



## STATEMENT OF POLICIES AND PROCEDURES ON TACKLING ANTI-SOCIAL BEHAVIOUR

### HOUSING ACT 1996 s218A

Section 218A of the Housing Act 1996 (as amended by section 12 of the Anti-Social Behaviour Act 2003) requires local housing authorities, as landlords, to prepare and publish policies and procedures in relation to ASB in the following documents:

- A Statement of Policies and Procedures on ASB
- A Summary of current policies and procedures on ASB

This Statement of Policies & Procedures has been revised and updated in consultation with residents, partners and stakeholders. It is effective from 30<sup>th</sup> May 2014 and has since been reviewed to reflect legislative changes brought in by the Anti-social behaviour, crime and policing Act 2014.

It has been further reviewed in March 2019 to reflect the fact that CityWest Homes transfers to Westminster City Council on 1 April 2019.

It will be further reviewed as and when appropriate.

Copies of the Statement are available from the Westminster City Council website [www.westminster.org.uk/yourhousing](http://www.westminster.org.uk/yourhousing) and in hard copy from Westminster City Council, 64 Victoria Street, London SW1E 6QP. Copies of the Summary will be available shortly on the Westminster City Council website and from all area offices.

Copies of the Statement and Summary can be provided in alternative formats (for example, large print and audio format) on request.

Throughout the Statement and Summary Westminster City Council ("the City Council") as Landlord is referred to as "we". The City Council's policies and procedures as landlord are referred to as "our" policies and procedures.

The City Council's tenancies and leases are managed by Westminster City Council with effect from 1 April 2019.



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## **POLICIES**

### **1 INTRODUCTION**

Westminster has a unique population of residents, the business community, visitors and tourists. Reducing crime, disorder and ASB is a major concern for Westminster residents.

As a Landlord we are firmly committed to tackling anti-social behaviour (ASB). We know that the inconsiderate and anti-social behaviour of a small number of residents can have a significant impact on the lives of many more.

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 lifestyles but, we also expect our residents to behave in an acceptable manner at all times.

We recognise that resolving antisocial behaviour means developing and maintaining close partnerships between the City Council, local residents, the police and other statutory and voluntary agencies if we are to achieve successful outcomes.

By working in partnership, and by using our collective resources, knowledge, skills and enforcement powers, we are determined to ensure that residents are able to enjoy safety, security and quality of life both in their homes and in the wider neighbourhood.

### **2 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 many people's lives a misery – from litter and vandalism to public drunkenness or aggressive dogs, to noisy or abusive neighbours”

We define anti-social behaviour as follows:-

- 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.

When we use the term 'person' in the above definitions of ASB this includes:

- anyone who has a right to live in property owned or managed by the Council.



- people living in any other property in the neighbourhood (for example, owner occupiers, tenants of other landlords).
- anyone else who is lawfully in such property or in the locality (for example, people working or using local facilities).

When we use the term 'housing management functions' in the above definitions of ASB we mean any activity we carry out in the day-to-day and strategic management of our housing stock. Examples include:

- tenant and community participation.
- building maintenance and repairs.
- cleaning and grounds maintenance.
- rent and rent arrears collection.
- neighbourhood management and dispute resolution.

Matters which 'indirectly relate to or affect' our housing management functions could include activities such as:

- the provision of social care or housing support to people living in Council homes.
- agencies/contractors providing environmental health and refuse collection services.
- any other activities which help us to deliver an efficient Landlord service.

### How we categorise ASB

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** - including groups or individuals making threats, verbal abuse, bullying, following people, pestering people, voyeurism, sending nasty / offensive letters, obscene / nuisance phone calls, menacing gestures.
- **Hate related incidents** – based on race or ethnicity, sexual orientation, gender identity, disability, religion or belief, age, HIV or AIDS status, mental health.
- **Domestic abuse**
- **Physical violence** – other than domestic abuse.
- **Noise** - including noisy neighbours, noisy cars / motorbikes, loud music, alarms (persistent ringing / malfunction) including car alarms, noise from pubs / clubs, noise from business / industry, loud parties.



- **Drug / substance misuse & dealing** – including taking drugs, sniffing volatile substances, discarding needles / drug paraphernalia, “Crack houses”, presence of dealers or users.
- **Alcohol related nuisance** – including drunken behaviour.
- **Prostitution/sexual acts/kerb crawling** – including inappropriate sexual conduct, indecent exposure and soliciting
- **Vehicle nuisance** - including abandoned cars, illegal parking, car repairs, setting vehicles alight, joyriding and riding of mopeds, cycling / skateboarding in pedestrian areas / footpaths
- **Pets and animal nuisance** - including uncontrolled animals e.g. on balconies and footpaths, feeding pigeons, fouling in communal areas, excessive noise or odours from animals
- **Misuse of communal areas/ public space/ loitering** - including urinating in public, setting fires (not directed at specific persons or property), inappropriate use of fireworks, throwing missiles, climbing on buildings, impeding access to communal areas and rowdy behaviour - including shouting & swearing, fighting, hooliganism / loutish behaviour.
- **Vandalism and damage to property** - including graffiti, criminal damage.
- **Litter / rubbish / fly-tipping** - including dropping litter, dumping rubbish, fly-posting.
- **Garden nuisance** – including keeping an untidy and unsightly garden, and inconsiderate use of communal gardens.
- **Criminal behaviour** – other than that recorded in other categories.



### 3 WHAT IS OUR GENERAL APPROACH TO ASB?

In summary, our 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. Our Conditions of Tenancy set out the standards of behaviour that are acceptable.
- Our standard lease conditions set out the obligations of residents who have bought their flats.
- 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 to the nature and scale of the problem.
- 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. Section 10 below lists our policies on preventing anti-social behaviour.
- By using appropriate and timely **intervention** we aim to resolve complaints at the earliest opportunity, for example by sending warning letters, offering mediation, making use of Acceptable Behaviour Contracts (ABCs), Acceptable Behaviour Agreements (ABAs), making appropriate referrals for support. Section 11 below lists our policies on intervention.
- We use our **enforcement** powers in appropriate circumstances and in particular where all other attempts at resolution have either failed or have been exhausted. Section 12 below lists our policies on taking enforcement action.
- Where enforcement is considered necessary, we will take action at the earliest and most appropriate opportunity, making use of our powers such as civil injunctions, possession action and demotion orders.



- We will generally only use possession action where all other interventions and attempts to change behaviour have failed.
- However, we will not hesitate to pursue possession action at an early stage, including as a measure of first resort, in cases which are of a serious or criminal nature and cause upset/distress to the community, and where such action is proportionate and reasonable in the circumstances. In these circumstances we will use our new powers as appropriate to seek possession using the mandatory ground for possession.
- 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.

## **How do we deliver our ASB service?**

Our ASB service is managed and delivered in house by the City Council. We provide a comprehensive Landlord housing management service to residents in the Council's housing stock.

We deliver the frontline housing management service from 5 Area Service Centres (North, West, Central, South & Queens Park).

We also work with 8 Tenant Management Organisations (TMOs) which are responsible for providing frontline housing management services according to their management agreements.

Our Anti-social behaviour services team ("ASB team") provides a comprehensive service managing all complaints of ASB from start to finish.

All TMOs investigate and deal with initial complaints of ASB. Wherever possible they aim to resolve complaints at the local level. If this is not possible cases are referred to the ASB team.

The only exception is the Millbank Estate Management Organisation (MEMO) who retain responsibility for managing all ASB cases from start to finish, including taking enforcement action.

The frontline teams are supported by a Community Safety Manager.

Any complaints about the ASB service are dealt with through our Complaints Procedure, details of which are given in the Procedures part of this Statement (see Section 22).

## **4 WHAT IS THE STRATEGIC CONTEXT?**

Today Westminster is widely recognised as a global city. Over 240,000 people live in the borough; half a million more work in the borough and, in total, over a million people enter the city on a daily basis for the many tourist and entertainment attractions on offer.



This unique combination of residents, visitors, tourists and the business community presents significant challenges when working to make the city a safer place to live, work and visit.

Below are the key partnerships and plans which underpin the Council's strategy for reducing crime, disorder and ASB in Westminster.

## ***At the broadest level***

### Safer Westminster Partnership

The Safer Westminster Partnership is a statutory partnership established as a consequence of the Crime and Disorder Act 1998. The Partnership has a duty to conduct an audit of crime, disorder, anti-social behaviour and drug misuse in Westminster, to consult widely on the findings and set strategies to tackle the issues identified.

The Partnership is currently led by the City Council and comprises the Police, London Fire Brigade, health service and probation service. The strategic priorities for the Partnership are decided on a 3 yearly basis and are set out in the Partnership's current Crime and Disorder Reduction Strategy for 2011 - 2014. They are:

- Tackling violence and disorder associated with the nighttime economy in Westminster.
- Preventing young people getting involved in serious youth violence and supporting them to reduce their offending.
- Developing new mechanisms to address re-offending across the city.
- Reducing repeat victimisation and violence against women and girls and bringing the perpetrators to justice.
- Addressing the harm caused by substance misuse and its impact on Westminster residents.

Each of these priorities has a number of objectives, associated activities and delivery milestones.

The Partnership takes its regional priorities from the Mayor's Office for Policing and Crime (MOPAC) which also controls funding for crime and disorder initiatives.

The City Council has also established a Crime Board to ensure clarity of focus on its contribution to the Safer Westminster Partnership strategy. It meets quarterly and is chaired by the Cabinet Member with responsibility for Community Protection.





## Better City, Better Lives

Better City, Better Lives is a five-year plan (2013 – 2018) which sets out the vision of the Leader of the Council to make Westminster a safer, healthier, more enterprising and more connected city.

With regard to the ambition of achieving a safer, healthier city the plan sets out a number of key projects for delivering more visible enforcement and improved public access to the Police.

## ***Other City Council strategies and plans***

Our policies and procedures for tackling ASB also compliment and support the following strategies and plans:

### Westminster Housing Strategy

This sets out the Council's plans for delivering its strategic housing objectives.

The relevant priority within this strategy is 'Improving neighbourhoods and quality of life' which includes the following aims:

- Promoting safe and sustainable neighbourhoods
- Improving opportunities for children and young people

### Housing Renewal Strategy

The Council's Housing Renewal Strategy has objectives to promote a high quality of life for people of all ages and backgrounds, in safe, cohesive and healthy neighbourhoods, supported by a range of high-quality housing and excellent community facilities.

Tackling nuisance, anti-social behaviour and crime was one of the most frequently raised issues during public consultation on the draft Housing Renewal Strategy. Improving security of access to blocks, door entry controls and sensitively designing the layout of open spaces was viewed as beneficial to tackling nuisance behaviour as well as enhancing resident perceptions of safety.

### Tenancy Strategy

As part of our Tenancy Strategy, we introduced flexible tenancies in September 2013. A flexible tenancy is a form of secure tenancy, which is for a fixed period, and was created under the Localism Act 2011. The majority of our flexible tenancies will be for a period of five years (two years in certain circumstances).

Although a flexible tenancy contains many features of a secure tenancy, the main difference is that a secure tenancy can only be brought to an end by the landlord if a court order is granted, *and* the court considers that possession is reasonable. With a flexible tenancy, the court *must* award the landlord possession as long as the fixed



term has expired, the correct notices have been served, the landlord's decision not to renew is in line with its tenancy policy, and any request to review that decision has been considered.

We believe that this new form of tenure will help to reinforce the responsibilities of the tenancy agreement - social housing comes with responsibilities and flexible (fixed term) tenancies provide an opportunity to help address issues such as anti-social behaviour. They give the Council the option not to renew the tenancy at the end of the fixed term (in serious cases of tenancy breach, including ASB) or to renew it for a shorter period of two years - for example, where the tenant has not kept to an agreement to correct a breach of the tenancy agreement during the flexible tenancy.

Flexible tenancies will therefore be a valuable tool in helping to encourage responsible conduct of a tenancy and to deter ASB.

### Housing Services Business Plan

This sets out the Council's overall annual objectives for housing services in the city. In 2013/14 the Business Plan supports one of the principal aims of the Better City, Better Lives strategy: 'Ensuring a safer Westminster'.

Specifically, one of the key outcomes within the Business Plan is: 'Improving quality of life, protecting vulnerable people and supporting people to make their own housing and life choices'.

This is underpinned by the following Service Priority: 'Maximise use of enforcement and all other tools available to produce more robust and decisive action to tackle ASB'.

### The Westminster Joint Health & Wellbeing Strategy

Westminster's Joint Health & Wellbeing Board brings together leaders from across health services, adults and children services and the community. The Board is responsible for identifying and tackling complex health and wellbeing issues which cannot be tackled by a single organisation alone.

The Board has produced a Health and Wellbeing Strategy which sets out a long-term vision for the health and wellbeing of communities in the city of Westminster. The Board's vision is a future where 'all people in Westminster are able to enjoy a healthier city and healthier life'.

The strategy has five high-level goals which the Board will be working towards over the 15-year period until 2028. To help achieve those goals the Board has identified five priorities on which to focus in the period 2013 to 2016.

Priority 2 – 'Enabling young people to have a healthy adulthood' – focuses support on a number of areas which the Board believes will make the greatest difference to the health and wellbeing of young people, one of which is preventing youth violence.



We have four Area Resident Panels - North, South, Central and West - made up of resident representatives acting on a voluntary basis. The Resident Panels act as our Tenants' Panel (as required by the Localism Act 2011) and perform a scrutiny role in relation to how we meet the national standards, including how effectively we deal with ASB.

### ***Statutory duties, responsibilities and powers***

Our ASB policy and procedures are compatible with our statutory duties and responsibilities.

Together with our partners, we will make full use of the powers available to us under relevant legislation, including the following Acts of Parliament:

- Housing Acts 1985 and 1996
- Children Act 1989
- Environmental Protection Act 1990
- Human Rights Act 1998
- Crime and Disorder Act 1998
- Local Government Act 2000
- Homelessness Act 2002
- Anti-Social Behaviour Act 2003
- Fireworks Act 2003
- Police & Justice Act 2006
- Equality Act 2010
- Anti-social behaviour, crime and policing Act 2014

## **5 WHAT ARE THE OBLIGATIONS OF TENANTS AND LESSEES?**

### Tenants

The City Council has comprehensive Conditions of Tenancy in place for all tenants, with a specific section covering ASB. Section 4 of the Conditions - "Living with your neighbours" - lists the responsibilities of all introductory, secure, flexible and demoted tenants and is attached at Appendix B. We also have a Tenant's Handbook, which gives more information on ASB.

The Conditions of Tenancy make it clear that all tenants are responsible for the behaviour of all members of the household, including children, lodgers and visitors.

### Lessees

The obligations and responsibilities of lessees (owners of flats) are set out in the lease. These "do's & don'ts" are called 'Covenants' and 'Regulations'.

Covenants and Regulations vary between leases, depending on when the flat was sold. However, all leases contain a general covenant to ensure lessees (as well as



members of their household and visitors) do not cause nuisance or inconvenience to their neighbours.

Lessees who sublet their flats remain responsible for their tenants' conduct and will be liable for any breaches of the lease caused by their tenants' behaviour.

If lessees fail to comply with any covenant(s) or regulation(s) they risk being in breach of their lease. Our Leaseholder Handbook has more information about lessees' responsibilities under the lease, as well as information about neighbour nuisance.

Although the Council's leases follow a different format from our Conditions of Tenancy, we manage and respond to ASB with the same commitment and rigour, regardless of whether the perpetrator is a tenant or a lessee.

## **6 SUPPORT OF COMPLAINANTS AND WITNESSES**

Some of the most persuasive evidence in ASB cases comes from local residents. Where enforcement action is taken, they can often identify the perpetrators of ASB in Court and can describe the effect ASB has on their lives.

Resolving a case using local residents also strengthens the community, boosting the morale of victims and thereby helping to sustain long term improvements.

It is essential to any legal enforcement action that we are able to use the information available, including any evidence provided by witnesses.

Where witnesses are prepared to give evidence directly, this makes the case significantly stronger. However, witnesses need to be made aware that if they agree to provide evidence directly this will mean giving witness statements in which their details will be disclosed to the perpetrator. It would also mean potentially attending Court hearings so that they can answer questions in court.

Where witnesses are not prepared to give evidence directly, their statements can be presented with their consent by Council officers on their behalf. However, this weakens the evidence, because there is no opportunity for the defendant to directly challenge this evidence.

Council officers can also give evidence on behalf of a resident without revealing the identity of that resident. This is commonly known as 'hearsay' evidence. Again, this will not carry as much weight in Court as evidence directly presented by the resident.

It is important that people living and working in and around the Council's housing stock feel confident to report ASB. It is also important that complainants, victims and witnesses are reassured that confidentiality will be maintained at all times.

The Council recognises, however, that complainants, victims and witnesses may have many anxieties.



We have developed different types of support to help people who are suffering ASB. Further details can be found in the Statement of Procedures.

## How can residents report anti-social behaviour?

ASB can be reported to the City Council in various ways including by phone or online. Where appropriate, ASB can also be reported to the Police or to one of the City Council's dedicated hotlines, e.g. the 'Westminster 24/7' out-of-hours service or the Noise Team. Details of our offices, the Police and a whole range of other useful contact numbers are given at Appendix A.

## If an incident of ASB is reported to the City Council, we will:

- Aim to respond, where resources permit, within 20 minutes during office hours where ASB is in progress, and within 24 hours to all other incidents.

Outside of office hours complainants may contact our emergency out-of-hours service (Westminster 24/7) on 020 7286 7412. Depending on the circumstances, Westminster 24/7 will either advise the caller to contact the Police, or the Council's 24/7 Noise Team on 020 7641 2000. Westminster 24/7 may also contact the local duty officer for advice, as necessary.

