

TO: CULTURE AND SOCIAL POLICY COMMITTEE – 20th JULY 2005

SUBJECT: RESPONDING TO ANTI-SOCIAL BEHAVIOUR

FROM: HOUSING SERVICES

1. PURPOSE OF REPORT

- 1.1 To inform the Committee of Housing Services current responses to incidents of anti-social behaviour perpetrated by its tenants or in or near its properties, and planned measures to strengthen this area of operation.

2. BACKGROUND

- 2.1 A priority of the Corporate Strategy 2003-2007 is to promote and contribute to a safer and healthier community.
- 2.2 Community Safety, the generic term for the statutory responsibilities placed on the Council by the Crime and Disorder Act 1998, is a key feature within the approach to meet this priority and includes a strategy to tackle anti-social behaviour throughout the district.
- 2.3 The Housing Services Business Unit's response to anti-social behaviour therefore, has two priorities. Firstly it has to support the wider corporate strategy and secondly it has to meet the responsibilities placed on it by the Housing Act 1985 and the Anti-Social Behaviour Act 2003.
- 2.4 Housing Services has always had robust policies and procedures for dealing with anti-social behaviour. The term covers a multitude of differing types of behaviours and nuisance so the approach has been, over time, to develop a "toolkit" of differing responses. This allows for an appropriate response to be selected to tackle the different types of issues presented.
- 2.5 This approach requires regular amendment of policy and procedures to ensure that we keep abreast of any new measures implemented by Government in this area. This led to the Executive approving a revised policy in June 2004 which ensured we were equipped to deploy the range of measures provided by the Anti-Social Behaviour Act 2003, and in particular the new provision for demoted tenancies.
- 2.6 Further revisions were approved by Executive in December 2004 when all the provisions of the 2003 Act finally came into force. This ensured we were able to meet the statutory requirement to publish a statement of our policies and procedures and make available a summary of these on demand. We also ensured compliance with current guidance from the Office of the Deputy Prime Minister by inserting new sections within the policy that relate to Domestic Violence, Social Services' responsibilities to children and Protection of Staff.
- 2.7 The current Anti-Social Behaviour Policy document is attached as **Appendix One**.

3. **POLICY AND BUDGET FRAMEWORK**

- 3.1 Responding to anti-social behaviour is a necessary part of Housing Services' operations and hence a fundamental service provided within the Housing Revenue Account. The work undertaken within Housing also supports Corporate Objective CO.3.
- 3.2 The prominence of the issue is reflected by the inclusion of a specific outcome target relating to enhancing our response to anti-social behaviour within the Housing Services Service Area Plan 2005/06.

4. **OUTCOME(S) REQUIRED**

- 4.1 The Committee is asked to consider this report and determine whether it wishes to undertake further investigation of this subject.
- 4.2 The Committee is asked to decide if it requires further reports on this subject and if so, on what frequency.

Bill Hunt
Head of Housing Services

BACKGROUND PAPERS

Housing Services Service Area Plan 2005/06
Housing Anti-Social Behaviour Policy – Executive, 20th December 2004
Housing Anti-Social Behaviour Policy – Executive, 14th June 2004
To Adopt a Corporate Community Safety Strategy – Executive, 14th June 2004
Towards a Safer Warwick District – Crime and Disorder Reduction Strategy 2002-05

