vulnerable (52% mental illness or disability, 44% physical disability, 4% elderly).

Single adults have to pass a vulnerability test to trigger the priority need and homelessness duty. For the vulnerability test, the definition is 'the person must be significantly more vulnerable than an ordinary person in need of accommodation and likely to suffer greater harm in the same situation'. The majority of people that are assessed as meeting the test tend to have mental health issues.

Once a priority need or relief duty has been established the council will place a person in temporary accommodation, but only those for which the council has accepted a duty will be placed in to permanent placement route.

The council has an allocations policy which applies to individuals with vulnerabilities, however there are a number of pathways as part of the scheme that the council can use to support those individuals.

There are temporary accommodation placements that are supported specifically for single adults with vulnerabilities. There is also a single person's pathway if the council has concerns about an individual's ability to live alone. The individual can be assessed for six months in temporary accommodation with floating support.

High risk individuals that are assessed by mental health professionals can be on a delayed list until they are able to go into an estate setting. The threshold for mental health placements is very high so few people are placed on that list. The threshold for people to not be allocated a property because of their mental health issues is very high.

The council can make direct offers of accommodation if it believes someone has particular vulnerabilities that would make certain allocations unsuitable for them. The council can also stop people bidding for properties that would be unsuitable for them. It is also possible to exclude certain people being put in to particular blocks that have had ASB issues in the past if they are unsuitable.

The council also has a supported accommodation referral process. Westminster has 618 supported housing beds across the borough (by pathway: mental health: 382, young adults: 136, ex-offenders: 20, single women's: 45, domestic abuse refuge: 35). This excludes 430 Rough Sleeping beds as rough sleeping clients do not access services through the Housing Solutions Service, and 758 Community Supported Housing homes who are for those aged over 60 and are nominated to through allocations process under our statutory duties. Each year there is a small allocation of permanent properties (approx. 20 -30 studios/1beds per year) that are made available for those who are living in a hostel and have been assessed as being able to manage a tenancy and are suitable for general needs as their move on option.

Referrals into supported housing pathways do not all come from the Housing Solutions Service. Partners such as Mental Health, Children's, London Probation Service, and Domestic Abuse Services, can also refer into the pathways directly. The housing team can ask for a capacity assessment to be conducted on a tenant. If the support package is not good enough for a resident, and this could lead to them being evicted, the housing team will ask adult social care to put the resident forward for supported accommodation referral.

The Council also has sensitive lets, this is a measure requested by the housing ASB team to the housing solutions team when a property becomes vacant as a result of the previous tenant being evicted or another measure taken to resolve ASB. The Housing ASB team ask that the prospective tenants do not have a history of ASB with previous tenancies/ landlords in order to prevent further ASB being experienced in the building again.

We were told that, since the housing management service came back in-house there has been better communication with adult social care and steps such as agreeing new safeguarding procedures have been taken. However, there are still improvements to be made. Housing services have the ability to refer clients to services like Drug and Alcohol Welfare Service, but need those clients' consent, or might need something like a closure order to force the issue.

Recommendations:

16. Housing and Adult services should be more joined up on cases involving vulnerable residents (particularly after allocation). There also needs to be increased co-operation between all agencies including the police.
17. Review and where possible improve the support provided when moving vulnerable applicants from temporary housing to permanent housing.
18. Review the use of the delayed priority list to see if capacity could be increased.
19. Review the use of single persons pathway to see if capacity could be increased.
20. Ensure that the thresholds for allocating vulnerable people to independent living accommodation are fit for purpose; learn lessons from any placements that have resulted in ASB.
21. Review and where possible improve the use of specialist recovery housing for those undergoing substance misuse treatment.
22. Review whether we have an ongoing review in relation to individuals that have complex needs and have caused issues for their neighbours.

Conclusion

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Recommendations

1. Review the definition of Anti-Social Behaviour to ensure it includes all relevant issues and that it captures issues reported through all channels.

2. Review the way that ASB issues are recorded so that all issues and complaints related to a particular property or individual are recorded.
3. Ensure residents who raise concerns or complaints about ASB issues are kept up to date on the status and outcome of their complaint. Residents who raise concerns should be confident that their case will be dealt with confidentially.
4. Ensure all of the council's call centres are integrated in a way that allows all housing related ASB issues to be captured and recorded.
5. Where necessary acquire and install appropriate case management systems that will enable the council to record all the reported issues.
6. Produce appropriate leaflets and update the council's website to be clear on how issues can be reported, what constitutes unacceptable behaviour and potential penalties. Literature should also include contact details of relevant services both within the council and the council's partners.
7. Produce guidance about who to contact about different types of complaint and emergencies.
8. Ensure that, when recording ASB issues, a differentiation is made between a case being closed and a case being resolved to the satisfaction of the original complainant.
9. Ensure that all lessons learnt from ASB cases are captured and produce a guide for officers.
10. Recruit residents as ASB champions on each estate to help promote ways that residents can raise ASB issues, flag any issues with council officers and other partners and help identify ways of addressing ASB.
11. Review the security in housing blocks and look at the feasibility of limiting access to the blocks that residents live in as opposed to having access to all areas of an estate.
12. Investigate increasing the use of closure orders with a view to increasing their frequency in more cases where possible.
13. Use more legal letters (from legal services, not the housing team) to enforce and warn of enforcement against ASB issues as this sends a stronger message.
14. Set up workshops between the ASB team, legal team and other partners enabling all agencies to learn more about what tools they have at their disposal. These workshops should be used to develop a resource for officers.
15. Investigate the number of cases that are unresolved and establish a review mechanism that increases the use of legal proceedings in more cases.
16. Housing and Adult services should be more joined up on cases involving vulnerable residents (particularly after allocation). There also needs to be increased co-operation between all agencies including the police.
17. Review and where possible improve the support provided when moving vulnerable applicants from temporary housing to permanent housing.
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19. Review the use of single persons pathway to see if capacity could be increased.
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