- Investigate the incident, advise on options and, where appropriate, agree a course of action for tackling the problem. Options **may** include, but are not limited to the following:
  - Linking the complainant to other witnesses to boost morale and prevent feelings of isolation.
  - Providing information on support agencies, such as Westminster Victim Support, and making other referrals with the complainant's consent.
  - Providing emergency contact points.
  - Completing a risk assessment for the case.
  - Assessing the security of the complainant's home.
- Assign an officer to lead on the complaint who will aim to keep the complainant informed on progress of action taken;
- Provide information on what action other agencies, such as the Police, can take and where appropriate refer the matter to the police with the complainant's consent;
- Aim to remove graffiti within 24 hours and offensive graffiti within 12 hours;
- Aim to complete emergency repairs, such as vandalism to shared areas where there is a health and safety risk, within 24 hours;
- Provide interpreting services where required.



**In more serious or complex cases, or where enforcement action is necessary we will:**

- Consider the use of civil remedies, such as injunctions, for example to protect a complainant;
- Advise the complainant in respect of the legal process and prepare witness statements if necessary;
- Work with other key partners/agencies as far as possible to support the complainant in their home environment;
- Advise on what other agencies such as Victim Support can do to help;
- Consider options such as offering to meet the complainant at an alternative venue away from the local area or estate office, escorting the complainant to Court and providing on-going support both at the hearing and after legal action has been concluded;
- Assist with a temporary or permanent move where appropriate and where there is a real risk of violence. Very often victims want to move away from the area. However, this hands the perpetrator a victory and we will always consider such options very carefully.

## **7 PROFESSIONAL WITNESS SCHEMES**

In some cases, residents may be reluctant to provide evidence of ASB. They may fear retaliation either to themselves or to members of their family.

Whilst we encourage and support residents to come forward, we accept that in certain circumstances – for example where there is a health and safety risk – it may be unreasonable to expect them to provide direct evidence in support of court proceedings. Protection of witnesses will always be given priority.

“Professional witness” has two meanings in this connection. First, and most commonly, we may use our staff or Police officers to give evidence in civil proceedings. They can give evidence of what they have directly witnessed. As mentioned earlier, they can also give evidence on behalf of a resident without revealing the identity of that resident. This is commonly known as ‘hearsay’ evidence.

Alternatively, we may use other specialist resources as appropriate.

## **8 HARASSMENT POLICY**

The City Council is committed to stamping out all forms of harassment in its housing stock to ensure that our residents enjoy their homes in peace. Our ASB policies and procedures are key tools in achieving this aim.

Equality Act 2010



Under the Equality Act, the City Council has duties in three areas. These are: as a service provider to our residents, as an employer and as a procurer of goods and services.

The Equality Act introduced the term “protected characteristic” and the ‘public sector duty’. Protected characteristics describe the nine groups that are protected by law. These are:

Gender	Disability
Gender reassignment	Race
Sexual orientation	Marriage and civil partnership
Pregnancy and maternity	Age
Religion or belief	

The public sector duty requires the Council to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act.

Definition of harassment

Harassment is defined by the impact of the behaviour on the victim, not the intention of the perpetrator.

As a guide, we consider harassment to include:

- any behaviour that is unreasonable, unwelcome and offensive.
- any deliberate act to interfere with the peace, comfort or safety of any other person or persons because of a characteristic such as those listed above, or any other personal characteristic.

Harassment is also a criminal offence. Some forms of harassment are referred to as hate crime. These are crimes that are targeted at a person because of hostility or prejudice towards that person’s:

- disability
- race or ethnicity
- religion or belief
- sexual orientation
- transgender identity

This can be committed against a person or property. A victim does not have to be a member of the group at which the hostility is targeted. In fact, anyone could be a victim of a hate crime.

Examples of harassment are given earlier in Section 2 of this Statement.



With regard to racial harassment the City Council uses the Stephen Lawrence Inquiry Report definition of a racist incident, which is:

*‘A racist incident is any incident which is believed to be racist by the victim or by any other person.’*

This principle may be applied to all forms of harassment.

Our key priorities in tackling harassment and hate crime are:

- a firm commitment to eliminating harassment and hate crime
- dealing with reports quickly and effectively
- providing support to victims
- taking action against perpetrators
- working with other agencies

### Practical steps the City Council is taking to tackle harassment and hate crime

- When we receive a report, we will aim to meet with victims of harassment involving physical assault within 24 hours and within 3 days for other incidents.
- All reports of harassment are recorded centrally by us so problems can be consistently monitored.
- A rolling review of all procedures relating to anti-social behaviour.
- Close partnership working with the police and other agencies to tackle harassment and provide support to victims.
- Mystery shopping exercises for staff on dealing with complaints of domestic abuse. Action is taken where needed on the results including training.
- Enforcement action taken where appropriate. This includes the use of civil injunctions, possession action or seeking a demotion order.
- Leaflets on ASB, which include information on harassment, are available on our website.

## **9 DOMESTIC VIOLENCE AND ABUSE POLICY**

The City Council and its partners have published a Domestic Abuse Strategy for 2012-2014 using the following definition of domestic violence:

*“Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality”.*

In March 2013 the Home Office introduced a new definition of domestic violence and abuse. The change came about following earlier consultation which showed





widespread support for changing the definition to capture those aged 16-17 and for reflecting 'coercive control' in the wording.

Accordingly, the Home Office definition of domestic violence and abuse now states:

*“Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.*

*This can encompass, but is not limited to, the following types of abuse:*

- *psychological*
- *physical*
- *sexual*
- *financial*
- *emotional*

*“Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.*

*“Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.”*

Domestic Violence/Abuse includes physical, psychological/emotional, mental, verbal, financial and/or sexual abuse as well as social isolation and is often a combination of them all.

It is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by an individual/s within a relationship: this includes family relationships as well as heterosexual, lesbian, gay, bisexual and transgender people and vulnerable adults. Female genital mutilation, forced marriage and violence often described as honour-based are all forms of domestic violence/abuse.

Our policy takes a non-judgemental, victim-centred approach at all times. All cases are dealt with in the strictest confidence.

When dealing with domestic violence and abuse, we will:

- Make it as easy as possible for victims to report domestic violence and abuse.
- Interview victims who present at our offices immediately and aim to see them within one working day in all other circumstances.
- Make sure victims are safe and know what to do if the situation changes.
- Give victims full contact details of our service and Housing Officer dealing with the case, and those of the Westminster 24/7 emergency out-of-hours service.
- Give victims details of ADVANCE (Westminster's Independent Domestic Violence Advocacy service) and the Westminster Domestic Abuse Surgery which is a weekly 'drop-in' service.



- Encourage victims to prepare a Safety Plan.
- Talk to victims about their housing options if they are ready to do so.
- Provide support for as long as it is needed.
- Take action against alleged perpetrators of domestic violence and abuse where possible.

Information will only be forwarded to other agencies with consent or if required by law. The one exception to this is where there are concerns that a child is in need, for example if abuse or neglect is taking place, in which case officers have a duty to inform Childrens Services.

Information on domestic violence and abuse, including support agencies, is available online via the Council's website.

The City Council also operates a Sanctuary Scheme which provides security works to make it possible for victims of domestic violence and abuse to remain in their homes and feel safe. The Sanctuary Scheme is open to all Westminster residents and works are carried out by the City Council at no cost to the resident.

In order to improve support for high-risk victims of domestic violence and abuse, the City Council and partners have adopted a joint case management approach known as MARAC – Multi Agency Risk Assessment Conference.

The key elements of the MARAC are:-

- A process for assessing the risk to victims of domestic violence and abuse, and identifying the highest risk cases
- A monthly meeting where agencies can discuss high risk cases in order to improve the safety of victims and their families
- A range of enhanced interventions for those victims identified as at high risk of further harm

## **10 PREVENTION OF ASB**

As a landlord the City Council uses a range of measures to help prevent anti-social behaviour from occurring in the first place.

### **Conditions of Tenancy**

As outlined earlier, the City Council has comprehensive Conditions of Tenancy with detailed nuisance clauses - see Appendix B. The current tenancy agreement was introduced after full consultation with tenants and contains express clauses prohibiting various types of behaviour, which are unacceptable.

Breach of a tenancy term is a statutory ground both for seeking possession or demotion of tenancy. We can also enforce the agreement by means of an injunction requiring the tenant to comply with its terms.



## Lease conditions (covenants and regulations)

As outlined earlier in section 5, the obligations and responsibilities of lessees are set out in the lease.

All leases contain a general covenant to ensure lessees (as well as members of their household and visitors) do not cause nuisance or inconvenience to their neighbours. Lessees who sublet their flats remain responsible for their tenants' conduct and will be liable for any breaches of the lease caused by their tenants' behaviour.

As with our tenants, we can enforce the lease by means of an injunction requiring the lessee to comply with its terms. In extreme cases, where all other remedies and interventions have failed, we can apply for forfeiture of the lease.

Further information about the lease and its various covenants and regulations, including information about nuisance and anti-social behaviour, is contained in our Leaseholder Handbook which has been issued to all existing lessees and is issued to all new lessees as part of a Lessee Induction Pack. The Induction Pack also contains a range of more detailed and specific information leaflets including those relating to tackling ASB and resolving problems with neighbours.

## Introductory tenancies

All new tenants are given an "introductory tenancy" which lasts for the first year.

In the case of:

- ✓ introductory tenants in Community Supportive Housing for older people
- ✓ and all other introductory tenancies granted *before* the Council introduced flexible tenancies in September 2013

the introductory tenancy becomes a secure tenancy after 12 months, unless we have started legal action to gain possession or have extended the introductory period for a further six months.

Introductory tenancies in general needs housing which were granted *after* the introduction of flexible tenancies in September 2013 become flexible tenancies after 12 months, unless we have started legal action to gain possession or have extended the introductory period for a further six months. See below for more details of flexible tenancies.

As part of the introductory tenancy scheme:

- A Housing Officer from the Area Office will go through the Conditions of Tenancy with the new tenant when they sign their new tenancy agreement, explaining what constitutes ASB, what can be done about it and what we as the landlord can and cannot do about it;



- A Housing Officer will also aim to visit all new tenants at intervals throughout the 12-month period. The aim of these visits is to help the tenant settle in their new home and to discuss any problems or difficulties they may be experiencing. These visits offer the Area Office an ideal opportunity to “nip in the bud” any emerging problems that may arise in the early part of a new tenancy.

## Flexible tenancies

A flexible tenancy is a form of secure tenancy which is for a fixed period and was created under the Localism Act 2011.

In line with the Council’s published Tenancy Policy most flexible tenancies will be for a period of 5 years and will be subject to review before the end of the tenancy. In the majority of cases, following the review, a new flexible tenancy for a further 5 years will be offered at the same address (or another address if, for example, there is under occupation).

The Council’s Tenancy Policy also allows for the granting of a flexible tenancy of two years rather than five, following the review. An example of where a shorter tenancy may be offered is where the tenant has not kept to an agreement to correct a breach of the tenancy agreement during the flexible term.

The use of shorter tenancies in these circumstances is intended to help reinforce the tenant’s responsibilities under the tenancy agreement and to enable any necessary support to be put in place.

In cases of persistent and serious ASB, the Council may choose not to renew the tenancy and may apply to the Court for a possession order. With a flexible tenancy the Court must award possession as long as the fixed term has expired, the correct notices have been served, the Council’s decision not to renew is in line with its tenancy policy, and any request to review that decision has been considered.

## Visible uniformed presence

A visible uniformed presence can provide both a deterrent to those who cause anti-social behaviour and a safer environment for residents. There are various models operating across the City:

- **Safer Neighbourhoods Teams** - The Metropolitan Police Safer Neighbourhoods programme provides a small team of police dedicated to a local area. Their role is to work with the community and local authorities to reduce crime and disorder and deal with the local issues that most affect people's quality of life.
- **Police Community Support Officers** - working across the city and within Safer Neighbourhoods Teams, Police Community Support Officers (PCSOs) tackle crime and quality of life issues. Their duties are diverse and include targeting ASB including youth nuisance and criminal damage and performing tactical patrols.
- **Westminster City Inspectors** - who have powers to tackle problems such as littering, dog fouling and anti-social behaviour on public highways.



- **Dedicated security patrols** - provided by private security companies, for example - can be offered to residents within the City Council's housing stock in exceptional circumstances, although this is a rechargeable service with those residents benefiting from such services paying for it.

### **Diversionsary projects for young people**

The City Council provides a range of diversionary projects for young people across the City. We have a citywide dedicated community development and resident engagement programme and work closely with our partnership contacts to provide a wide variety of activities for young people living in our housing stock. These include activities such as estate-based youth clubs, sports programmes, homework clubs.

### **Multi-agency partnerships**

We have both informal and structured formal agreements and forums with our partnership contacts. Details are given below in Section 14.

### **Tenancy support schemes**

The City Council is committed to helping vulnerable tenants maintain their tenancies. We commission an independent tenancy support service funded through the Supporting People funding and Adult Services.

Tenants eligible to receive support may be vulnerable for a variety of reasons including drug or alcohol misuse or mental health problems.

Vulnerable tenants may be referred to the service if they are at risk of losing their tenancy due to ASB or other serious breaches of their tenancy conditions.

The aim of the support service is to help the tenant improve their behaviour through:

- One to one discussion, support and counselling
- Giving practical advice and assistance on dealing with interactions with neighbours
- Linking them with appropriate services including alcohol or drug advice services, mental health day centres, and other community services and facilities.

An action plan is agreed with the tenant and reviewed at least every three months. Cases are closed either when the action plan has been successfully completed or the tenant is unwilling to adjust their behaviour.

### **Designing out crime**

We continue to invest each year in security improvements, tackling crime and disorder and diverting young people from ASB.



Designing out crime initiatives can provide permanent solutions to problems such as young people hanging around. Schemes include:

- Controlled door entry schemes to flats
- Fencing to communal areas
- Improvements to lighting in communal areas
- CCTV

We ensure that 'secured by design' principles underpin all our major works projects.

We have a pool of mobile CCTV cameras which are relocated periodically to address emerging ASB hotspots. On some estates there are also fixed camera systems.

## **Sensitive allocations**

The City Council's housing allocations policies, as set out in our Housing Allocations Scheme, aim to promote balanced and sustainable communities so as to avoid potential clashes of lifestyle.

Occasionally a property becomes available for letting and it is deemed that it should be let 'sensitively' because of particular circumstances that relate to the property, for example the frailty and vulnerability of neighbours.

Where a sensitive letting is required, the tenancy will not be offered to the prospective tenant until it is confirmed that neither they nor any member of their household who will be living with them has:

- A history of anti-social behaviour or nuisance;
- Drug or alcohol dependency or
- Any history of drugs dealing;
- Caused housing management problems in previous accommodation, including bed and breakfast or temporary accommodation.

Other factors may be taken into account where justifiable, for example, where due to the nature of the sensitivity, a letting should be made specifically to a male or to female applicant.

Conversely, a neighbour of a property being let may have a history of behaviour which means it may be necessary to avoid letting the property to a person who is vulnerable to harassment or other behaviour and in these circumstances, discretion may be used to make a direct offer of that letting.



## 11 INTERVENTION WHEN ASB OCCURS

When we receive a complaint about ASB we will respond promptly by interviewing the complainant, investigating and assessing the full circumstances of the complaint. This will determine our response to the complaint and any intervention measures we may take to address the alleged ASB.

At all times the intervention action we take will be appropriate and proportionate to the nature, scale and extent of the problem.

The overwhelming majority of complaints are addressed by taking early informal action.

We use a range of intervention tools, including:

### **Initial interview with alleged perpetrator**

This is the first action we take once we have interviewed the complainant. The aim is to contact, interview and advise the alleged perpetrator of the nature of the complaint and to hear their side.

If the problem can be resolved at this stage no further action is taken.

### **Warning letters**

These are sent when we have evidence that the alleged perpetrator is responsible for the ASB and all early interventions have failed to resolve the problem. Their aim is to put the alleged perpetrator on notice that unless the ASB ceases we will consider legal action.

### **Banning letters**

These are used where individuals have been identified as causing ASB in or around the Council's housing stock and where the individuals in question do not live there and have no reason to be there.

A banning letter is sent to the individual's home (where known), and confirms that:

- the individual has come to notice as a result of their ASB in or around a named estate.
- they do not live on the estate and therefore have no reason to be there.
- they are banned from returning to the estate, on threat of further action if they do return.

Banning letters are not legally enforceable but warn the perpetrator that that we take the matter seriously and can often be successful in deterring perpetrators from returning to a particular location, without the need for recourse to formal legal action.





## **Young People's Practitioners - early intervention with young people**

The City Council employs Young People's Practitioners (YPPs) who work in 3 integrated and multi-disciplinary locality teams; these are: North-East, North-West and South locality teams.

YPPs work with young people who may be at risk of committing crime or anti-social behaviour. The children's integrated locality teams lead on facilitating the 'Teams Around the School' and 'Teams Around the Youth' Project. These meetings act as a formal way of schools and youth projects identifying young people of concern and then developing an integrated action plan to support the young person. Added to this, YPPs are an active partner in the local ward briefings that are organised by the Community Protection team and these too are an opportunity to identify young people at an early stage.

YPPs provide one-to-one support to young people, either as a brief intervention or over a longer period of time, depending on their needs. An assessment of the young person's needs is always undertaken, and a plan developed in partnership with the young person, this is reviewed regularly.

The YPPs aim to:

- Reduce anti-social and offending behaviour and prevent young people from entering the youth justice system.
- Help to influence the reduction of young people who are 'Not in Employment Education or Training' (NEET).
- Assist young people in transition from primary to secondary school.
- Assist young people at risk of exclusion.
- Divert young people from becoming 'looked after' where it is safe to do so.
- Work with young people at risk of sexual exploitation.

We also have a specific post of Early Help Specialist Practitioner (ASB) to work with housing services in recognition that a significant proportion of the service's client base are residents on our housing estates.