Areas in District Affected: All

Executive Portfolio Area and Holder: Housing, Councillor Alan Boad

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06.07.05

5. RESPONDING TO ANTI-SOCIAL BEHAVIOUR

- 5.1 All reports of anti-social behaviour received within Housing Services are logged. Reports are predominantly received direct from a complainant or their representative but can potentially be forwarded after receipt by another Business Unit or from Kuldip Takhar, the recently appointed South Warwickshire Anti-Social Behaviour Officer.
- 5.2 Reports fall into two categories. Nuisance 1 cases are those involving violence or the threat of violence and receive a priority response within a maximum 48 hours. Nuisance 2 cases, the majority, are of a lower level of seriousness but nonetheless are all investigated and responded to. Within both of these categories each reported case is further categorised by type of incident. We currently use 6 sub-categories; youths which covers nuisance predominantly caused by teenagers, whether in gangs or identified as the children of tenants; drugs covering any drug related activity; noise; graffiti; anti-social behaviour perpetrated by an individual and finally a general category which covers any other breach of tenancy such as nuisance from dogs, vehicle repairs, unmaintained gardens etc.
- 5.3 Details of the level of cases logged and responded to are contained in Table 1 of **Appendix Two**. The 151 recorded cases in the first quarter of this year represents a slight increase in the level of reported incidents. An analysis of the categorisation of these 151 cases is provided at **Appendix Three**. Of these 79 are still active cases either under investigation or where action is being progressed.
- 5.4 A review of the recording system is scheduled as part of the Tenancy Management Business Process Redesign programme which is currently underway. We intend to review the sub-categories as we suspect that drug related activity is currently being under recorded. In addition the geographical records are currently based on Housing Officer patches but our intention is to use differing recording methods which will more readily allow "hot spots" to be identified.
- 5.5 The "toolkit" approach provides for differing responses to be deployed for differing types of reported incidents. The first level of response to Nuisance 2 cases is, after initial investigation, to send a letter to the alleged perpetrator outlining the details of the complaint made against them and another letter to the complainant offering advice, setting out the assistance we can provide and asking them to record on a log sheet any repeat or new incidents of anti-social behaviour. If after 28 days no logs have been received we will send a further letter and then close the case. This immediate response has proved extremely successful and a significant number of cases do not escalate further after we have advised the perpetrator of the problems their behaviour is causing. This approach is now also being adopted by the Police who will liaise with the South Warwickshire ASB Officer on low level nuisance cases. If we have not already started our own investigations at this stage a letter is sent to any of our tenants warning them of their behaviour and advising that if it were continue we as landlord may need to take further action.
- 5.6 Any Nuisance 2 cases progressing beyond this stage continues to be handled by the relevant patch based Housing Officer although it will be passed to our dedicated Tenancy Enforcement Officer if the nuisance continues and the case needs to be progressed to the service of a Notice of Seeking Possession (Secure Tenants) or Notice of Possession Proceedings (Introductory Tenants) or beyond. As can be

seen from Table 2 of **Appendix Two** the traditional route of service of notice, court action and, if required, ultimately eviction remains the most frequently used response to anti-social behaviour.

- 5.7 However, increasingly Acceptable Behaviour Commitments are being used, often for the children of tenants. Often these may be initiated by the Police but in these cases we also follow up to advise tenants that any breach of the commitment will result in the service of an appropriate Notice.
- 5.8 Nuisance 1 cases may involve a different range of responses as they involve close partnership working with a range of agencies including, invariably, the Police. We have established excellent working relationships with the Police and will often undertake joint visits.
- 5.9 Underpinning the response to reported cases is the preventative work that we undertake. We are signatories to the countywide Sharing of Information Protocol and also attend the Risk Assessment Management Panel which allows us, where necessary, to consider selective lettings to minimise risk. We also attend regular meetings (s!7 meetings) with the Police to share intelligence, discuss appropriate responses and strengthen the partnership approach.

6 DEVELOPMENT ISSUES

- 6.1 Despite having the “toolkit” there are a number of potential responses which remain undeveloped.
- 6.2 As a landlord we have yet to use either the option of demoting a tenancy (effectively applying to court for a Secure Tenancy to be “demoted” to an Introductory Tenancy which offers less security of tenure and a quicker route to eviction) or seeking an injunction.
- 6.3 Other areas for development include improved witness support arrangements, more extensive use of mediation, evaluation of location specific measures such as a pilot vehicle clamping scheme, and evaluation of the provision of portable CCTV equipment that can be fitted into tenant’s homes.
- 6.4 Business Process Redesign (BPR) of Tenancy Management will re-evaluate our current staffing structure, reinforce the link between Housing Officers and the Tenancy Enforcement Officer, streamline management arrangements and address the division of responsibilities between Housing Services and Legal Services.
- 6.5 Whilst we consider our current approach to responding to anti-social behaviour to be both effective and robust BPR will create a platform that will allow us to develop our response further to benefit both tenants and the whole community.