In 2012 children's services were reshaped with the development of one 'front door' for all referrals – the Access to Children's Services Team. MASH (the Multi-Agency Safeguarding Hub) is an integral part of this team with Police, health and social care all working together. The aim of this team is to assess all incoming referrals on children and young people by:

- data and intelligence gathering
- assessment of referrals for onward allocation.

Referrals on young people who may have come to the attention of the Police are forwarded from this central 'front door' to the integrated locality teams.





## **Acceptable Behaviour Contracts/Agreements (ABCs/ABAs)**

ABCs/ABAs are individual written agreements. ABCs are made between a young person, normally aged between ten and eighteen, the police, the Early Help Specialist Practitioner and the ASB team in which the young person agrees not to carry out particular types of behaviour that have been identified and agreed as anti-social. A parent will also be present at this meeting.

Although the agreement is not legally binding if the young person continues to act in an anti-social manner the agreement can be used as evidence of partnership attempts to amend the behaviour if legal action has to be taken. ABAs are similar agreements, made with persons over the age of 18.

## **Mediation**

Mediation can be a cost-effective means of dealing with disputes between neighbours, which, if left unresolved may escalate into more serious ASB problems. Mediation is a process whereby a neutral third party seeks to help neighbours in dispute to reach common ground without having to resolve their differences via court proceedings.

We provide access to independent professional mediation services for tenants where both or all parties voluntarily choose it. Mediation is not normally appropriate in cases involving violence although we can sometimes make exceptions on a case-by-case basis.

## **Tenancy support schemes**

See earlier details in Section 10.

Vulnerable tenants may be referred to the service if they are at risk of losing their tenancy due to ASB or other serious breaches of their tenancy conditions.

## **Family Recovery Programme**

The City Council has a dedicated Family Recovery Programme (FRP) for residents with complex support needs, some of whom have caused anti-social behaviour in the community. The FRP is a multi-agency team who take a “whole family” approach intervening with families who are at risk of losing their children, home and/or liberty. They work in a targeted and phased way to support a family’s capacity for change and to embed and sustain changes.

A ‘Team Around the Family’ is appointed for each family consisting of appropriate lead professionals. The team work intensively with the family for around 12 months and hold review meetings with the professionals on a 3-weekly basis, so that they can be responsive to change. Families are at the centre of planning and will meet with the network every 6 weeks. Families on the programme may receive up to 3 visits a week and daily contact depending on their need.



## Family Coaching Service

For families experiencing problems at a less intensive level we also have a Family Coaching Service. The service aims to coach parents so that they are able to tackle the 'complex problems' in their lives, especially those having an effect on their children – such as debt, housing problems, family budgeting and difficulty finding work. Areas of focus include supporting school attendance, addressing criminal and anti-social behaviour, helping parents to manage and improve the behaviour of their teenage and younger children, helping adults back into work.

Coaches visit families in their home at least once a week, sometimes more, for up to 6 months and adopt the whole family approach to intervention and delivery. The Family Coaching Service will wrap around existing service provision and will attend all relevant meetings in relation to the family.

Families may be referred to the FRP or the Coaching Service through a range of agencies, including the City Council, Police and health services.

## **'Your Choice' programme - tackling gangs and serious youth violence in Westminster**

The Your Choice programme was launched in November 2011 as a joint City Council and Police initiative to address gangs & serious youth violence in Westminster.

It aims to give young people a real choice: '*Engage* and receive support; *don't* and face enforcement and sanctions'.

The Council's Integrated Gangs Unit (IGU) manages the Your Choice programme. The IGU consists of the Council's Community Protection service, Children and Families Service, the Metropolitan Police, the Probation Service and the voluntary sector.

The aims of the IGU are to reduce:

- youth violence
- overall offending by young people in Westminster
- gang affiliation by those who participate in Your Choice, and
- community concern about gangs & serious youth violence.

The IGU works closely with neighbouring boroughs in Brent and Kensington and Chelsea, to tackle the gang violence that occurs across borough boundaries.

Central to the Your Choice programme is the idea of personal responsibility, choices and consequences. The programme presents young people and their families with clearly informed options and offers of support which allows them to make a choice - to take up the services on offer and through hard work and support reduce the risks and make positive changes to their lives, or to face some serious consequences of Police, Council or Housing enforcement actions.



As with the YPPs, young people can be referred to the Your Choice programme through a range of agencies, including the City Council, Police and health services.

### Management transfers

Our Housing Allocation Scheme recognises that on occasions there are good management or other reasons, for example threatened or actual violence or harassment, to allow a tenant victim to transfer outside the normal allocations' priorities. Management transfers can be authorised by the housing service *on an exceptional basis*.

Re-housing within the same area is allowed only in cases where this is considered to be in the best interests of (and safe for) the tenant.

Authorised management transfers are administered in accordance with our Housing Allocation Scheme.

## 12 ENFORCEMENT ACTION

If our intervention actions have failed to resolve the situation, we will take appropriate legal action as the next step.

We use a range of enforcement powers to tackle nuisance and anti-social behaviour in or around our housing stock.

The options listed in the table below are equally applicable to tenants and lessees, except for:

- demotion of tenancy
- service of Notice of Seeking Possession (NOSP) or Notice of Proceedings for Possession (NPP) leading to
- proceedings for possession on both discretionary and the new mandatory grounds,

which are only applicable to tenants, and:

- forfeiture

which is only applicable to lessees.

Action	Applicable to tenant or lessee households?	When used
<b>Acceptable Behaviour Contracts</b> - voluntary agreements between a young person aged 10 -18, the	Both	Where there are complaints about low level nuisance (also an intervention tool).



Action	Applicable to tenant or lessee households?	When used
ASB team, the Police & the Council's Integrated Locality Team (young people's services).		Not legally binding but can be used as evidence in court enforcement proceedings.
<b>Acceptable Behaviour Agreements</b> – as above but involving adults	Both	As above
<b>Criminal behaviour orders – these can be issued by a criminal court against a person who has been convicted of a criminal offence.</b> The prosecution will in most cases apply for such orders either on its own initiative or after a request from police or Council.	Both	If the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused, or likely to cause, harassment, alarm or distress to any person and that an order will help prevent the offender from engaging in such behaviour.
<p><b>Civil Injunction</b> – to stop or prevent individuals engaging in ASB.</p> <p>May include power of arrest.</p>	Both	<p>A civil injunction can be sought for conduct, caused, or likely to cause harassment, alarm or distress or conduct which is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises</p> <p>or</p> <p>Conduct capable of causing nuisance or annoyance to which directly or indirectly relates to or affects our housing management functions</p> <p>They can be issued by the High Court and County Court for anyone over 18, and by the Youth Court for anyone under 18. They will include prohibitions and can also include positive requirements.</p> <p>Not linked to 'locality'.</p>



Action	Applicable to tenant or lessee households?	When used
<p><b>Gang Injunctions</b> - used to prevent gang related violence. Police and Council power. They can be granted against anyone over the age of 14.</p>	Both	Where there are gang related violent incidents
<p><b>Demotion of tenancy</b> – can end a secure tenancy through a court order, although perpetrator remains in the property. Demotion can last for 12 months. No need to demonstrate the incident has occurred in the locality – but must be housing related</p>	Tenants only	<p>Where the tenant or visitors have used the premises for illegal purposes or whose behaviour has caused nuisance or annoyance. Must satisfy court that demotion is reasonable.</p> <p>Requires similar levels of evidence as that needed for possession action.</p>
<p><b>Closure orders</b> – allow the police or Council to quickly close premises which are being used or are likely to be used to commit nuisance or disorder.</p>	Both	To give urgent respite to the community, where premises are linked to disorderly, offensive or criminal behaviour, serious nuisance or disorder near the premises.
<p><b>Service of Notice of Seeking Possession (Notice of Proceedings for Possession in the case of Introductory Tenancies), leading to Possession Order</b> – on grounds set out in the Housing Act 1985.</p> <p>Can be sought where the tenant or a person residing with them:</p> <ul style="list-style-type: none"> <li>• has been guilty of conduct causing or likely to cause nuisance or annoyance in the locality, or</li> <li>• has been convicted of using the property or allowing it to be used for immoral or illegal purposes, or</li> <li>• where an indictable offence has been committed in, or in the locality of the property</li> </ul>	Tenants only	<p>If the nuisance is ongoing, serious, has persisted despite warnings &amp; and other interventions have proven unsuccessful.</p> <p>May also be considered at an early stage, including as a measure of first resort, in cases which are of a serious or criminal nature and cause upset/distress to the community.</p> <p><b>NB:</b> The court has to be satisfied in all cases that eviction is reasonable and proportionate. Requires high threshold of evidence.</p>



Action	Applicable to tenant or lessee households?	When used
<p><b>Forfeiture</b> – the legal means by which a lease is terminated. Forfeiture action requires prior service of a Notice under Section 146(1) of the Law of Property Act 1925 in respect of any breach by a lessee of a covenant or condition. Before the S146 notice can be served a determination that there has been a breach of the lease must be obtained from the First-tier Tribunal (Property Chamber) unless there has been an admission of the breach by the lessee.</p>	<p>Lessees only</p>	<p>If other avenues to tackle the nuisance, e.g. injunction, have been pursued without success/the lessee has ignored such orders and is likely to continue to be in breach of their lease.</p>
<p><b>Service of notice of seeking possession on absolute grounds.</b></p> <p>This is a new power introduced by the ASB, crime and policing Act 2014 where ASB or criminality has already been proven by another court. The court must grant a possession order where the correct procedures have been followed (subject to any defence raised by the tenant).</p>	<p>Tenants only</p>	<p>To be used selectively for the most serious cases of ASB to expedite the eviction of the most anti-social tenants. Authorised at a senior level.</p>

**Possession action**

In the case of tenants, we will generally only use possession action where all other interventions and attempts to change behaviour have failed. However, as we have previously stated, we will not hesitate to pursue possession action at an early stage, including as a measure of first resort, in cases which are of a serious or criminal nature and cause upset/distress to the community, and where such action is proportionate and reasonable in the circumstances.

We will take possession action using the new absolute grounds for possession in only the most serious cases of ASB. Each case will be looked at on its own merits and authorised at a senior level.

In the case of lessees, we will consider forfeiture action if all other measures have failed to resolve the situation. Under forfeiture the lessee loses their home, receives



no compensation for loss of capital investment and remains liable for any monies secured against the property (e.g. any outstanding mortgage). As such, the courts are reluctant to grant forfeiture orders unless all other avenues have been pursued in the first instance - e.g. injunction.

Only where a lessee has ignored such orders and is likely to continue to be in breach of their lease might forfeiture be considered.

### **Intentional homelessness**

Where a tenant has been evicted or a lessee has forfeited their lease because of their anti-social behaviour they may approach the City Council and make a housing application as they are homeless. Their application will be assessed in line with the relevant legislation and unless there are significant factors which may have a legal bearing on the assessment of their case, they would be considered to have made themselves intentionally homeless by their actions, and they will not be rehoused by the City Council.

It is important for such applicants to know, and for the wider community to be reassured, that the City Council does not operate a 'revolving door policy'.

## **13 REHABILITATION OF PERPETRATORS AND SUPPORT FOR VULNERABLE GROUPS**

The City Council recognises that in some cases the perpetrators of ASB may require specialist support to address problems and behaviours which are impacting on the wider community. These may include perpetrators with drug and alcohol dependency, mental and physical health needs, young people at risk of offending or further offending, gang members and families in need of support.

The positive impact of such support can often play a critical role in protecting neighbours and the wider community from ASB.

We will have due regard to the particular circumstances and vulnerability of perpetrators when considering the most appropriate form of intervention and support. However, we will also take enforcement action, including possession action, where this is proportionate and reasonable, and where all other avenues have been exhausted.

### **Identification and support for vulnerable residents**

Our housing management procedures give guidance to housing staff on identifying vulnerable people and how to ensure that their needs are met through liaison with Adult Services and signposting to other appropriate agencies such as our **Tenancy Support Service**. Information about our Tenancy Support Service is given above, in Section 10.





## **Safeguarding vulnerable adults**

In October 2011, the Westminster Safeguarding Adults Board adopted the 'Social Care Institute for Excellence' London multi-agency policy and procedures to safeguard adults from abuse, along with all 32 London boroughs.

Anyone concerned about potential adult abuse, including those who may be victims of ASB, can call the Safeguarding Adults dedicated line: 020 7641 2176 or may complete a 'Safeguarding Adults Alert Form' which can be downloaded from the Council's website.

## **Safeguarding children**

On occasions an investigation into a complaint of ASB raises concerns that a child or young person may be being harmed through abuse or neglect. Our housing management procedures give guidance to Housing Officers on how to identify and respond to the signs of abuse or neglect.

Anyone concerned about potential abuse or neglect of a child or young person can contact the Council's Children's Services Team (020 7641 4000).

In cases where there are concerns about the immediate safety of a child or young person the Police should always be called, by dialling 999.

## **Drug and alcohol services**

We commission drug and alcohol services within the City of Westminster for residents who need advice, information and support around their own drug or alcohol use, or where they are trying to help someone else.

See Appendix A.

## **Family Recovery Programme and Family Coaching Service**

Information about these services is given above, in Section 11.

## **Closure Orders – assessment of vulnerability**

When the Police are considering a property for closure, under the ASB, crime and policing Act 2014, they must consult the Council. In Westminster this is done through a multi-agency meeting of lead professionals. The meeting considers the evidence for closure and agrees whether the occupant is vulnerable.

Vulnerability may arise for a variety of reasons, including substance misuse, mental health issues, learning difficulties or physical disabilities.

If the occupant is deemed to be vulnerable and support is appropriate, this could be in the form of:

- Temporary accommodation/supported accommodation in a hostel





- An assessment for treatment and referral to appropriate services
- Permanent re-housing – subject to successful demonstration of capacity to manage a tenancy.

### **Juvenile perpetrators**

Information about the City Council's Young People's Practitioners (YPPs) and the valuable work they do with young people at risk of social exclusion or offending (including nuisance/ASB) is given above, in Section 11.

In general enforcement action is only considered for juveniles as a last resort after the young person has been through the ABC process and all appropriate interventions / diversionary avenues have been exhausted.

Information about the 'Your Choice' programme (tackling gangs and serious youth violence) is given above, in Section 11.

## **14 MULTI AGENCY PARTNERSHIPS**

As a Landlord the City Council recognises that it can achieve far more by working with other agencies to tackle ASB rather than working alone. We are constantly looking at how we work with internal and external partners to promote efficiency. Consequently, the partnerships referred to below are those that are currently active. However, the partnerships may be fluid, responding to particular problems and targets at particular times.

### **Safer Westminster Partnership**

This is the key strategic partnership in the city which sets the partnership's Crime and Disorder Reduction Strategy on a three-yearly basis. It is currently chaired by the City Council and comprises the Police, London Fire Brigade, Health and Probation service. See earlier at Section 4 for more details.

### **Community Protection service**

The City Council's Community Protection service supports the Safer Westminster Partnership and has both a strategic and operational work programme.

The Community Protection service works with both internal and external partners to reduce crime and ASB within Westminster. It leads on regular local briefings in each ward which aim to identify issues of ASB as early as possible. YPPs, Police and CWH are key partners at these briefings.

The Council employs dedicated staff to help tackle ASB, including staff in their Integrated Gangs Unit.

Community Protection officers can also work with the ASB team (and other housing providers) to collect evidence for enforcement action preventing people from acting in a way that harms their local community.



All Community Protection officers and ASB case workers are trained in statement-taking for the purposes of taking offenders to court for their anti-social behaviour.

## **Other multi-agency partnerships**

As a landlord the City Council is also represented on a number of key partnership groups as follows:

### **ASB Partnership Delivery Group**

This meets bi-monthly and is chaired by the police Chief Inspector Partnerships. Attendees include police and the Council. The purpose of this meeting is to look at trends in ASB across Westminster and ensure that resources are allocated to deal with them.

### **Youth Crime Prevention Partnership**

The Westminster Youth Crime Prevention Partnership (YCPP) meets monthly to oversee and co-ordinate the delivery of all youth crime and disorder related priorities/projects across Westminster.

The YCPP is chaired by the Council's head of community safety and membership includes representatives from the Police, Health, Youth Offending Team, Integrated Gangs Unit (IGXU), representatives from schools, Housing and Children's Services. The Community Safety Relationship Manager also attends.

### **Domestic violence: Multi-Agency Risk Assessment Conference (MARAC)**

The housing service is represented on the City Council's Multi-Agency Risk Assessment Conference (MARAC) which supports those most at risk from domestic violence in the City. It is a multi-agency approach to risk management that facilitates effective information sharing between agencies, providing support to victims, perpetrators and their children.

It meets monthly and is chaired by a senior Metropolitan Police officer. Any agency can make a referral to MARAC using the dedicated MARAC referral form which contains a risk indicator checklist. Cases are referred to MARAC if they meet the threshold for referral indicated on the form, i.e. high risk of harm. Cases not meeting the threshold can also be referred on the basis of professional judgement.

Once referred MARAC will in each case assess the risk and agree a clear action plan.

### **Gangs Multi-Agency Partnership (GMAP)**

The GMAP meeting provides a visible and accountable leadership of the gang situation in Westminster with multi-agency commitment and collaboration. The purpose of the GMAP meeting is to identify, monitor and disrupt high risk gang members in Westminster. The meeting facilitates information sharing on high-risk



gang members, their siblings and other family members and a partnership approach is taken to agree an intervention and enforcement plan around each individual.

Chaired by a senior Metropolitan Police Officer ranked Superintendent or above, the GMAP meeting are attended by Council, the housing service and other partnership representatives as appropriate. Meetings are held every 6 weeks.

Standard Operating Procedures outline in detail the selection and monitoring processes. The Metropolitan Police Service's Connect matrix forms a significant part of the selection and monitoring process, in addition to wider multi-agency data which broadens the range of 'risks' identified in relation to young people. An identified list of 7-10 young people is selected and monitored at each meeting.

## **Multi Agency Public Protection Panel (MAPPA)**

The Criminal Justice and Court Services Act (2000) created a statutory duty on Police, Probation and Prison services (the Responsible Authorities) to establish Multi Agency Public Protection arrangements to create a nationally consistent mechanism for the management of risks posed by dangerous offenders.

The City Council has a duty to cooperate with the Responsible Authorities, but only to the extent that it is compatible with existing statutory duties.

In Westminster these arrangements consist of monthly panel for monitoring offenders and the purpose of the arrangements is about effective cooperation to manage risk presented by certain offenders and to minimisation the potential harm to the public and the offender themselves.

## **15 DATA PROTECTION AND INFORMATION EXCHANGE**

### **Data Protection Act 1998**

The City Council is a major user of personal data and as such has a duty to ensure that it is handled properly and confidentially.

The Data Protection Act [DPA] 1998 regulates the processing and handling of personal data to ensure that it has been lawfully obtained and processed.

Personal data is defined as: 'information which either on its own or used in conjunction with information possessed or likely to be possessed by the organisation, could be used to identify a living individual'. It also includes an organisation's intentions and opinions about an individual.

The eight Data Protection Principles of Good Practice are the cornerstone of the legislation. In summary the Principles state that:

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless:



- (a) at least one of the conditions in Schedule 2 of the DPA is met, and
- (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 of the DPA is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes.
  3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
  4. Personal data shall be accurate and, where necessary, kept up to date.
  5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
  6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
  7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
  8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

#### Schedules 2 and 3 of the DPA

These schedules set out the conditions under which personal data, including *sensitive* personal data (e.g. ethnicity, disability status) may be lawfully processed.

The City Council complies with these conditions when processing personal data, including sensitive personal data, in the management of ASB.

#### Disclosure of personal information

Personal information may only be disclosed in line with the specified purposes for which it was collected, unless one of the non-disclosure exemptions of the DPA applies. Under the relevant DPA exemptions personal data may be disclosed where it is necessary for:

- The prevention and detection of crime (s.29 of the DPA)
- The apprehension or prosecution of offenders (s.29)
- The assessment or collection of any tax or duty or of any imposition of a similar nature (s.29)



- The disclosure consists of information which is required by law to be made publicly available (s.34)
- The disclosure is required by law or order of the court (s.35(1))
- The disclosure is made in connection with legal proceedings (s.35(2))

Only section 35(1) is mandatory. All the other exemptions referred to above are not compulsory and require that each request for disclosure be considered on a case by case basis. Generally, disclosure must be proportionate and must take account of the rights of third parties whose personal data may also be present.

### **Safer Westminster Partnership - Information Sharing Protocol**

The Safer Westminster Partnership has agreed an Information Sharing Protocol for the exchange of information. The protocol contains:

- a summary of the legislation which guides the sharing of information for the purpose of preventing or detecting crime. (The primary legislative tool is the Crime and Disorder Act 1998, as amended by the Police and Justice Act 2006).
- details of the processes by which the Partnership has agreed that information can be shared, handled and disseminated.
- a list of the parties who are signed up to the protocol.

The City Council can share personal information with signatories to the Information Sharing protocol, provided such information sharing is in accordance with the guidance provided by that protocol.

*Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006).*

This places a duty on each responsible authority to do all they reasonably can to prevent crime and disorder (including anti-social behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances in its area.

*Section 17A of the Crime and Disorder Act 1998 (introduced by the Police and Justice Act 2006).*

This places a duty on a relevant authority to disclose to all other relevant authorities certain prescribed information which is of potential relevance in relation to the reduction of crime and disorder.

*S115 of the Crime and Disorder Act 1998.*

This provides any person who would not normally have the power to disclose information to a relevant authority, or to a person acting on behalf of that authority, with the power to disclose information in any case where the disclosure is necessary or expedient for the purposes of any provision of the Crime and Disorder Act 1998.

The presumption of confidentiality still applies, and all disclosure is looked at on a case-by-case basis. Additionally, the signatories to the protocol remain bound by the



obligations imposed by the DPA 1998, Human Rights Act 1998 and the common law duty of confidence.

### **Article 8 of the Human Rights Act 1998**

Article 8 of the Human Rights Act 1998 states that every individual has a right to respect for his private and family life. However, this is a qualified right, which means that it can be interfered with provided such interference is necessary and proportionate, in the interests of:

- National security
- Public safety
- Economic wellbeing of the country
- Prevention of crime and disorder
- Protection of health or morals
- Protection of the rights or freedoms of others.

### **Freedom of Information Act 2000**

The Freedom of Information (FOI) Act provides for a general right of access to information held (recorded, stored, used) by public authorities. This includes personal data. This means that all information held by a public authority falls under the Act, subject to an exemption contained within the Act which may be successfully applied.

Personal data may only be disclosed under FOI where it can be demonstrated that to do so does not breach any of the Data Protection Principles. This includes but is not limited to the Non-Disclosure exemptions under DPA, where it can be demonstrated that the disclosure *would* jeopardise any of these provisions.

All requests for information are handled in line with the Council's FOI Request Procedures. There is a statutory time limit of 20 working days for responding to an FOI request. All applicants have a right of appeal (called Internal Review) which are handled by a neutral third party qualified to determine whether the provisions of the Act have been properly enacted.

### **Regulation of Investigatory Powers Act 2000**

The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the use of covert surveillance. As a local authority the City Council cannot use covert surveillance techniques on any project without having first obtained Judicial Approval from the Magistrates' Court authorising such use.

Any application must also satisfy the following conditions:

- the authorisation must be for the purpose of preventing/detecting conduct which constitutes/would constitute one or more criminal offences

*and*



- the criminal offence is/would be an offence punishable by at least 6 months' imprisonment or is an offence under specified Licensing/Trading Standards legislation.

By its very nature covert surveillance is likely to interfere with an individual's Article 8 rights as mentioned above. Consequently, when considering any application to authorise the use of covert surveillance the Magistrates must be satisfied that any such interference is necessary and proportionate.

Personal data collated from covert surveillance remains subject to the provisions of the Data Protection Act 1998.

## **16 SHARING INFORMATION WITH RESIDENTS AND THE WIDER COMMUNITY**

By publicising successful action against the perpetrators of ASB the City Council can help encourage more effective enforcement as well as reassuring the community that action is being taken to protect it. The City Council appreciates that publicity may also deter other potential perpetrators from ASB.

Human rights law requires that we consider and balance the rights of those subject to enforcement action as well as the community, particularly those who have been victims of ASB.

Publicity may be by various means including a press release aimed at the general public or a newsletter targeted, for example, at residents on a specific estate. The content of the publicity may be specific and include the name or even a photograph of the perpetrator or very generalised, by, for example, simply advising the public that the Court has granted an injunction against a well-known perpetrator of ASB in the area.

Any publicity must be necessary and proportionate to the aims it seeks to achieve. The City Council must also consider the non-disclosure rules of the Data Protection Act, where relevant, and must pay particular attention where young persons are involved.

All publicity is dealt with on a case by case basis in liaison with the City Council's Corporate Communications Team. The Council's Legal Services team must be consulted to approve any City Council press release prior to publication.

In some instances, the press may, of their own volition, report on enforcement cases heard in open court.

We have special arrangements for publicising injunctions and Closure Orders, which take into account the public interest in such matters.





## 17 CROSS TENURE ISSUES

The City Council recognises that its housing stock, and neighbouring residential accommodation, is occupied by a variety of tenures.

Within its own stock the City Council is landlord to approximately 12,100 tenants. In addition, we manage over 9,000 leasehold properties. Within the boundaries of our stock we also have residential accommodation that has been sold on freehold.

In appropriate cases the City Council will consider using its enforcement powers to tackle ASB by people who are not resident in its own Landlord managed stock. We will also consider appropriate action to protect people who are not our tenants from ASB perpetrated by City Council tenants.

### **Subletting Protocol – Registered Providers and the Housing Solutions Service**

We have a Protocol for dealing with nuisance in City Council accommodation which is managed by Registered Providers (RPs) or our Housing Solutions Service.

The aim of the Protocol is to:

- Ensure there is no confusion about who to contact when a problem occurs in a property managed by an RP or the Housing Solutions Service.
- To keep the Housing Solutions Service and RPs informed at all times when problems occur in sublets to avoid inappropriate allocations of permanent accommodation.

The City Council is a signatory to the Protocol, along with the main Registered Providers managing accommodation on our estates.

The Protocol is subject to periodic review.

### **Subletting - council lessees**

The City Council's standard form of lease requires lessees not to allow nuisance within their home, which may annoy or cause inconvenience to their neighbours.

Lessees who sublet their flats remain responsible for their tenants' conduct and will be liable for any breaches of the lease caused by their tenants' behaviour.

There are generally no restrictions in the lease preventing the subletting of the whole of a lessee's property. However, the property must not be used for any trade, profession or business and must be kept as a single private residence. Under current rules any letting must be for more than 90 days.

Lessees must also register a sublet within 21 days of subletting their property, by sending a copy of the tenancy agreement to our Lessee Services team.





Lessee Services regularly monitor all the Council' housing stock and work with staff and residents to ensure that all lessee sublets are registered properly. This means the area office can contact the landlord or lettings agent quickly in the event that a lessee's private tenants are causing a nuisance to others in the building.

Where other residents or the area office staff suspect that a property is being sublet and has not been registered, Lessee Services will use a variety of measures, e.g. home visit, contact by email, letter or telephone, to verify the situation and ensure that the lessee and their tenants abide by the terms of their lease. In cases where ASB becomes an issue, for example as a result of an illegal Bed and Breakfast being run from a property, the City Council's Planning department has enforcement powers which could lead to a fine of up to £20,000.

Our Leaseholder Handbook gives more information on lessees and their lease obligations, including those in relation to subletting.

## **Subletting and taking in lodgers - council tenants**

Tenants are allowed to take in a lodger. A lodger is someone who shares the tenant's home and who may also receive meals as part of the lodging arrangement.

Tenants can also sublet **part** of their home to a subtenant as long as they have received written permission from the Council. A subtenant is someone who lives separately in the tenant's home and provides their own meals.

In both cases, the tenant takes on the responsibilities of a landlord and is responsible for the behaviour of anyone who lives in their home. If a lodger or a subtenant causes ASB we will take appropriate action against the tenant and the person causing the ASB. If a tenant leaves their tenancy, they are responsible for ensuring that any lodger or subtenant leaves when they do.

Tenants are not allowed to sublet **the whole** of their home and move out. If they do this they will lose their security of tenure and we will start legal action to seek possession of the property.

Additionally, the Prevention of Social Housing Fraud Act 2013 now makes the fraudulent subletting of council homes a criminal offence. The Act enables councils to press for unlimited fines or a maximum of two years' imprisonment in extreme cases of fraud.

We take housing fraud very seriously and use a range of measures to prevent, detect and eliminate it. We visit all tenanted properties on a three-year cycle, conduct data matching exercises to identify potential fraud, and offer a range of ways for staff and the public to report it anonymously.

## **18 PROTECTION OF STAFF**

In delivering services to the community, the City Council expects that members of the public will treat their employees with courtesy and respect.



Exposure to violence and assault is not an acceptable part of an employee's everyday working life and the City Council will take all reasonably practicable measures to prevent or reduce the risk of such exposure.

The City Council has accordingly developed policies to protect staff in accordance with their duties under common law and statute.

As well as a general health and safety policy we have developed compatible policies, procedures and training, covering a variety of issues. These include:

- Lone working procedure
- Accidents, incidents and 'near misses' reporting procedure
- Risk assessments procedure
- Stress at work policy
- Managing violence and aggression in the workplace procedures
- 'Sharps' awareness training
- Zero tolerance policy for verbal and physical abuse

All new staff including agency and contract staff must complete a health and safety induction within the first week of employment. The induction ensures that:

- ✓ they are provided with sufficient information to undertake their role safely.
- ✓ their training needs are analysed, and relevant training arranged.
- ✓ the risks they are exposed to are identified and controlled and relevant control measures such as safe systems of work and personal protective equipment (ppe) are provided where deemed necessary.

All line managers are responsible for completing risk assessments for the work activities undertaken by the staff they directly manage, and for ensuring that all relevant control measures are implemented to reduce the risk to the lowest possible level.

We offer an Employee Assistance Programme giving free access to specialist information consultants and counsellors who can offer assistance 24 hours a day.

## **Housing staff and TMOs**

Our staff must also undertake adequate risk assessment for all activities, including the planning of work when preparing enforcement action. In many cases this necessitates careful pre-planning and interagency meetings where risk management and personal safety of officers is discussed to ensure that there is shared risk assessment.

## **Accident, Incident and Abusive Behaviour reporting**

Any member of staff who is threatened or abused, either verbally or physically, or who suffers an accident at work is required to report the incident. We have an 'Accident and Incident' on-line reporting tool. Managers are required to review all incidents and implement further controls where necessary to prevent reoccurrence.



In some instances, individuals will be risk assessed and 'flagged' with a risk flag on our housing management database, to record their address and the potential risk they pose to staff.

The City Council ensures that reports are followed up where appropriate in case there is a need for changes to our health and safety policies or procedures.

## **Legal remedies**

From time to time further action has to be taken to protect staff dealing with serious anti-social behaviour, such as threatening behaviour.

The City Council works closely with the Police to ensure that criminal proceedings are taken where appropriate, for example when a member of staff is harassed, threatened or assaulted.

We also use our powers under the Anti-social behaviour, crime and policing Act 2014, where appropriate, to protect our staff.

## **19 TRAINING OF STAFF DEALING WITH ASB**

We believe that the learning and development of our staff is key to providing a high-quality service to residents now and in the future. Learning and development enables our staff to be competent at their jobs in order to meet organisational objectives and to enhance their personal development.

We provide regular training for all staff on topics such as equalities, health and safety, dealing with violence and aggression. In addition, specialist courses are run on a wide variety of community safety related subjects including enforcement legislation, ASB policy, procedures and case management.



## **PROCEDURES**

### **20 INTRODUCTION**

This section of the Statement provides information on the procedures ordinarily followed in dealing with anti-social behaviour (ASB).

It covers the following areas:

- Making a complaint of ASB
- Processing a complaint of ASB
- Supporting complainants and witnesses
- Options employed to tackle ASB, including enforcement action
- Domestic violence and abuse
- Data collection and monitoring ASB

The procedures show how the policies outlined in the first part of the Statement are put into day-to-day practice in dealing with ASB. Unless stated otherwise, they are applicable to both tenants and lessees.

The procedures are not set in stone as the City Council considers it can be more effective in combating ASB if it retains flexibility and discretion. This allows us to adapt our response to particular cases and improve practice over time.

Information on the organisational structure of those dealing with ASB is included in Section 3 of the Statement of Policies. In summary:

- The local housing authority is responsible for developing housing strategy and ensuring consistency with the City Council's overall strategy.
- Our housing service discharges our landlord and housing management duties and ensures the housing strategy is put into practice.
- We also have 8 tenant management organisations (TMOs) who manage various estates across the city, in accordance with the terms of their management agreements.

Our Housing ASB team manages all casework from start to finish. TMOs – with the exception of Millbank Estate Management Organisation (MEMO) – investigate and deal with initial complaints and refer any complex ASB cases, including those requiring legal action, to the Housing ASB team. MEMO retain full responsibility for managing all ASB cases, including taking enforcement action.

### **21 MAKING A COMPLAINT OF ASB**

ASB can be reported to the City Council in various ways. Where appropriate, ASB can also be reported to the Police or to one of the City Council's dedicated hotlines, e.g. the 'Westminster 24/7' out-of-hours service or the Noise Team. Details of our



offices, the Police and a whole range of other useful contact numbers are given at Appendix A.

Complaints can be made in any format:

- By telephone
- In person
- By E-mail
- In writing
- On-line to our website
- By someone acting on behalf of the resident e.g. a Councillor or a Care Manager.

The complaint does *not* have to be in writing.

Where possible, anonymous allegations of ASB are investigated, although in the absence of knowledge of who made the complaint or other evidence, it may be difficult to progress the investigation. Some complaints, such as incidents of criminal damage or serious noise disturbance may be identified at the outset as more appropriately dealt with by another agency, such as the Police or the City Council's Noise Team. They will be referred accordingly.

## **22 PROCESSING A COMPLAINT OF ASB**

With very limited exceptions all confidential information received is treated in confidence. The exceptions arise when there is a duty to report to another authority or agency, for example where a child is in need and there is a requirement to contact Childrens Services, or if we are required to make disclosure in legal proceedings or by Court Order.

Translation services or an interpreter are provided if required.

If a complaint about ASB is reported to us we will *aim* to respond, where resources permit, within 20 minutes during office hours where the ASB is in progress, and within 24 hours in all other cases.

Outside of office hours complainants may contact our emergency out-of-hours service ('Westminster 24/7') on 020 7286 7412. Depending on the circumstances, Westminster 24/7 will either advise the caller to contact the Police, or the Council's 24/7 Noise Team on 020 7641 2000. Westminster 24/7 may also contact the local duty officer for advice, as necessary. Details of the report will be forwarded to the Estate Office the next working day, for appropriate follow-up action.

All reports of ASB are logged on our housing management system and a risk assessment is completed. Where a home visit is required and a risk to the health and safety of staff is identified, alternative arrangements may be made, such as contacting the Police.

### **Investigating a complaint**

- **The complainant is interviewed**



The complainant is advised that when the alleged perpetrator is contacted the complainant's name will not be given. However, in many situations, the perpetrator may at some stage guess who has complained from the description of events.

It is likely the case manager will ask:

- What is the problem?
- Where does it/did it happen?
- When does it/did it happen?
- Who else witnessed the incident or is affected?
- What effect is the nuisance having on the victim or witness?
- Why does it happen?
- Would the complainant be prepared to make a statement or give evidence?