Appendix One

Warwick District Council

Housing Services

Anti-Social Behaviour Policy and Procedures

December 2004



Anti-Social Behaviour: Policies and Procedures

Contents

- 1.0 Objectives
- 2.0 Definitions
- 3.0 Principals of tackling Anti-Social Behaviour
- 4.0 Potential Solutions
- 5.0 Anti-Social Behaviour Procedures
- 6.0 Targets and Performance Indicators
- 7.0 Monitoring, Review and Consultation
- 8.0 Publicising the Policy

1. OBJECTIVES

- 1.1 The Council recognises the importance that tenants place on the ability to live peacefully in their homes.
- 1.2 The scope of this policy covers all forms of anti-social behaviour within and in the locality of Council-owned homes.
- 1.3 The objectives of this policy are:
 - To enable Council tenants and their households to live peacefully in their homes.
 - To enable the Council to take all possible steps to tackle and prevent those behaviours that could cause problems for others, in order to create a safer environment.
 - To ensure prompt and effective action is taken to investigate all allegations of harassment, nuisance and anti-social behaviour and that clear guidelines and procedures for staff to follow are established.

2. DEFINITIONS

2.1 Anti-social behaviour and neighbour nuisance includes a broad range of disruptive behaviour and often causes misery and distress.

2.2 **Anti-Social Behaviour**

A person acting in an anti-social manner that causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household as himself/herself.

This includes conduct which:

- is capable of causing nuisance or annoyance to any person and
- directly or indirectly relates to or affects the housing management functions of a relevant landlord; or
- consists of or involves using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose.

2.3 **Nuisance**

The behaviour of tenants, other people living in tenants' homes, or visitors to their properties which causes or is likely to cause danger, nuisance, annoyance or disturbance to other tenants, Council staff, contractors or any other persons residing in or visiting the locality.

2.4 **Harassment**

Harassment is an extreme form of nuisance and anti-social behaviour against groups or individuals and may include:-

Racial Harassment

The definition used by the Commission for Racial Equality has been adopted by the Council. This describes harassment that is racially motivated as that which “may be verbal or physical and which includes attacks on property as well as the person, suffered by individuals or groups because of their colour, race, nationality or ethnic origin, when the victim believes that the perpetrator was acting on racial grounds and/or there is evidence of racism”.

Incidents of racial harassment are encompassed within this policy but there is also a separate policy and procedures for dealing with such incidents.

Sexual Harassment

The interference with a person’s comfort or safety on grounds of gender or sexual orientation.

Disability Harassment

The interference with a person’s comfort or safety on grounds of their disability or health.

2.5 **Domestic Violence**

The abuse by a perpetrator of a victim using physical, emotional, sexual or monetary methods within the home environment.

3. PRINCIPLES OF TACKLING ANTI-SOCIAL BEHAVIOUR

3.1 It is recognised that anti-social behaviour is not just a housing management problem and that a strategic and holistic approach must be adopted. The Council will work in partnership with Police, other responsible authorities and agencies to reduce crime and disorder, anti-social behaviour and the fear of crime in Warwick District. The Council will support the local Crime and Disorder Reduction Partnerships and Community Safety Initiatives and any other relevant partnership arrangements where these add value.

3.2 Pre-tenancy

An effective strategy for controlling anti-social behaviour should aim to prevent such behaviour occurring by minimising the conditions which encourage it to start. The Council will develop and sustain arrangements with the appropriate agencies to ensure that any support packages for new tenants are in place, any relevant agencies are involved and consulted, and the approach to the management of a tenancy has been agreed prior to the start of the tenancy. The Council will expect to be provided with all relevant information needed to allow effective management of tenancies as part of any negotiated nomination agreement. This ensures that perpetrators from vulnerable groups are appropriately supported and rehabilitated before enforcement action is taken. It is acknowledged that the majority of people who fall within vulnerable groups are not perpetrators of anti-social behaviour and may be victims.