It may be suggested that the complainant contact the perpetrator directly. This would not be suggested where there has been any threat of violence or where there is harassment. However, in many cases, this may be considered the best way to resolve issues at an early stage. We have a "Dear neighbour" card to facilitate such contact anonymously.

The case manager will explain how the complaint will be investigated and the timescales. The complainant will be advised how to notify us of any further incidents should they occur. There is a range of leaflets available which provide further information, e.g. "Resolving Problems with your Neighbours" and "Tackling Anti-Social Behaviour".

An action plan on how the complaint will be dealt with will be agreed with the complainant.

- **Independent enquiries** will be made where possible following the initial interview, and subject to the complainant's agreement. This may involve contacting the Police or other Council services such as the 24-hour Noise Service, Residential Services, the Youth Offending Team (YOT) or Children's Services. Depending upon the circumstances of the case, it may include contacting other residents to check if they are aware of the nuisance or ASB.
- **The alleged perpetrator** will ordinarily be contacted, interviewed and advised of the nature of the complaint.

**If the alleged perpetrator accepts** that they have caused a problem, they will be asked not to cause a nuisance again and warned that if they do so, further action may be taken.

**If the alleged perpetrator denies** that they have caused a problem and there is no other evidence to support the complaint, no further action will be taken, although support may still be offered to the complainant (see Section 23). However, if there is other evidence to support the complaint, the perpetrator will be warned that further action may be taken. In some cases, it will be considered appropriate to take immediate action, depending on the severity of the problem.



**If the alleged perpetrator makes counter-allegations** these may also need to be investigated.

Notes of telephone complaints and interviews will be made and logged on our housing management system together with any relevant correspondence. All cases are logged for ASB case management purposes and for recording ASB statistics (see Data Collection and Monitoring sections of this document in sections 38 and 39 below).

In cases of ASB where the identity of the perpetrator(s) is unknown, we will endeavour to establish this information using our own staff and possibly that of other agencies such as the Police, the Council's Neighbourhood Problem Solving co-ordinators and the local Residents' Association, depending upon the circumstances of the case.

If a report of ASB is received, the ASB team will:

- Treat the complaint seriously.
- Aim to respond, where resources permit, within 20 minutes during office hours where ASB is in progress and within 24 hours in all other cases.
- Assign a named officer to lead on the complaint, who will aim to keep the resident informed on progress of action taken and also inform the complainant as soon as possible if the named officer changes.
- Interview the complainant and ordinarily the perpetrator as well.
- Agree an action plan with the complainant. This will be recorded on the housing management system.
- Ensure the case is logged with the appropriate category, both for ASB case management purposes and for recording ASB statistics.
- Record notes of any conversations or interviews, together with any associated correspondence, on the system.

**If the complainant is not happy with the service they have received:**

Our complaints procedure can be used to make a complaint where someone is not happy with the service received. Details of this scheme can be found on our website: [www.westminster.org.uk/yourhousing](http://www.westminster.org.uk/yourhousing)

### **Community trigger**

In addition, if a victim of ASB feels that their complaint has not been dealt with effectively they can request a review of their case by raising a "community trigger". This is a new measure brought in by the ASB crime and policing Act 2014.

If a complainant has reported 3 incidents of anti-social behaviour in the previous 6 months, either to the council or to the police, and they feel that no action has been taken, they can start a community trigger.





A trigger can be activated on the Westminster Council website at <https://www.westminster.gov.uk/community-trigger>.

Once a trigger has been activated, the council will meet with all relevant agencies to try to resolve the issue.

The Council will send an acknowledgement within two working days. A panel of professionals from appropriate agencies will then meet within ten working days to review the case.

The complainant will be updated within twelve working days of the outcome and a proposed action plan (if applicable).

If a complainant remains unhappy, they can appeal the panel's decision. If so, they must do this in writing within 10 working days of receiving the decision letter. The appeal should be addressed to:

Community Trigger Appeals - Residential Services  
Public Protection and Licensing  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

If the complainant is still unhappy, they can make a stage 2 complaint under the council's corporate complaints policy.

## **23 SUPPORTING COMPLAINANTS AND WITNESSES**

The City Council has developed different types of support that may be offered to people suffering ASB or to witnesses who give evidence in respect of action taken to prevent ASB. In this document references to complainants include witnesses. Section 6 of this Statement sets out our general approach to supporting complainants. Below, more detailed procedures are outlined.

Support to complainants will be considered at the time of the initial interview and will be agreed as part of the action plan. The approach adopted to support a complainant will depend upon the nature of the ASB and its impact. Further support will be considered and discussed where:

- There are repeat complaints.
- The complaints become more serious.
- There is intimidation or harassment.

(This includes 'hate crime' where the perpetrator targets a victim because of his or her perceived membership of a certain social group. Examples of such groups include but are not limited to persons who are targeted because of their perceived race or ethnicity, religion or belief, sexual orientation, disability or transgender identity).

- There is domestic violence and abuse (see also later at section 36).



- The case is referred for legal proceedings.
- Before, during and after the case if there is a court hearing and the resident is a witness.

**Following the report of ASB** we will consider the following options to support the complainant:

- Linking the complainant to other witnesses.
- Providing information on support agencies such as Westminster Victim Support – which offers a Witness Service to help witnesses called to give evidence in court proceedings, or other specialist agencies, e.g. where domestic violence or hate crime is involved. See Appendix A.
- Making referrals to other agencies, with the complainant's consent.
- Completing a risk assessment for the case.
- Assessing the security of the complainant's home and, where appropriate improving security by, for example, providing chains, peep-holes and additional door-locks. Panic buttons may be provided by the Police, where considered appropriate.
- Providing emergency contact details.
- The use of independent sources of evidence such as a professional witness.

We will also:

- Assign a case manager to lead on the complaint who will aim to keep the complainant informed of progress on action taken.
- Provide information on what action other agencies such as the Police, may take, and where appropriate refer the matter to the Police, with the complainant's consent.
- Aim to remove graffiti within 24 hours and offensive graffiti within 12 hours.
- Aim to complete emergency repairs, such as works to remedy vandalism in shared areas where there is a health and safety risk, within 24 hours.
- Provide interpreting services where required.

**Where enforcement action** is being considered to deal with ASB, the ASB Team will:

- Consider the uses of civil remedies such as injunctions to protect a complainant.
- Advise complainants, as far as can be anticipated, the stages of the legal process.
- Work with other key agencies as far as possible to support the complainant in their home environment.
- Explain to complainants that it is a criminal offence to intimidate a witness and that the Police should be contacted urgently if there are any incidents of this nature.
- Consider using hearsay evidence (i.e. evidence given on behalf of the complainant by a third party, such as a Housing Officer) if the complainant is too frightened to give evidence, even though this may not be as persuasive as direct evidence.



- Keep any complainants informed of the progress of the case as far as is possible and maintain support by making contact as the case progresses.
- Ensure local police teams are made aware, as appropriate.
- Ensure that Housing Officers and other estate staff pay special attention to observing and monitoring the area where the witness lives.
- Assist with a temporary or permanent move, where there is a real risk of violence. In emergency cases, e.g. where the individual is in immediate danger, the City Council's Housing Solutions Service will assess whether temporary accommodation is appropriate. In non-emergency cases, where there are exceptional circumstances, we will consider each case to determine whether a permanent move should be agreed under the terms of the City Council's Management Transfer Policy.
- Provide access to telephone and/or face to face interpreters.

**Where there is a court hearing**, the ASB team will:

- Explain as far as can be anticipated what is likely to happen at Court and how long the hearing may last.
- Arrange a meeting to discuss what is likely to be required of witnesses and the questions they may be asked in relation to their evidence.
- Consider assisting with transport to and from the court.
- Check with the Court whether there is a separate waiting room that can be used for witnesses.
- Consider the use of any new witness protection measures where possible and where permitted by the Court, e.g. screening of witnesses, giving evidence over a remote video link.

**After any court hearing**, the ASB team will continue to support witnesses. They will:

- Inform witnesses of the outcome of the court hearing, preferably in person and thank them for their participation. This will be followed with a letter giving the results of the hearing and explaining the outcome.
- Provide ongoing witness support, if necessary.
- Consider publicity on a case by case basis and in liaison with the City Council Corporate Communications Teams and Legal Services. The City Council's Legal Services are required to clear all press releases. Particular consideration will be given to any publicity involving children, and any relevant policy or protocols. Public interest will always be taken into account.

Details of a range of support services are included in Appendix A.

## **Community remedy**

This was introduced by the ASB, crime and policing Act 2014. It gives victims a say in the out of court punishment of perpetrators for low level crime and ASB.

This is a police power. When dealing with ASB or low-level offences they may use a community remedy document in order to engage the victim in having a say in the punishment of a perpetrator.



## 24 PROFESSIONAL WITNESS SCHEMES

The Statement of Policy at Section 6 recognises that whilst the best evidence will come from direct witnesses (and consequently complainants are encouraged and supported in giving evidence) there may be circumstances where it is unreasonable to expect a person to give evidence directly. In such circumstances, the ASB team will consider the following options:

- Using the evidence of staff particularly where they have first-hand knowledge of the ASB. The staff used may be Housing Officers/ASB case managers or City Council officers, for example the Noise Team. Staff may give hearsay evidence in civil proceedings. That is, evidence of what s/he has been told by a person who directly witnessed the ASB. Hearsay evidence may for example be used if there is a need to avoid revealing the identity of a complainant.
- Using the evidence of the Police, in accordance with the Safer Westminster Partnership's Information Sharing Protocol. The type of information the Police may be able to provide is witness statements, details of callouts made to Housing properties and/ or relevant convictions.

The information the Police supply is in **strict confidence**. However, with Police agreement it may be relied upon in evidence when taking appropriate enforcement action.

- Referring cases, depending on the circumstances, to a specialist professional witness service to gather and present evidence of ASB.

## 25 REHABILITATION OF PERPETRATORS AND SUPPORT FOR VULNERABLE GROUPS

When managing the response to a complaint of ASB, the ASB team will consider whether the perpetrator may require specialist support to address problems and behaviours which are impacting on the wider community. This may include perpetrators with drug or alcohol dependency, mental and physical health needs, young people at risk of offending or further offending, gang members, families in need of support.

The ASB team will consider the circumstances of the individual case and, if support is deemed appropriate, will discuss the available support options with the perpetrator and/or the perpetrator's family in the case of young people. These options include:

- The Tenancy Support Service offers advice and assistance to adult perpetrators whose tenancy is threatened because of their ASB or other serious breaches of their tenancy conditions. Tenants eligible to receive support may be vulnerable for a variety of reasons including drug or alcohol misuse or mental health problems. See Section 10 above.



- Support to users of drugs and alcohol is also available through the commissioned services. See Section 13 above.
- Support to juvenile perpetrators is offered through various diversion schemes and through engagement with the Council's Young People's Practitioners (YPPs), and the Early Help Specialist Practitioner (Anti-Social Behaviour), details of which are given in the Statement of Policies. The offer of support to juvenile perpetrators is also an integral part of the ABC procedure, through which we can offer a range of services either directly or by referring the young person to other relevant agencies. See Section 11 above.
- Support to gang members is offered through the 'Your Choice' programme, which is managed by the City Council's Integrated Gangs Unit. See Section 11 above.
- Support to families at risk of losing their home as a result of ASB may be offered, in appropriate circumstances, through the City Council's Family Recovery Programme which also includes a Family Coaching Service. See Section 11 above.

If the perpetrator is willing to engage with the support on offer, then an appropriate referral will be made.

## **Safeguarding vulnerable adults**

When investigating a complaint of ASB, the ASB team will also consider whether a victim may have been specifically targeted because of their vulnerability. If there are concerns about potential adult abuse, the ASB team will liaise with Adult Services (Safeguarding Team) and the Police as appropriate.

As stated in Section 13 above, our housing management procedures give guidance to Housing Officers on identifying vulnerable people and how to ensure that their needs are met through liaison with Adult Services and by signposting to other appropriate agencies.

## **Safeguarding children**

If, on investigating a complaint of ASB, the ASB team has concerns that a child or young person may be being harmed through abuse or neglect, they will contact the Council's Access to Children's Services Team (020 7641 4000). They will contact the Police if there are concerns about the immediate safety of a child or young person.

As stated in Section 13 above, our housing management procedures give guidance to Housing Officers on how to identify and respond to the signs of abuse or neglect of children/young people.



## **26 OPTIONS EMPLOYED TO TACKLE ASB**

In many cases where a report of ASB or nuisance is received, an interview or a warning letter from the ASB team may be enough to stop the behaviour. However, there are situations where these early warnings are ignored.

A number of options will be pursued in the first instance to try to get people to change their behaviour, rather than have a court order imposed on them. For this reason, legal proceedings – particularly possession proceedings - are ordinarily considered as a last resort.

That said, when investigating the circumstances of a complaint of ASB, we will not hesitate to pursue possession action at an early stage, including as a measure of first resort, in cases which are of a serious or criminal nature and cause upset/distress to the community, and where such action is proportionate and reasonable in the circumstances.

Section 3 above sets out the general approach adopted by the City Council.

The various options we use are detailed under separate headings below. They include: warning and banning letters, mediation, acceptable behaviour contracts and acceptable behaviour agreements (ABCs and ABAs), civil injunctions. Additionally, and where appropriate, we will consider possession proceedings, on both discretionary and mandatory grounds and demotion of tenancies (in the case of tenants only) and forfeiture (in the case of lessees only).

## **27 WARNING AND BANNING LETTERS**

### **Warning letters**

We will send a warning letter when we have evidence that the alleged perpetrator is responsible for acts of ASB and where all early interventions such as initial letters or interviews have failed to resolve the problem. The aim of a warning letter is to put the alleged perpetrator on notice that unless the ASB ceases we will take further action including formal legal proceedings depending on the circumstances.

### **Banning letters**

We will consider using banning letters where an individual or individuals have been identified as causing ASB in or around the Council's housing stock and where the individual(s) in question do not live there and have no reason to be there.

The letter is sent to the individual's home address and confirms that:

- They have come to notice as a result of their ASB in or around a named estate.
- they do not live on the estate and therefore have no reason to be there.
- they are banned from returning to the estate, on threat of further action if they do return.



Although banning letters are not legally enforceable, they can often be successful in deterring perpetrators from returning to a particular location, without the need for recourse to formal legal action.

## 28 MEDIATION

Mediation is a process in which a neutral and independent mediator helps people in dispute work out an agreement. It helps people come together to resolve their disputes rather than imposing solutions on them.

It can help resolve disputes involving:

- |              |            |
|--------------|------------|
| √ noise      | √ children |
| √ boundaries | √ rubbish  |
| √ parking    | √ animals  |
| √ harassment |            |

Cases are referred to independent, professional mediation services that treat any information they receive in confidence. If residents do not speak English, the mediators will try to match them with someone who speaks their own language.

We may refer cases for mediation if:

- The dispute is a fairly new one.
- Both parties are willing to try it – although a case can occasionally be referred even if only one of the parties agrees.
- Where the issues are within the control of the parties.

The advantages of mediation are:

- It provides an alternative to going to court (although if the mediation is not successful and the ASB continues, this would not stop the ASB manager from instructing solicitors to take legal proceedings at a later stage);
- It can help stop disputes escalating and taking up a lot of management time;
- It can help neighbours understand each other;
- It can provide a speedy solution to disputes;
- It is provided at no cost to the parties in dispute.

Where there is a case that could possibly be resolved through mediation, the housing officer speaks to both parties to get their agreement. Residents can also ask to be referred to the mediation service.

Those taking part in mediation must sign a data consent form to show that they agree to their personal details being referred to a third party, i.e. the mediation service.

Mediation is totally confidential and once it has started, no specific details of the mediation will be shared with housing staff.





## 29 ACCEPTABLE BEHAVIOUR CONTRACTS (ABCs)

*A brief description of ABCs can be found in section 11 above.*

ABCs are used to try and stop ASB involving young people under 18 years of age and who live in homes managed by the City Council.

### **ABCs:**

- Are a voluntary agreement between a young person and the ASB team, the Police and the Council's Early Help Team (who work with young people), endorsed by the parents of the young person.
- Provide an opportunity for a young person to be challenged about their behaviour at an early stage.
- Provide an opportunity to identify any problems that may be contributing to the cause of the anti-social behaviour e.g. educational difficulties, family situation, support needs.
- Initially last for six months.
- List the type of behaviour that is agreed as being anti-social for example, congregating in stairwells and other shared areas, threatening and verbally abusing other residents, criminal damage.
- Explain the consequences of not complying with the ABC. If the ABC is breached, application may be made for a civil injunction. If an injunction is breached, this could result in either a fine or a prison sentence. The ABC may also warn that possession proceedings of the property in which the young person lives may be started, by serving a Notice of Seeking Possession on the tenant.
- Can be used for any young people who are responsible for ASB in and around the City Council's housing stock and who live in homes managed by the City Council.

### **ABCs are not:**

- Legally binding contracts - although they can be used in legal proceedings to show that the landlord has tried other ways of challenging the behaviour before taking enforcement action.
- An alternative way of dealing with criminal behaviour. Criminal behaviour will still be dealt with through the criminal justice system in the usual manner.

The following is a summary of the processes involved in deciding whether an ABC is appropriate, setting up an ABC and monitoring it:

1. If either the ASB team or the Police are concerned about the behaviour of a young person, "X", their name is discussed at the local ward briefings which involve the Police, the Early Help Specialist Practitioner (Anti-Social Behaviour) and the ASB team.
2. "X's behaviour is monitored and if there is clear evidence of "X's involvement with the ASB, the decision may be made to proceed with an ABC.
3. X and their parents will be invited to a meeting to discuss the ASB.
4. At the meeting:



- **The ASB manager** will explain the details of the ASB and the effects on other residents;
  - The **Police** will raise any issues that have come to their notice;
  - The Early Help Specialist Practitioner (ASB) from the **Early Help Team** will see if they can offer support to “X” to help deter him/her from ASB - this could be help with education issues, help with gaining employment or referrals to a youth club. They will also offer appropriate advice to the parents - this could be a place on a voluntary parenting group;
5. A full discussion will be held with all parties, including “X”, who will be fully involved in drafting the terms of the ABC. The ABC will list the types of ASB that “X” agrees not to continue and state the consequences of not keeping to the agreement. The agreement is then signed by “X”, their parents, the ASB manager and the Police. A copy of the agreement will be given to “X” and their parents, and another copy will be placed on the file.
  6. **If “X” or his parents refuse to sign the ABC**, the ASB manager will advise that this refusal will be noted on the file and that “X’s behaviour will still be monitored, and that further enforcement action may be taken.
  7. **If “X” complies with the terms of the ABC**, the Early Help Specialist Practitioner will arrange an interview/home visit halfway through the contract period. At the end of the ABC, the Practitioner will send separate letters of congratulations to both “X” and their parents. This will include a reminder not to get involved in ASB again.
  8. **If “X” does not comply with the terms of the ABC**, the details of the incident(s) will be discussed at the next local ward briefing. If the incident is a serious breach of the agreement, the case may be discussed at a Case Conference to look at potential enforcement action, including a civil injunction. The original ABC may be extended for a further six months to allow “X” more time to comply, or further enforcement action may be agreed.

**Acceptable Behaviour Agreements (ABAs)** are similar to ABCs. An ABA is the name given to an agreement with adults responsible for ASB. However, a modified procedure is followed when ABAs are agreed.

### **30 CIVIL INJUNCTIONS**

Civil injunctions have replaced ASBOs. Notable features of civil injunctions:

- They can be obtained against anyone over the age of 10.
- They can be obtained on the civil standard of proof i.e. on the balance of probabilities).
- Breach is not a criminal offence.
- Scope for positive requirements to focus on long term solutions.

Injunctions can be useful:



- When there is a need to exclude a person from specified places or area.
- In emergencies when a quick result is needed.
- To protect witnesses from the threat of violence.
- When used either prior to or together with possession proceedings.
- When there is a need to take action against one person in a household, not the whole family.
- When there is a need to take action against an absentee lessee who has failed to remedy ASB being caused by their subtenant(s).
- When there is a need to deal with a problem in situ, rather than displace it.
- A power of arrest can be attached to an injunction in certain circumstances, so that if it is breached, arrest may follow.

A civil injunction will not ordinarily be used as a first option in dealing with ASB. Before making an application, the City Council will consider whether:

- There is sufficient evidence that an identified individual has acted in a manner that has caused harassment, alarm or distress (non-housing related ASB) or conduct capable of causing nuisance or annoyance (housing related ASB).
- A court is likely to find the order is just and convenient to prevent ASB.
- Alternative remedies have been considered and / or used to try and stop the ASB. This could include warnings, voluntary agreements, mediation and the use of ABCs.
- Another type of enforcement action may be more appropriate and has not been used. This could include action using the Environmental Protection Act such as an Abatement Notice, criminal prosecution by the Police or action by Social Services such as a Supervision Order.

An interim injunction is a temporary order, made in advance of the main hearing. For very urgent cases, an interim injunction without notice to the perpetrator can be sought.

A final injunction is issued following a final hearing when all the evidence is heard in full, and the court has given due consideration to all the issues.

For any application against an under 18-year-old we will consult with the youth offending team. This will facilitate discussions around agreeing any prohibitions or positive requirements.

### **Other types of injunctions –**

- The City Council may rely on *section 222 of the Local Government Act 1972* to seek an injunction to protect the interests of inhabitants in its area from public nuisance. A section 222 injunction may be either prohibitive or mandatory. A prohibitive injunction obtained under s222 may have a power of arrest attached to any provision of the injunction in circumstances where the Court thinks that either the conduct consists of or includes the use of threatened use of violence or there is a risk of significant harm to a person. (The City Council is unlikely to rely on this provision now that the civil injunction is in place.)



- *A Gang Injunction under the Policing and Crime Act 2009* may be sought by the police or local authority to prevent an individual from engaging in, or encouraging or assisting, gang-related violence and/or to protect the individual from gang-related violence. This is a civil order granted in the County Court or the High Court. Gang injunctions should be based upon and supported by multi-agency partnership working. An application requires consultation with the local authority, chief police officer and other relevant agencies. There is no minimum length of the order but prohibitions within the order cannot last for more than two years. Prohibitions can include non-association, exclusion, wearing gang colours or being in control of a dog in a public place.

An exclusion area (which could exclude someone from their home) and/or power of arrest can be attached to injunctions where there has been violence, the threat of violence or there is a significant risk of harm.

When deciding whether to apply for an injunction, the City Council is likely to consider the following:

- whether there has been a recent breach of the law, or conditions of a tenancy or a lease.
- the seriousness of that breach.
- whether the breach has continued despite warnings.
- whether a criminal prosecution may be a more appropriate remedy.
- the urgency of the case.
- the particular circumstances of the person/s against whom the proceedings are contemplated.
- that injunctive relief is a proportionate remedy in the circumstances.
- the risk of harm to any person.
- the extent of upset and distress caused to the community.
- legal advice.



## 31 POSSESSION PROCEEDINGS – TENANTS

Taking possession proceedings, which could lead to a tenant being evicted from their home is usually only used as a last resort, when other appropriate methods of trying to stop the ASB have either failed or been exhausted.

Where possession is sought on the basis of the ASB of tenants and/or members of their household, the court must be satisfied, on the evidence provided, that it is reasonable and proportionate to grant possession. The exception to this is where possession is sought against an introductory tenant (see below) or using the new mandatory grounds for possession (see below).

Factors that make it more likely that we will seek possession are:

- the nuisance is continuing.
- the nuisance is very serious.
- the nuisance has persisted over a long period.
- warnings to the tenant have been ignored.
- an injunction will not prevent future problems.
- extent of upset/distress caused to the community.

In cases which are of a serious or criminal nature and which cause upset/distress to the community, we will not hesitate to pursue possession action at an early stage, including as a measure of first resort, where such action is proportionate and reasonable in the circumstances.

Factors that make it less likely that we will seek possession include:

- the tenant is elderly or has special needs.
- the tenant has retaliated or responded to provocation by another party.
- the nuisance has ceased.
- a considerable amount of time has elapsed since the nuisance ceased.
- the victim has been transferred.

### **Possession proceedings for Introductory Tenants**

The City Council adopted an Introductory Tenancy Scheme in February 1997. Since this date all new tenancies created are Introductory Tenancies, apart from those where the tenant is already a secure or assured tenant.

Introductory Tenancies last for 12 months.

In the case of:

- ✓ introductory tenants in Community Supportive Housing for older people.
- ✓ and all other introductory tenancies granted *before* the Council introduced flexible tenancies in September 2013.



the introductory tenancy becomes a secure tenancy after 12 months, unless we have started legal action to gain possession or have extended the introductory period for a further six months. We will generally only start possession action where there has been a serious and persistent breach of the Conditions of Tenancy.

Introductory tenancies in general needs housing which were granted *after* the introduction of flexible tenancies in September 2013 become flexible tenancies after 12 months, unless we have started legal action to gain possession or have extended the introductory period for a further six months.

## Extending an Introductory Tenancy

An Introductory Tenancy can be extended for up to a further 6 months (s125A of the Housing Act 1996, as inserted by the Housing Act 2004).

If there have been any breaches of the tenancy conditions during the introductory tenancy, the Housing Officer (and the ASB manager in the case of breaches for ASB) will decide whether it is appropriate to extend the introductory tenancy or start possession proceedings to end it.

Extending the tenancy is done by serving a Notice of Extension no later than six weeks before the end of the introductory period of the tenancy.

The tenant has 14 days from the date of service of the Notice to request a review of the decision to extend the introductory period.

## Initiating possession proceedings

Under the Introductory Tenancy scheme, the Council does not have to prove to the Court any of the grounds set out in the Housing Act 1985 for seeking possession. The Court must make a possession order where it is satisfied that the statutory notice and review procedures have been carried out lawfully.

Below is an outline of the procedures the Housing Officer/ASB manager will follow when taking possession of a property let under an introductory tenancy and where ASB is involved:

They will:

- Take into account Human Rights Act considerations.
- Generally, refer the tenant to either Social Services or the Tenancy Support Scheme before serving a Notice if the tenant is vulnerable.
- Serve a Notice of Proceedings for Possession (NPP). As the Notice period specified in our NPPs is 6 weeks, this will be served at least 6 weeks before the end of the 1-year introductory tenancy period.



- Inform the tenant that he has 14 days from the date of service to request a review. This can be based on a written submission or a hearing can be requested.
- Present the case to the Review Panel at any hearing that has been requested.
- Confirm the outcome of the review in writing to the introductory tenant within 5 days of the decision made.
- Where the review is upheld, i.e. the Panel does not find sufficient evidence to terminate the tenancy, the Notice will be withdrawn, and the introductory tenancy will continue. (A Notice can be re-served at any time during the period of the introductory tenancy for further breaches of the tenancy.)
- Where the review upholds the decision to seek possession, the Housing Officer/ASB manager may refer the case to Court to obtain a possession order.

## Referral to Court and Eviction

- The Housing Officer/ASB manager will inform the introductory tenant that a possession hearing has been requested to seek eviction and that if they are evicted, they may be considered intentionally homeless.
- The Court will grant a Possession Order if it is satisfied that the NPP and any review hearing has been carried out lawfully.
- Application may be made for a warrant to enforce the possession order. The introductory tenant will be advised in writing of the eviction date and details of the case will be referred to the City Council's Housing Solutions Service and Social Services.

## Judicial Review

The introductory tenant has the right to request a judicial review of the Panel's decision to seek a possession order. Judicial Review proceedings must be issued promptly, and at the very latest within three months of the date the decision. Independent legal advice should be sought urgently.

## **Secure Tenants (including flexible tenants) – discretionary grounds for possession due to anti-social behaviour**

Where possession proceedings are issued under the Housing Act 1985, the court has discretion as to whether or not to grant a possession order on the basis of anti-social behaviour (whether that ASB is caused by the tenant, or people who live with the tenant or visitors to the household).

The grounds for possession available to the landlord under a secure tenancy are set out in Schedule 2 to the Housing Act 1985:





### **Ground 1**

Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.

### **Ground 2**

The tenant or a person residing in or visiting the dwelling house:

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, 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 - this includes crimes such as burglary, theft, robbery, criminal damage, assaults and drug-dealing.

When considering whether it is reasonable to grant a Possession Order on the grounds of nuisance or annoyance, the courts must give particular consideration to the actual or likely effect of the ASB on the victim and the wider community. However, the court is also required to look at “mitigating factors” such as mental health issues.

### **Ground 3**

Ground 3 applies where the condition of the dwelling house or common parts have deteriorated due to acts of waste by, or the neglect or default of, the tenant or any other person living with him or her. Where the acts or default are those of a lodger or sub-tenant it must also be shown that the tenant has failed to take reasonable steps to remove the lodger or sub-tenant.

This ground may be appropriate in the following circumstances:

- Where the tenant has pulled down part of the premises.
- Where he or she has made unauthorised alterations.
- Where he or she has accumulated a lot of rubbish in the flat which is causing a nuisance to other residents.

In summary, the steps the ASB manager will follow when taking possession of a property for ASB will include:

1. Ensuring that all other appropriate interventions have been considered and liaison completed with Social Services and other support agencies if the tenant is vulnerable or there are children involved.
2. Consideration of Human Rights Act and Equality Act 2010 issues.
3. Prior to issuing a Notice of Seeking Possession (NOSP), interviewing the tenant and issuing a final written warning about the ASB.
4. Issuing a NOSP.



5. Monitoring the ASB.

If the ASB has stopped, then no further action is taken.

If the ASB continues, we will consider issuing legal proceedings for possession.

6. Legal proceedings

The City Council's Legal Services team acts in possession cases. We have agreed time frames to ensure that cases are progressed quickly.

The ASB manager should also write to all the complainants advising them that the case has been referred to court and reminding them to record any further incidents of nuisance

7. Court hearing date

When the ASB manager receives notification of the Court date, they should confirm this with both with the defendant, and the witnesses. They will also endeavour to arrange a meeting with the witnesses to explain as far as they are able, the court procedure.

8. Outcome of hearing

The Court may refuse to grant a possession order, or if it grants one, it has powers to adjourn, stay, suspend or postpone the date of possession and can impose conditions.

Where the Court grants possession it has a number of possible options:

- **Outright order:** This grants possession to the landlord forthwith or after a specified period, typically 28 days. (NB: a bailiff's appointment must be arranged before the tenant is evicted, unless the tenant voluntarily surrenders possession).
- **Suspended order:** The possession order is suspended, either for a fixed period, or indefinitely - subject to conditions to which the tenant must keep. Where possession has been sought due to ASB the suspension of the order is ordinarily based on the ASB stopping. If the ASB continues, then the ASB manager may apply to the court for the order to be enforced.
- The Court may accept an **undertaking** from the defendant to the court not to continue committing the nuisance or ASB. Breach of an undertaking given to a Court is contempt of court and proceedings may be issued for contempt - so this is similar to an injunction (see above).
- If the court is not satisfied that either a ground for possession has been proved or that it is reasonable to make an order for possession, it must **refuse to make an order** for possession.

9. After the court hearing

The ASB manager will write to the defendant and the witnesses to explain the implications of the court hearing. In the case of vulnerable tenants, they will inform Social Services of the decision of the court.

10. Eviction

An authority to evict form should be completed by the ASB manager and signed off internally. If eviction is agreed, we will apply for a warrant to enforce the



possession order.

The ASB manager will confirm the date of the eviction to the tenant. The ASB manager will also advise the witnesses that an eviction has been scheduled, without giving the precise date. The witnesses will be informed after the eviction has taken place.

### **Flexible tenancies – additional options for tackling anti-social behaviour**

A flexible tenancy is a form of secure tenancy but for a fixed period (usually five years). As with any other secure tenancy, a flexible tenancy starts with a one-year introductory period and is subject to the same rules for obtaining possession during the fixed term.

A review is carried out with the tenant before the end of the fixed term. Following the review, and in accordance with the Council's own tenancy policy, most tenants will get a new five-year flexible tenancy at the same address (or another address if there is under-occupation).

However, some tenants who have breached their tenancy agreement during the initial five-year period, e.g. by causing ASB, may only be offered a new flexible tenancy of two years (instead of five years).

In cases of serious ASB some tenants may not be offered a new tenancy at all, e.g. serious and persistent tenancy breach or a serious housing related ASB conviction.

### **Renewing a flexible tenancy for a shorter (i.e. two year) period**

If the tenant has received warnings about a breach of the tenancy agreement as a result of ASB during the initial five-year period, and there is evidence that the breach is continuing at the time of the review, the Housing Officer and the ASB manager will consider whether it is appropriate to renew the tenancy for a period of two years instead of five years.

As stated earlier in Section 10, the use of shorter tenancies in these circumstances is intended to help reinforce the tenant's responsibilities under the tenancy agreement and to enable any necessary support to be put in place.

In summary, the Housing Officer/ASB manager will take the following steps:

- Carry out a review meeting with the tenant at least eight months before the end of the current flexible tenancy.
- Assess the nature and extent of any breaches of the tenancy involving ASB.
- Decide whether such breaches warrant a renewal of the tenancy for two rather than five years.



- Following the outcome of the review, confirm and explain to the tenant any decision to renew the tenancy for a two-year period rather than a five-year period.

## Ending a flexible tenancy (i.e. non-renewal of the tenancy)

In cases where there has been a serious and persistent breach of the tenancy agreement, e.g. as a result of ASB, or where the tenant or a member of their household has been convicted of serious housing-related ASB, the Council may choose, in accordance with its tenancy policy, not to renew the tenancy and may apply to the Court for a possession order.

With a flexible tenancy the Court must award possession as long as the fixed term has expired, the correct notices have been served, the Council's decision not to renew is in line with its tenancy policy, and any request to review that decision has been considered.

In summary, the Housing Officer/ASB manager will take the following steps:

- Carry out a review meeting with the tenant at least eight months before the end of the current flexible tenancy.
- Assess the nature and extent of any breaches of the tenancy involving ASB.
- Where such breaches have been serious and persistent, decide whether it is appropriate to recommend non-renewal of the tenancy (for example, if the seriousness of the breach(es) is at a level where it would be deemed reasonable for the City Council to seek possession of the property).
- Where non-renewal is recommended, seek approval from a senior manager (Area Manager level or above).
- Following the outcome of the review, confirm and explain to the tenant any decision not to renew the tenancy.
- Serve a Notice of Non-Renewal at least six months before the current tenancy expires.
- If the tenant appeals against the decision not to renew the tenancy, arrange for the appeal to be heard within twenty-one days of being lodged. [The tenant must lodge any appeal within twenty-one days of service of the Notice of Non-Renewal. The appeal must be heard by a more senior manager than the manager involved in the decision not to renew].
- Prior to the last day of the tenancy, serve two months' Notice requiring possession of the property.



- If the tenant does not voluntarily surrender possession of the property by the expiry of the two months' Notice, refer the case to the Council's Legal Services team for possession proceedings to be started.

### **Secure Tenants – mandatory grounds for possession due to anti-social behaviour**

The ASB, crime and policing Act 2014 introduced a new absolute ground for possession of secure tenancies where ASB or criminality has already been proven in another court. Unlike the discretionary ground for possession there is no need to prove to the court that it is reasonable to grant possession.

This power will be used selectively for the most serious cases of ASB to expedite the eviction of the most anti-social tenants. It will be authorised at a senior level.