Similarly, the Council will develop and sustain arrangements with the appropriate agencies for existing tenants who develop the need for care and support packages during the course of a tenancy. Adopting effective interventions by specialist agencies will ensure that key professionals are involved at the earliest possible stage to prevent or manage issues as they arise. Specialist agencies may include drug action teams and mental health services.

3.3 Tenancy Commencement and Post Letting

The “sign-up” of new tenants is the ideal opportunity to explain and reinforce the rights and obligations of the tenant as set out in the tenancy agreement; especially not to cause, or allow to be caused nuisance to neighbours or those living nearby.

Staff will ensure the tenancy agreement is explained to the tenant clearly so that they fully understand the terms of the agreement and the way the Council will approach any breaches of the agreement

Following the commencement of a new tenancy, an appointment is made by a housing officer for a home visit to take place within the first 6 weeks of the tenancy start date. The purpose of this visit is :

- To provide an opportunity for the tenant to resolve any outstanding issues, particularly with regard to Housing Benefit
- Enable a check to ensure that any decorating vouchers issued have been used correctly
- To check that relevant agencies remain engaged with the new tenant if support packages have been identified
- To address any early signs of anti-social behaviour or any other potential breaches of the conditions of tenancy.

3.4 Responding to complaints of Anti-Social Behaviour

Clear information will be provided to residents on how to report harassment, nuisance and anti-social behaviour, irrespective of tenure. All reports will be treated confidentially and formally acknowledged. On receipt of the complaint all possible remedies will be explored including the use of mediation, injunctions, Anti-Social Behaviour Orders, possession proceedings, Acceptable Behaviour Commitments, and any other appropriate legal remedies. Often underlying causes of anti-social behaviour are very complex and this requires the policy to be flexible in its approach. Decision making tailored to the individual circumstances is crucial.

The Council will ensure that a prompt and sympathetic approach is adopted when dealing with cases of alleged harassment, nuisance and anti-social behaviour. The Council will endeavour to provide the victim(s) and/or witnesses with the appropriate level of support and guidance to enable them to co-operate fully with any investigation.

All of the remedies used by the Council will be subject to Human Rights considerations. There will be a balancing exercise between the rights of the victim and the perpetrator, and an assessment of whether the remedy is proportionate to the outcome sought.

Where the alleged perpetrator is a child, the Council will ensure that Social Services undertake an assessment under S17 of the Children Act 1989 to identify whether a child is 'in need', necessitating the provision of services to that child and the family to meet those needs.

Incidents of domestic violence are managed by the Housing Advice Section. Effective liaison with the Domestic Abuse Multi-Agency Team (DAMAT) ensures that victims are supported in accessing appropriate remedies. Measures available to deal with associated anti-social behaviour and prevent impact on the wider community are considered only after consultation with DAMAT.

3.5 **"Peaceful Neighbourhoods" Initiative**

The Council has developed this operational framework for front-line Housing staff at the Council and the Police (See **Appendix One**). This formalises joint working "on the ground" and facilitates the information exchange crucial for dealing effectively with incidents of nuisance and anti-social behaviour.

3.6 **Witness and Victim Protection**

The Council will do all it can to protect victims of, or witnesses to, anti-social behaviour. The measures adopted are set out as Appendix B to the Peaceful Neighbours Initiative (See **Appendix One**)

3.7 **Human Rights Act Consideration**

All of these remedies will be subject to Human Rights considerations. There must be a balancing exercise between the rights of the victim and the perpetrator, and an assessment of whether the remedy is "proportionate" to the outcome sought.

3.8 **Protection of Staff**

The Council will ensure that the list of potentially violent members of the public available under the Sharing of Information Protocol (SIP list) is regularly updated and distributed to appropriate members of staff likely to have contact with members of the public.

The Council will be represented on the multi-agency Risk Assessment Management Panel (RAMP) and relevant members of staff will be advised appropriately by a senior officer in respect of visiting and interviewing arrangements.

The approved recommendations of the Staff Safety Working Group will be supported and implemented.

All members of staff dealing with anti-social behaviour will receive training for lone working and dealing with people in stressful and difficult situations where conflict may arise.

Appropriate legal action will be taken against those individuals who threaten, abuse or harm staff. This may include the enforcement of the Council's conditions of tenancy via possession proceedings, the seeking of injunctions to restrain individuals, or supporting criminal proceedings, where appropriate.

3.9 Confidentiality

The Council subscribes to the County-wide “Sharing of Information Protocol”. However, the source of complaints will not be disclosed to any third party without the express consent of the complainant and confidentiality will be respected at all times.

4. POTENTIAL SOLUTIONS

4.1 The legal and non-legal approaches available to tackle cases of anti-social behaviour and nuisance throughout the community are set out below. They are not mutually exclusive. Crime & Disorder Act remedies are dealt with through the Magistrates’ or County Court, and the possession/injunction remedies through the County Court only.

4.2 Crime and Disorder Act 1998

For tackling anti-social behaviour associated with Council properties the Act uses the following definition:

“that a person has acted in an anti-social manner – that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself”

It also enables anti-social behaviour to be tackled district wide, whether associated with Council properties or not, by providing:

“that an Anti-Social Behaviour Order is necessary to protect persons in the Local Government area in which the harassment, alarm or distress was caused or was likely to be caused from further anti-social acts by him”.

The Act also requires a local authority to have a Crime and Disorder Strategy. As part of the Council’s strategy the Housing Unit participates in regular “Section 17” meetings with the Police. Within this discussion forum, a co-ordinated approach to tackling anti-social behaviour can be discussed including the potential for using Anti-Social Behaviour Orders (ASBOs). Where this course of action is determined the progression of the ASBO is monitored by an ASBO sub group.

ASBOs can be obtained from both the Magistrates’ Court or the County Court by either the Police or the Local Authority, although there must be consultation with all agencies involved with the individual to whom the order will apply first. It is a preventative measure governing future conduct, rather than penalising past conduct. The standard of proof is civil, i.e. on the balance of probabilities. It is for the Court to determine the scope and duration of the Order, although it would usually be for 2 years. The applicant must also demonstrate other measures that have been taken to attempt to resolve the problem.

The maximum sanction of the Magistrates Court is a sentence of 6 months and/or a fine. In more serious breaches (dealt with by the Crown Court) the maximum penalty is 5 years and/or a fine. As an alternative, the Court can continue/strengthen the Order beyond the 2 year initial period. It is now possible for the County Court to attach an ASBO to a Possession Order.

The Anti-Social Behaviour Act 2003 (see below) now authorises local authorities to enforce as well as obtain Anti-Social Behaviour Orders.

Other potential solutions available under the Act include :

Parenting Orders

Used to try and control the behaviour of children by an Order against the parents. Has a maximum life of 12 months. A “responsible officer” is named in the Order who is either a Probation Officer, a Social Worker or a member of a Youth Offending Team.

Child Safety Orders

A Supervision Order which places a child under the control of a Social Worker or member of a Youth Offending Team for a period of 3 months, or in exceptional circumstances up to 12 months.

Local Child Curfew Schemes

Can be made by a Local Authority after consultation with the Police and other appropriate bodies. They can only last for 90 days and are subject to ratification by the Secretary of State.

4.3 Housing Acts 1985 and 1996

These acts contain the main provisions specifically aimed at Council tenants.

Council tenants are responsible not only for their own actions, but also for those of their families and visitors.

Nuisance is a breach of Contract (the Tenancy Agreement) hence the need for comprehensive nuisance conditions, as well as having a specific Ground for Possession attached to it under the Housing Act 1985. It was recognition of this need which was the prime driver for the new Secure Tenancy Agreement adopted by the Council in July, 2002.

There is a specific ground for possession in the Housing Act 1985 (as amended) which deals with nuisance by Council tenants their families and visitors.

This states:-

“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 –
 1. using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
 2. an arrestable offence committed in, or in the locality of, the dwelling-house”.