The power may be used in the following five situations if the tenant, a member of the tenant's household, or a person visiting the property has been:

- Convicted of a serious offence (specified in Schedule 2A of the Housing Act 1996).
- Found by a court to have breached a civil injunction.
- Convicted of 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.

As with introductory tenants (see above) secure tenants have the right to request a review of the decision to seek possession. The procedure to be followed will be the same as that for introductory tenants requesting a review.

## **32 FORFEITURE ACTION - LESSEES**

### **General**

As in the case of possession proceedings for tenants, forfeiture action to end a lessee's lease is ordinarily only considered in extremely serious cases, when all other avenues have been explored and have failed to resolve the ASB. This is because:

- The Courts are reluctant to make an award for forfeiture.
- It is seen by the Courts as a draconian remedy - the lessee will lose not only their home but also any equity in the property. Additionally, they will remain liable for any monies secured against the property (e.g. any outstanding mortgage).
- Proceedings are lengthy and with no guarantee of success.



Consequently, before taking any decision to pursue forfeiture action, the ASB manager will consult fully with the City Council's Legal Services team and other senior staff internally.

## Monitoring the ASB

As with any case of ASB, the ASB manager will monitor the situation and maintain regular contact with the complainants/victims of the ASB.

If the ASB stops, either as a result of voluntary action by the perpetrator or as a result of enforcement action (e.g. injunction) then no further action will be taken.

If the ASB continues the ASB manager will consider the appropriateness of forfeiture action.

## Initial considerations before starting forfeiture action

The ASB manager will:

- Satisfy him/herself that all other appropriate interventions/enforcement actions have been exhausted and have been unsuccessful in resolving the ASB.
- Seek the views of the appropriate staff as to the appropriateness of forfeiture action.

It is particularly important to involve the Lessee Services Manager because the forfeiture action may be strengthened by including any other breaches in the same action, e.g. arrears of service charges, failure to register an assignment.

- Investigate the lessee's circumstances in case there are issues around vulnerability, by contacting any known family and making any appropriate referral to Social Services.

## Referral to the City Council's Legal Services team

Having taken into account any views as to the appropriateness of forfeiture action, the ASB manager will refer full details of the ASB case (including details of any other breaches of the lease) to the City Council's Legal Services team.

If the Legal Services team advises that forfeiture action is appropriate and has a reasonable prospect of success in the Courts, the ASB manager will:

- Alert relevant staff internally that forfeiture action is to be pursued.
- Liaise closely with them throughout all subsequent proceedings.
- Write to all the complainants advising them that forfeiture action is being pursued and reminding them to record any further incidents of nuisance.



### Serving a 'section 146 Notice'

Once a decision to pursue forfeiture action has been taken the City Council's Legal Services team will advise the ASB manager on the arrangements for serving a formal notice on the lessee under section 146 (1) of the Law of Property Act 1925 (commonly known as a 'section 146 Notice').

Court proceedings cannot be started unless a section 146 Notice has been served. However, since 28<sup>th</sup> February 2005, landlords are prevented from serving a section 146 Notice in respect of any breach by a lessee of a covenant or condition in the lease *unless*:

- a) the lessee has admitted the breach; or
- b) a court has finally determined that the breach has occurred

If the lessee has not admitted the breach or a court has not made a final determination that a breach has occurred, the landlord must apply to the First-tier Tribunal (Property Chamber) for a determination that a breach has occurred.

The ASB manager will advise the complainants of the requirement to apply to the Tribunal and will confirm with them the arrangements for providing witness statements and supporting evidence, as well as attendance at the Tribunal itself.

Application to the Tribunal will be made by the City Council's Legal Services team.

If the Tribunal determines that a breach of the lease has occurred, a formal section 146 Notice may be served on the lessee. The Notice must specify the breach of the covenant and require the lessee to remedy this within a reasonable period. If the lessee fails to comply with the section 146 Notice the case will proceed to court.

Once formal proceedings have been started the Legal Services team will be in contact with the lessee/their solicitors and will ask the ASB manager for any further information as necessary, e.g. comments on any defence or counter-allegations submitted by the lessee. The Legal Services team will give guidance to the ASB manager at each stage of the case's progress.

In view of the significant risk to the lessee (loss of home, any equity in the property, remaining liability for charges secured against the property) there is a high likelihood that the case may be settled before it reaches court. However, once a case has been listed for a hearing by the court the ASB manager should appropriate staff.

### Involving the mortgagee

It can sometimes be effective to involve the lessee's mortgage lender if there is a breach of the lease. The mortgage lender will want to safeguard its investment and may be willing to intervene to avoid forfeiture action being taken.

Involving the mortgagee may bring extra pressure to bear on the lessee to abate the nuisance, particularly if nuisance is being caused by a lessee's subtenant(s) and the lessee has sublet the property in contravention of their mortgage agreement.





The ASB manager will discuss the appropriateness of involving the mortgagee with the Lessee Services Manager and the Legal Services team. Obviously, this option will not be possible if the lessee does not have a mortgage.

Before approaching the lessee's lender, the ASB manager will first ensure that:

- the lessee has been advised in writing to resolve the nuisance.
- the lessee has been advised in writing that such action is being taken.
- other means have been tried and have failed to achieve a response.

### Court hearing date

When the ASB manager receives notification of the Court date, they should confirm this with the witnesses and endeavour to arrange a meeting with them to explain as far as they are able, the court procedure.

### Outcome of hearing

On considering the Tribunal's decision and any further evidence of ASB since the Tribunal hearing, the court will generally grant a forfeiture order which stipulates the date on which possession must be surrendered.

However, the Court may refuse to grant a forfeiture order if it feels that, taking into account all the circumstances (particularly if the ASB has stopped since the Tribunal decision), such an order is disproportionate. In such an instance, the court can, on application by the City Council's legal representative, grant an order requiring the defendant to refrain from continuing any breach in the future.

### After the court hearing

The ASB manager will notify appropriate staff of the outcome of the hearing.

The ASB manager will also write to the defendant and the witnesses to explain the implications of the court hearing. In the case of vulnerable lessees, they will inform Social Services of the decision of the court.

### Eviction

If the lessee has not surrendered possession by the date specified in the forfeiture order or has not made an application for relief within the time allowed, then the ASB manager will instruct the Legal Services team to apply for a bailiff's warrant to evict the former lessee.

The ASB manager will advise the witnesses when the former lessee has vacated the property or, in the event that the former lessee does not vacate the property on the required date, that an application for a bailiff's warrant has been made.



The witnesses will be informed after the eviction has taken place.

### 33 DEMOTED TENANCIES

#### Applying for a demotion order

We can apply to the County Court for an existing secure tenancy (including flexible tenancies where there is more than 12 months of the fixed term remaining) to be ended by a demotion order. If the demotion order is granted, the tenancy is reduced to a less secure form of tenancy that is referred to as a "demoted tenancy". Demotion may be sought where:

- The tenant or his visitors have used the premises for illegal purposes or has behaved in a way which is capable of causing nuisance or annoyance to any other person; and
- It is reasonable to make the demotion order.

The period of demotion will initially be for 12 months but may be extended if the landlord serves notice to seek possession of the property during this period.

#### Some of the effects of the Demotion Order:

- the tenant stays in their property.
- a serious warning is given to the tenant since, if the ASB continues, swift action can be taken to end the tenancy.
- It also removes a number of secure tenancy rights e.g. the right to buy the home and the right to exchange the home with another tenant.
- Any period during which a tenant holds a demoted tenancy will not be included in the qualifying period for the purposes of right to buy, nor will it be taken into account in calculating the level of discount to which the tenant would otherwise be entitled.
- Obtaining possession of the property will become much more straightforward for the Council following the grant of a demotion order.

The following will stay the same under the newly demoted tenancy: the amount of rent payable, the date that rent is payable. Any rent arrears will still be owed and credits will remain unchanged.

#### Use of demoted tenancies

We may seek a demotion order where there has been ASB but we do not wish to evict the person from the property outright. Instead we may wish to give a very strong warning to the tenant that they may lose possession of their property if they, their family or their visitors continue the ASB, or otherwise breach the terms of the tenancy. For example, we may apply to demote a tenancy rather than seek possession where the ASB is caused by a child but where the parent is attending parenting classes to try to control their child's behaviour.

#### Ending a demoted tenancy



- Where the City Council is **satisfied** with the tenant's conduct during the period of demotion and have not taken action to recover possession of the property, then **the demoted tenancy will automatically revert to a secure tenancy (which may be a flexible tenancy depending on when the tenancy was originally granted)**.
- **Where the tenant's ASB persists**, the City Council may decide to take action to re-possess the property. This may be because of further incidents of ASB but may also be for any other breach of the tenancy agreement such as rent arrears.

If the decision is made to take possession action, the tenant will be served with a notice stating that the landlord has decided to apply to the court for an order for possession, setting out the reasons for that decision and informing the tenant of his/her right to request a review of the decision to apply for possession.

### Tenants' Right to Review

The tenant has a right to an internal review of a decision to end a demoted tenancy. The review mirrors the process currently adopted by the City Council in relation to reviews for introductory tenancies. (See section on possession proceedings for introductory tenants in Section 32 above)

If the Review Panel endorses the decision to apply for possession, the court is required to grant a Possession Order. Unlike possession proceedings under the Housing Act 1985, the Court will not have any discretion. The tenant will only have a limited right to challenge the Panel's review decision by way of Judicial Review proceedings.

## **34 OTHER LEGAL ACTION**

The ASB manager may also liaise with the other departments of the City Council or organisations such as the Police on using a number of other powers provided by the Anti-social Behaviour, Crime and Policing Act 2014 to deal with ASB.

### **Community Protection Notice**

Council officers have the power – along with police officers – to issue community protection notices to stop a person aged over 16 committing ASB which affects the community.

The behaviour must be having a detrimental effect on the community, be persistent and unreasonable.

The Community Protection Notice is particularly suited to environmental issues such as graffiti, rubbish, and noise nuisances.

A written warning must be given first. The written warning must make clear to the individual that if they do not stop the anti-social behaviour, they could be issued with a Community Protection Notice.



## **Public spaces protection order**

This is a council power designed to stop individuals or groups committing ASB in public spaces. This power can be used in collaboration with the Police.

These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times.

Breach of this order is a criminal offence.

## **Noise Abatement Notice**

The City Council has a Noise Team that operates 24 hours a day, 365 days a year, responding to complaints about noise including noise from parties and loud music. The team aims to respond to telephone complaints about noise within 45 minutes, either by telephoning or by visiting the complainant in order to investigate the noise complaint.

Legal action in noise cases may be taken under the statutory nuisance provisions of the Environmental Protection Act (EPA) 1990.

If the noise is such that there is a statutory nuisance, the City Council may serve a noise abatement notice. Failure to comply with the Notice is an offence. The matter is heard in the Magistrates Court, which could result in a fine of up to £5,000.

It is also possible to seize equipment.

The EPA can also be used to remove vehicles that are causing a statutory nuisance by creating an excessive amount of noise or abandoned vehicles that can be classified as “hazardous waste”.

If the ASB does not stop as a result of a Notice, this may be used as evidence in other enforcement action.

- Protection from Harassment Act 1997

This is a police power, but the City Council may use evidence of harassment notices and of convictions under this legislation in taking action for ASB

- Criminal Damage Act 1971

This legislation can be used to deal with cases of vandalism and graffiti. The City Council may use convictions for criminal damage to assist them in taking further action for ASB, where appropriate.

## **35 DOMESTIC VIOLENCE AND ABUSE**

### Responding to a report of domestic violence or abuse



If a resident either phones us or presents as being a victim of domestic violence (DV) or abuse, the first thing we will be concerned about is their safety.

We will:

- encourage the victim to contact the Police, offering to let them ring from the Estate Office if necessary.
- make it as easy as possible for victims to report DV to us and make sure they are safe and know what to do if the situation changes.
- Ensure they have the contact details of a named Housing Officer and those of the Westminster 24/7 out-of-hours service.
- Provide support for as long as it is needed.
- Respect the victim's wishes if she/he does not wish the housing officer to make contact (but try and obtain a safe way of contacting them, if possible, e.g., a mobile phone number or safe times).
- Respect confidentiality, sharing information with other officers as authorised and on a 'need to know' basis only.

If there is an immediate risk of harm and the victim thinks it is unsafe for them to go back to their home the Area Team will contact the City Council's Housing Solutions Service regarding the possibility of emergency bed and breakfast accommodation. The Area Team will also consider the suitability of a management transfer as a more permanent measure.

### Interviewing the victim

The Area Team will:

- Interview the victim immediately or within 1 working day if they contact us by telephone.
- Conduct the interview in a private room, making sure there are no interruptions.
- Provide an interpreter if needed.
- Try to arrange for the interviewer to be the same sex as the victim.
- Be sensitive and appreciate that it is important to listen and that it may not be appropriate to ask all questions and fully complete all the DV case forms at the first interview [although a Consent Form must be completed in all cases – see below].



- Make sure that the victim understands the Consent Form and completes it before the confidential part of the interview starts.
- Use an approved Interview Check List which lists the main issues the Housing Officer needs to cover during the interview.
- Complete a Standard Risk Assessment Form for all cases being logged on the housing management system. This ensures that an assessment of risk is undertaken for all ASB related cases that are reported and informs the need for any risk flagging at an early stage.
- Signpost the victim to specialist support and advice by giving them details of ADVANCE (Westminster's Independent Domestic Violence Advocacy service) and the Westminster Domestic Abuse Surgery (a drop-in service which provides impartial, expert advice without the need for an appointment), and a range of other specialist agencies.
- Encourage the victim to seek independent legal advice. [ADVANCE can help signpost them to this if needed]
- Make sure the victim has somewhere safe to store any information they are provided with.
- Offer either to ring the support agencies on the victim's behalf or let them call from the office if they so wish.
- Encourage the victim to prepare a Safety Plan, both for their day to day protection and in case they have to leave in a hurry. [A specimen safety plan will be provided]

## Housing Options

The Estate Team will talk about the possible Housing Options that are open to the victim. These include:

- Going to a refuge. Advice can be obtained from the 24 hour National Domestic Violence Helpline.
- Staying with family and friends. (but this likely to be short-term only and may not always be appropriate)
- Going to the City Council's Housing Solutions Service for advice/emergency re-housing.
- Asking for a management transfer.
- Making a referral for security improvements under the City Council's Sanctuary Scheme if the victim wants to stay in their home.



- Taking legal action to give the victim the right to occupy their home or to exclude the person responsible for the abuse. [Residents are advised to get independent legal advice to assist them with this]

## MARAC - Multi Agency Risk Assessment Conference

In order to improve support for victims of domestic violence, Westminster has adopted a partnership case management approach known as MARAC.

The key elements of the MARAC are:-

- A process for assessing the risk to victims of DV and identifying the highest risk DV cases.
- A monthly meeting where agencies can discuss high risk cases of DV in order to improve the safety of victims and their families.
- A range of enhanced interventions for those victims identified as being at high risk of further harm.

Any agency can make a referral to MARAC using the approved MARAC referral form. To be included within the MARAC the victim must be assessed as being at a high or very high risk of harm of DV by the referring agency.

In such high-risk cases the Housing Officer will:

- Explain the MARAC process to the victim before seeking their permission to complete the form.
- Complete the MARAC risk indicator checklist in the MARAC referral form. If the case meets the threshold for referral as indicated in the form, the Housing Officer will complete the whole form and refer the case to MARAC within 24 hours of the interview. [Cases not meeting the threshold can also be referred on the basis of professional judgement]
- On the day of the interview and subject to the victim's agreement, make a referral to ADVANCE (female service users only), which offers independent DV advice and support.

## The Sanctuary Scheme

This is a victim-centred initiative which aims to make it possible for victims of DV to remain in their homes and feel safe. The scheme makes residents' homes more secure, e.g. with extra locks, strengthened doors and in some cases a safe room ('sanctuary room') within the flat. It means that residents can stay put rather than have to move out.

The works are carried out and paid for by the City Council at no cost to the resident. The scheme is open to all residents living in the City of Westminster. The aim is to complete the works within a maximum of 6 weeks from referral.





The Area Team can refer any resident who is a victim of domestic violence and who, in their opinion, may benefit from the scheme. Referral is made using an approved Referral form.

Landlord consent is required before any works can proceed.

Sanctuary works cannot be carried out where there is a joint tenancy unless the alleged perpetrator has been excluded from the property by a court order for a minimum of 12 months.

#### Action against alleged perpetrators of DV

The Housing Officer/ASB manager will consider taking action against alleged perpetrators wherever possible. This should be discussed with the victim, as the safety of the victim, any dependent children and others such as family members or partners (who may not live with the victim) remains a priority.

This can be done:

- Using Ground 2a of the Housing Act 1985 which allows possession to be sought when a victim has left because of violence by their partner and the Court is satisfied that the person who has left is unlikely to return. This ground should be considered where the partner has been re-housed because of the violence and the alleged perpetrator left in occupation is a tenant. The Housing Officer will discuss such cases with the ASB manager, who will advise and seek legal advice as necessary before a Notice of Seeking Possession (NOSP) is issued.
- If the re-housed partner was a joint tenant or sole tenant and has terminated the tenancy by serving a valid NTQ after being re-housed, the remaining party should be treated as an illegal occupier.

### **36 CLOSING A CASE**

When a complaint of ASB is received, the City Council aims to investigate, monitor and progress the case to its conclusion.

There are a number of circumstances when a case will be closed including where:

- the ASB has stopped.
- there is insufficient evidence to take any action.
- the behaviour cannot be reasonably classed as ASB or a nuisance.
- the perpetrator has moved.
- the complainant has moved.
- where no reports of nuisance or ASB have been received for four weeks.

If no complaints of nuisance or ASB have been received for four weeks, a letter may be sent to the complainant indicating the intention to close the case and inviting any comments. If there is no response within that time, the case will generally be



considered as closed. There may be occasions when cases are closed before the expiry of four weeks.