Possession Proceedings

The traditional remedy and usually the most effective. The County Court Judge can make any Order he/she deems appropriate and the Council must pass a test of "reasonableness" before any Order can be made. Evidence is by other tenants, Housing Officers, Professional Witness (including the Police) and can include hearsay as well as direct evidence. However, the more hearsay evidence there is, the harder it is to persuade a judge to make an Order, unless the circumstances of the case are extreme. A further requirement of the Anti-Social Behaviour Act 2003 is that in exercising its discretion the Court must give particular consideration to the actual *or likely effect* which the anti-social behaviour has had or could have on others.

The Tenancy Agreement : Secure Tenancies

This is the contract between the Council as Landlord and its Secure Tenants. All Council tenants are Secure Tenants unless they are Introductory Tenants or in temporary accommodation (e.g. under a homeless duty). It contains strenuous conditions designed to prevent neighbour nuisance.

The current tenancy agreement was revised in July 2002. The revised version significantly strengthened the Council's position when seeking to enforce its Conditions of Tenancy. The relevant sections of the tenancy agreement are Section 7 "Anti-Social Behaviour" and Section 8 "Respect for Others".

The Tenancy Agreement : Introductory Tenancies

This is the contract between the Council as Landlord and all new tenants whose tenancy commenced after 1st April 2000. It lasts for 12 months, after which it becomes a Secure Tenancy, unless steps are taken to terminate it before the 12 months expire.

The agreement allows the Council to apply for a mandatory possession order as long as the appropriate notice has been served under the terms of the Housing Act, 1996. The tenant has a right of appeal against the service of the notice and the appeal process is included in the terms of reference of the Housing Appeals and Review Panel.

4.4 Anti-Social Behaviour Act 2003

This Act extended the powers available to local authorities to tackle anti-social behaviour within the community.

In particular it strengthens the powers of landlords in the following ways:-

- A power of arrest can be attached to an injunction obtained through the Local Government Act 1972 if there is a threat of violence or use of violence or there is significant risk of harm.
- Proceedings for Possession:
The Act allows Courts to take the following issues into account when they are considering granting Possession Orders:-
 - The effect on those in the locality if the nuisance is repeated.
 - The effect of the nuisance on those in the locality.
 - The continuing effects of the nuisance.

- **Anti-Social Behaviour Injunctions:**
The legislation now gives Housing Associations and Local Authorities the power to obtain an injunction on anyone – not just tenants – who are causing a nuisance which affects the way the estates are managed and gives protection to those engaged in lawful activity on the estate or members of the landlord staff carrying out their duties.
- **Demoted Tenancies:**
Registered Social Landlords and Local Authorities can apply to the County Court for a Demotion Order. If a secure tenancy is demoted then, for a period of 1 year, the tenant has some rights reduced and repossession during the year becomes easier. This differs from non-demoted Secure Tenancies where the Court has to be satisfied that it is “reasonable in all the circumstances to make an order” which required proof of the allegations on the balance of probabilities.

In exercising its discretion the Court must give particular consideration to the actual *or likely effect* which the anti-social behaviour has had or could have on others i.e. the fear of crime within a local community.

Section 12 of the Act requires landlords that are Local Housing Authorities, Housing Action Trusts and Registered Social Landlords (collectively referred to as ‘Social Landlords’) to prepare and publish policies and procedures in relation to anti-social behaviour and an associated summary.

The Statement of Policies

This outlines the landlord’s general approach to anti-social behaviour and also includes specific policies. These relate to the landlord’s commitment to tackling anti-social behaviour, racial harassment, domestic violence, multi-agency partnerships and the use of available legal remedies.

The Summary of Procedures

This outlines the landlord’s procedures for dealing with occurrences of anti-social behaviour. It includes information on how and to whom a complaint of ASB should be made, how contact will be maintained with the complainant and how the progress of the case will be monitored.

4.5 Environmental Protection Act 1990

This Act controls “statutory nuisances” such as excessive noise. This is a useful tool, not only in its own right but in providing corroborating evidence in possession proceedings (see 3.7.4 below). Environmental Health Officers can give evidence in possession proceedings. It is objective evidence, and convictions recorded by the Magistrates for breaches of the EPA by tenants can form part of the case in possession proceedings.

The Act is the basis for Environmental Health Officers to control noise nuisance. Co-operation takes place with Housing Officers where a Council tenancy is involved. The breach of an abatement notice can be prosecuted in the Magistrates Court and a fine

imposed. The evidence and conviction is very useful evidence in possession proceedings. Powers also include seizing of equipment for fixed periods. The Housing Unit and Environmental Health Unit have developed a joint working protocol to address noise issues in Council properties.

4.6 **Police Reform Act 2002**

It is now possible for interim ASBO's to be granted for a fixed period of time to prevent further anti-social behaviour pending the full ASBO being obtained.

4.7 **Sex Offender Act 1997**

The Police are required to maintain a register of sex offenders who fall within the remit of the legislation. A risk assessment is carried out by agencies on people who are registered or pose a risk to the community. The Council, as landlord, is one of those agencies involved in assessing risk (see RAMP and MAPPA).

Under the Act, Sex Offender Orders can be obtained and enforced by the Police – maximum term of Order is 5 years.

4.8 **Injunctions**

Injunctions can be obtained under various pieces of legislation.

An injunction can be either “ordinary” or with a power of arrest attached (difficult to get). The Court will often substitute an “undertaking” given by the Defendant to the Judge. Its breach will then be a contempt of Court. All injunctions are for a limited period (rarely for more than 12 months). Breach is punishable by a fine or a term of imprisonment. In a recent case a second breach of an injunction was punished by a term of 12 months in prison.

Injunctions can be used alongside possession proceedings, or be a temporary expedient to cover the period between lodging the papers and the trial. The burden of proof is the same as for possession proceedings, i.e. “on the balance of probabilities”.

The law relating to injunctions sought by local authorities has been widened and strengthened under the Anti-Social Behaviour Act 2003.

4.9 **Non-Legal Remedies**

4.9.1 **Mediation**

Usually by an external facilitator. Following the re-organisation of the County Court and the adoption of the Civil Procedure Rules this approach is encouraged by Judges and goes towards discharging the “reasonableness” duty.

4.9.2 **Negotiation**

Usually by Housing Officers in cases where only 2 tenants or families are involved. Designed to achieve a workable solution without the need for Court action, which would probably be unsuccessful. The Housing Business Unit has designated officers who deal with neighbour issues.

4.9.3 Acceptable Behaviour Commitments

A recent development which the Police and Landlord Authorities can enter into with their tenants. An Acceptable Behaviour Commitment is not legally binding but good evidence of seeking to resolve the problem before a case proceeds to Court. Particularly appropriate as a precursor to pursuing an Anti-Social Behaviour Order or Possession Order.

5 ANTI-SOCIAL BEHAVIOUR PROCEDURES

5.1 Complaints can be received in any form. The complaint does not have to be made in writing. The complaint will be recorded on the appropriate Pro-forma (ASB1). The procedures shown as the flowchart at **Appendix Two** are then followed.

5.2 Complainant should be encouraged to contact the neighbour in the first instance, to approach politely and bring the problem to the neighbour's attention. Neighbours should be encouraged to resolve the problem themselves, but get back to the Housing Officer if necessary. ("Being Neighbourly" letter).

Standard letter (ASB2) to acknowledge that a complaint has been made and that this is the advice given.

Where the complaint is of a minor nature advise the complainant that the Council is not prepared to become involved at this stage. The Housing Officer should, however, consider the potential for escalation and possible referral to an external mediation agency.

Issue standard letter (ASB3) confirming the Council's stance at this point, noting the complaint but no intention to pursue as there is no breach of Conditions of Tenancy.

5.3 If the behaviour complained of is likely to constitute a Breach of Conditions of Tenancy, contact the complainant (telephone or visit) establish the facts, explain the Council's policy and agree a course of action. Explain that the onus is on the complainant and other witnesses to provide evidence upon which the Council will act. Consider other methods by which evidence can be obtained e.g. Police, Environmental Health.