We aim to resolve and close all cases as soon as possible and within a maximum of 16 weeks, excluding those that are being progressed to legal enforcement action.

Should there be any further instances of ASB at a later stage, these will be recorded and investigated according to the procedures set out above.

## **37 DATA COLLECTION**

### Recording of ASB incidents and reports

All cases of ASB/nuisance reported to us are logged and recorded on the housing management system. Most of these reports are made by residents, but the figures should also include reports made by staff, police and others.

For recording purposes, we use the Housemark ASB Benchmarking Categories, which are based on the National Standard of Incident Recording 2011.

Examples of activities by category that may cause ASB are given in Section 2 'What is Anti-Social Behaviour?' and include noise, misuse of communal areas, domestic abuse and hate related incidents.

### Data collection of ASB through visual audits

Estate services staff report incidents of criminal damage and graffiti that they see in their daily or weekly inspections.

Quarterly inspections of the communal areas of the estates provide another opportunity to check for environmental damage and/or misuse of public spaces. These inspections are carried out by the Area teams and a representative from the local Residents' Association (RA).

### Satisfaction surveys

We measure our residents' satisfaction with the response to reports of ASB as part of our annual housing management survey, which covers all tenants and lessees. Also, through ongoing surveys of tenants and lessees, whose cases of complaint have been closed on our housing management system.

Resident satisfaction is a key measurement for us in assessing performance in tackling ASB. We are committed, along with our partners, to tackling anti-social behaviour, improving the security of homes and creating safer communities and will continue to develop this work.

### Westminster City Council data collection

The City Council collects and analyses data on crime and ASB citywide on an ongoing basis. Relevant housing data is collected monthly to be included in this



analysis. This data is used to inform the Council's Crime and Disorder Reduction Strategy for the next three years.

## Safer Westminster Partnership

The Safer Westminster Partnership has a duty to conduct a crime and disorder audit every three years. They must then publish a three yearly crime and disorder reduction strategy.

## **38 MONITORING ASB AND THE ASB SERVICE**

The City Council is aware that residents' satisfaction with their homes is closely interlinked with their experience and perceptions of anti-social behaviour and how the landlord deals with these problems.

The purpose of collecting this data is to:

- Identify geographic "hot spots".
- Highlight key priorities and areas of concern.
- Target resources appropriately.
- Evaluate success of initiatives to combat ASB.

Ways in which ASB is monitored:

- Ongoing monitoring by ASB managers of performance reports across a range of measures and performance indicators on nuisance and ASB produced from the housing management system.
- Key ASB performance measures reported in the monthly citywide housing service performance pack.
- We are a member of the Housemark Benchmarking group where social landlords compare the levels of ASB reported and their responses and actions taken. Housemark's ASB benchmarking system is the country's leading tool to help social landlords measure and understand the ASB they are tackling.

Regular reports on core areas of activity in tackling ASB include:

- Number of new ASB cases.
- New cases by National Standard for Incident Reporting (NSIR) category.
- Number of new cases by type of ASB.
- Actions taken to tackle ASB.
- Number of live, resolved and unresolved ASB cases.
- Number of resolved cases by main intervention, e.g. closure, possession.
- Average number of days taken to resolve ASB cases.

## **39 CONCLUSION**

The Statement of policies and procedures is intended to demonstrate our commitment to dealing properly and effectively with ASB. The Policy section aims to give readers an overview of the principles underlying our approach to ASB. The



statement on procedures provides information on how reports of ASB are processed and on the range of options available to tackle ASB. It outlines the processes we will generally follow and the advantages and disadvantages of selecting any specific option.



**APPENDIX A – key contact details**

**CWH Head Office and Area Offices**

<p>Westminster City Council</p> <p>64 Victoria Street London SW1E 6QP</p> <p>Phone: 0800 358 3783</p>	<p><b>North Area Service Centre</b></p> <p>1 Glasgow House Lanark Road London W9 1QY</p> <p>Phone: 0800 358 3783</p>	<p><b>West Area Service Centre</b></p> <p>155 Westbourne Terrace London W2 6JX</p> <p>Phone: 0800 358 3783</p>
	<p><b>Central Area Service Centre</b></p> <p>24 Lilestone Street London NW8 8SR</p> <p>Phone: 0800 358 3783</p>	<p><b>South Area Service Centre</b></p> <p>137 Lupus Street London SW1V 3HE</p> <p>Phone: 0800 358 3783</p>

**Tenant Management Organisations**

<p><b>Hide Tower Resident Management Board</b></p> <p>Hide Tower Office Ground Floor Hide Tower Regency Street London SW1P 4AA</p> <p>Phone: 020 7630 1129</p>	<p><b>Lilestone Tenants' and Residents' Management Co-op</b></p> <p>1 Wyatt House Frampton St London NW8 8ND</p> <p>Phone: 020 7723 2808</p>	<p><b>Millbank Estate Management Organisation</b></p> <p>Reynolds House Courtyard Erasmus Street Millbank Estate London SW1P 4HP</p> <p>Phone: 020 7976 5788</p>
<p><b>Odhams Walk Resident Management Board</b></p> <p>Stairwell G, 62B Odhams Walk Long Acre London WC2H 9SD</p> <p>Phone: 020 7379 6005</p>	<p><b>Carlton Vale Resident Management Organisation</b></p> <p>1 Helmsdale House London NW6 5EN</p> <p>Phone: 020 7624 0643</p>	<p><b>Tavistock Co-operative</b></p> <p>1a Harford House 35 Tavistock Crescent London W11 1AY</p> <p>Phone: 020 7221 7241</p>
	<p><b>Torridon Co-operative</b></p> <p>Torridon House Randolph Gardens NW6 5HP</p> <p>Phone: 020 7625 8433</p>	<p><b>Maida Vale RMO</b></p> <p>19a Thurso House Randolph Gardens London NW6 5EL</p> <p>Phone: 020 7624 3032</p>



**Police:**

**In an emergency dial 999 (101 for non-emergencies)**

<p><b>Belgravia Police Station</b> 202-206 Buckingham Palace Road SW1W 9SX</p> <p>Phone: 101</p>	<p><b>Charing Cross Police Station</b> Agar Street London WC2N 4JP</p> <p>Phone: 101</p>	
<p><b>West End Central Police Station</b> 27 Savile Row London W1S 2EX</p> <p>Phone: 101</p>	<p><b>Paddington Green Police Station</b> 2-4, Harrow Road London W2 1XJ</p> <p>Phone: 101</p>	

**Partnership contacts:**

<p><b>‘Westminster 24/7’</b> (for the housing emergency ‘out-of-hours’ service)</p> <p>Phone: 020 7286 7412</p>	<p><b>24-hour Noise Service</b></p> <p>Phone: 020 7641 2000 <a href="http://www.westminster.gov.uk">www.westminster.gov.uk</a></p>
<p><b>Westminster City Council Community Protection Service</b></p> <p>Phone: 020 7641 1085</p>	
<p><b>Family Coaching Service</b></p> <p>Phone: 020 7641 2525 Email: <a href="mailto:triboroughfamilyrecovery@westminster.gov.uk">triboroughfamilyrecovery@westminster.gov.uk</a></p>	<p><b>Westminster City Council Children’s Services Team</b> (where there are concerns about children’s welfare)</p> <p>Phone: 020 7641 4000 Email: <a href="mailto:accesstochildrengservices@westminster.gov.uk">accesstochildrengservices@westminster.gov.uk</a></p> <p><b>Westminster Integrated Gangs Unit</b> Email: <a href="mailto:integratedgangsunit@westminster.gov.uk">integratedgangsunit@westminster.gov.uk</a>  <a href="http://www.westminster.gov.uk/yourchoice">www.westminster.gov.uk/yourchoice</a></p>



**Crimestoppers**

0800 555 111

Contact Crimestoppers anonymously with information about crime

Web: [www.crimestoppers-uk.org](http://www.crimestoppers-uk.org)

**ChildLine**

0800 1111

Private and confidential advice and support service for young people up to the age of 19

Web: [www.childline.org.uk](http://www.childline.org.uk)

**Advice about rights and the law:**

Paddington Law Centre

020 7839 2998

14 Irving Street  
London  
WC2H 7AF

Email: [paddingtonlaw@dial.pipex.com](mailto:paddingtonlaw@dial.pipex.com)

Westminster Citizens Advice Bureau

08444 771 611

21a Conduit Place  
Paddington,  
London  
W2 1HS

Check website for opening times.

Web: [www.westminstercab.org.uk](http://www.westminstercab.org.uk)

Rights of Women

Telephone advice lines, offering free legal advice on women's issues, including housing (not restricted to domestic violence)

General and family law advice line:

020 7251 6577

Criminal law and sexual violence advice line:

020 7251 8887

Check website to verify operating times of advice lines.  
(Legal advice *not* provided via email)

Web: [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)





**Victim Support:**

National Victim 'Supportline'

0845 30 30 900

Normal operating hours:

9am – 8pm Monday to Friday

9am – 7pm weekends

9am – 5pm bank holidays

Email: [supportline@victimsupport.org.uk](mailto:supportline@victimsupport.org.uk)

Web: [www.victimsupport.org.uk](http://www.victimsupport.org.uk)

Victim Support London

0845 450 3936

Telephone opening hours:

Monday to Friday, 8am to 8pm

Victim Support Westminster

020 7724 6032

Telephone opening hours:

Monday to Friday, 9am to 5pm

Email: [vs.westminster@vslondon.org](mailto:vs.westminster@vslondon.org)

**Reporting Hate Crime:**

Victims of hate crime include but are not limited to persons who are targeted because of their perceived race or ethnicity, religion or belief, sexual orientation, disability or transgender identity.

Dial 999 if in immediate danger.

True Vision

Police funded website which gives information about hate crime and how to report it, including using the National Hate Crime online reporting form. On completion, the form is submitted to the local Police service.

The website also provides information about help and support for victims.

Email: [enquiries@report-it.org.uk](mailto:enquiries@report-it.org.uk)



(General enquiries only. To report a hate crime use the online reporting form below)

Online reporting form: [www.report-it.org.uk/your\\_police\\_force](http://www.report-it.org.uk/your_police_force)

Web: [www.report-it.org.uk](http://www.report-it.org.uk)

**Lesbian, Gay, Bisexual, Trans (LGBT) support and advice:**

GALOP

020 7704 2040

Independent community-led organisation with charitable status, providing advice and support to LGBT people who have experienced biphobia, homophobia, transphobia, sexual violence or domestic abuse

Email: [info@galop.org.uk](mailto:info@galop.org.uk)

Web: [www.galop.org.uk](http://www.galop.org.uk)

London Lesbian & Gay Switchboard

Voluntary organisation with charitable status, providing free and confidential support and information to LGBT people.

Helpline:

0300 330 0630

Helpline operating hours:

Daily, 10am-11pm, 365 days a year

Email: [chris@llgs.org.uk](mailto:chris@llgs.org.uk) (for support enquiries only)

Web: [www.llgs.org.uk](http://www.llgs.org.uk)

**Domestic Violence and Abuse:**

National 24-hour Domestic Violence Helpline  
(run by Women's Aid and Refuge)

0808 2000 247

Dial 999 if in immediate danger.

ADVANCE

020 8960 7016

Westminster's Independent Domestic Violence  
Advocacy service

Email: [angelou@advancecharity.org.uk](mailto:angelou@advancecharity.org.uk)

[www.advancecharity.org.uk](http://www.advancecharity.org.uk)



National Stalking Helpline

0808 802 0300

Provides guidance and information to anybody who is currently or has been affected by harassment or stalking.

Helpline operating hours:

09.30 – 16.00 weekdays  
(except Wednesday: 13.00 – 16.00)

Email: [advice@stalkinghelpline.org](mailto:advice@stalkinghelpline.org)

Web: [www.stalkinghelpline.org](http://www.stalkinghelpline.org)

Men's Advice Line

0808 801 0327

Provides advice and support for men experiencing domestic violence and abuse.

Helpline opening hours:

Monday to Friday, 9am to 5pm

Email: [info@mensadviceline.org.uk](mailto:info@mensadviceline.org.uk)

Web: [www.mensadviceline.org.uk](http://www.mensadviceline.org.uk)

Rape Crisis

National umbrella organisation supporting a network of independent member Rape Crisis Centres.

Rape Crisis National Helpline (freephone)

0808 802 9999

Helpline operating hours:

12 - 2.30pm; 7pm - 9.30pm

Email: [rcwinfo@rapecrisis.org.uk](mailto:rcwinfo@rapecrisis.org.uk)  
(Nb: unable to respond to a crisis situation by email)

Web: [www.rapecrisis.org.uk](http://www.rapecrisis.org.uk)



## **Honour-based violence or forced marriage**

Honour Network Helpline

0800 5999 247

Web: [www.karmanirvana.org.uk](http://www.karmanirvana.org.uk)

## **Advice for perpetrators of abuse**

Respect Phonenumber

0808 802 4040

Confidential freephone helpline offering advice, information and support to help perpetrators stop being violent and abusive to partners or ex-partners.

Helpline opening hours:

Monday to Friday, 9am to 5pm

Email: [info@respectphonenumber.org.uk](mailto:info@respectphonenumber.org.uk)

Web: [www.respectphonenumber.org.uk](http://www.respectphonenumber.org.uk)

## **Drug & Alcohol Services**

Alcoholics Anonymous

National Helpline

0845 769 7555

Email: [help@alcoholics-anonymous.org.uk](mailto:help@alcoholics-anonymous.org.uk)

Web: [www.alcoholics-anonymous.org.uk](http://www.alcoholics-anonymous.org.uk)

FRANK

Free and confidential advice on drugs and alcohol

National Helpline  
(24 hours a day, 365 days a year)

0300 123 6600

Email: [frank@talktofrank.com](mailto:frank@talktofrank.com)

Web: [www.talktofrank.com](http://www.talktofrank.com)



## APPENDIX B

### CONDITIONS OF TENANCY

#### Section 4 - Living with your neighbours

##### Our responsibilities

- a** We will not interfere with how you use your home as long as you keep to the terms of this agreement and do not disturb your neighbours.
- b** We will investigate any complaints of nuisance or harassment and take appropriate action.

##### Your responsibilities

- c** You are responsible for the behaviour of all members of your household, including your children and any lodgers, subtenants or visitors. This applies in your home and in the shared parts of the estate and surrounding area.
- d** You and they must not do anything or threaten to do anything which causes or is likely to cause a nuisance or annoy someone else.

Examples of activities which cause nuisance and annoyance include, but are not limited to:

- loud noise from televisions and radios;
- loud music from music systems and musical instruments;
- noisy parties;
- too much noise from DIY;
- shouting and swearing;
- door slamming;
- dogs barking and fouling;
- dumping rubbish;
- vandalism and graffiti;
- noisy activities in shared areas;
- drunken behaviour in public places; and
- feeding pigeons.

- e** You and they must not harass or threaten any other person because of race, colour, sex, nationality, religion, age, mental illness, disability, sexuality or for any other reason.

Examples of harassment include, but are not limited to:

- violence or threats of violence;
- using abusive words or behaviour;
- writing abusive graffiti;
- damaging property; and
- stalking any other person.



- f** You and they must not use your home or any shared area for any illegal activity such as using drugs, drug dealing or prostitution.
- g** You and they must not use or threaten to use violence by using physical, mental, emotional or sexual abuse against anyone legally entitled to live either in your home or in another of our properties.
- h** You and they must not damage or deface our property. You are responsible for paying for any repairs that you cause or replacing items that you, or they, damage.
- i** You and they must not interfere with security equipment, like door-entry systems and closed-circuit television equipment, in shared areas. Doors must not be jammed open and strangers must not be let in without showing identification.
- j** You and they must co-operate with us and your neighbours to keep any shared areas clean, tidy and clear of obstructions.
- k** You and they must not assault or threaten any of our employees or agents or anyone else on the estate and the surrounding area.
- l** You and they must not break any of our regulations to do with your estate.
- m** You and they must not park on our property without authorisation. You and they must not block access points or obstruct emergency vehicles.
- n** You and they must not carry out non-routine car repairs, like paint spraying, or dump unwanted vehicles in shared areas.
- o** You and they must not keep a dog, bird or other animal in your home without our permission. The Tenants' Handbook gives details of when we will give permission.
- p** You must not keep liquid petroleum gas or any other flammable or explosive substance in your home or shared areas. You must also not do, or keep anything in these areas, which might affect the insurance of the property.
- q** If you have a garden, patio or balcony, you must keep it tidy. You must also keep emergency exits free from obstruction.



## APPENDIX C

### GLOSSARY

ABA	Acceptable Behaviour Agreement
ABC	Acceptable Behaviour Contract
AIDS	Acquired Immunodeficiency Syndrome
ASB	Anti-Social Behaviour
CBO	Criminal Behaviour Order
CCTV	Closed Circuit Television
DPA	Data Protection Act
DV	Domestic Violence
EPA	Environmental Protection Act 1990
FOI	Freedom of Information
FRP	Family Recovery Programme
GMAP	Gangs Multi-Agency Partnership
HIV	Human immunodeficiency virus
IGU	Integrated Gangs Unit
LGBT	Lesbian, Gay, Bisexual & Transgender people
MARAC	Multi-Agency Risk Assessment Conference
MAPPP	Multi-Agency Public Protection Panel
MASH	Multi-Agency Safeguarding Hub
MEMO	Millbank Estate Management Organisation
MOPAC	Mayor's Office for Policing and Crime
NEET	Not in employment, education or training
NOSP	Notice of Seeking Possession
NPP	Notice of Proceedings for Possession
PCSO	Police Community Support Officer
RIPA	Regulation of Investigatory Powers Act 2000
RP	Registered Provider (including Housing Associations)
SWP	Safer Westminster Partnership
TMO	Tenant Management Organisation
YCPP	Youth Crime Prevention Partnership
YOT	Youth Offending Team
YPP	Young People's Practitioner