5.4 The investigating officer should also consider whether other agencies can assist in resolving the situation e.g. Social Services or the Probation Service. Often, anti-social behaviour is not just a "housing" problem but one that requires assistance from others to resolve.

5.5 If the complainant wishes to pursue, issue the nuisance logs, for return within an agreed timescale. The usual time period for completion is 28 days but any serious incidents can be reported immediately to the Housing Officer as immediate intervention may be appropriate

Confirm agreed course of action in writing. (Use non-standard letter (ASB4) and issue with diary forms).

- 5.6 The tenant causing the nuisance must be notified of the nature of the complaint and that incidents of nuisance/anti-social behaviour are being recorded. The complainant's identity remains confidential. A letter of notification should be issued to the tenant causing the nuisance. (Standard letter ASB5).
- 5.7 If the logs are not returned or do not contain sufficient evidence to commence proceedings, notify the complainant in writing, issue Standard letter (ASB6(i) or ASB6(ii) and consider referral to an external mediation agency.
- 5.8 If the nuisance continues and if there is a persistent Breach of Conditions of Tenancy, seek to corroborate with other witnesses, professional if possible (including other Business Units/Agencies).
- 5.9 Issue a warning letter to the perpetrator, detailing the nature of the nuisance and how others are affected by it. Invite the perpetrator to attend for interview and repeat the warning and advise that legal action will be taken to enforce the Council's Conditions of Tenancy if the nuisance continues.
- 5.10 If the nuisance continues, call a formal case review meeting to include a representative from Legal Services to determine a course of action and identify the most appropriate remedy.
- 5.11 The Case Review Meeting will include the Estates Manager or Tenancy Services Manager, the Tenancy Enforcement Officer, the Housing Officer(s) involved in the case and a representative from Legal Services. The meeting will consider all options available to address the anti-social behaviour. The meeting will determine the most appropriate enforcement strategy and whether a multi-agency approach needs to be pursued.

6. TARGETS AND PERFORMANCE INDICATORS

- 6.1 The Council will develop performance standards with regard to tackling anti-social behaviour and will undertake bench-marking exercises with other similar organisations involved in tackling anti-social behaviour.

7. MONITORING, REVIEW AND CONSULTATION

- 7.1 Regular reports will be made to the Head of Housing Services regarding
- The number of ongoing cases
 - Action taken to resolve cases
 - Monitoring of cases by management area and type
 - Analysis of customer satisfaction with the process
- 7.2 The Head of Housing Services will discuss the outcomes with the Housing Portfolio Holder not less than quarterly and a joint decision will be made as to any need to report formally to the Social and Overview Scrutiny Committee or the Executive.

- 7.3 The Scrutiny Committee also has the right to request information to be reported to it for debate and consideration at any stage.
- 7.4 The Council will review of best practice recommendations with regard to anti-social behaviour on an on-going basis, with particular reference to the work of the Government's Anti-Social Behaviour Unit.

The Council will ensure that tenants and residents are consulted on any proposed changes to this policy and that other stakeholders are involved in the development of policy and accompanying procedures for tackling anti-social behaviour.

8 PUBLICISING THE POLICY

- 8.1 The Statement of Policies and Procedures and the Summary of current policy and procedures will be published on the web site. Printed hard copies will be available at public access points and one stop shops across the District. Translated, Braille and large print copies will be made available if requested. The availability of anti-social behaviour policies and procedures will be published in 'Home News'.
- 8.2 Successful resolution of cases will be publicised and press releases will be made in specific cases of enforcement action e.g. obtaining possession orders, anti-social behaviour orders, and securing evictions. The identity of those individuals involved, both victims and perpetrators, will not be made public by the Council.

Appendix 1 (to Appendix One)

Working Together for Peaceful Estates

A Partnership Approach for
Safer Communities

CONTENTS

1. Foreword
2. Key Objectives
3. Purpose
4. Structure
5. Working Together
6. The Tool Kit
7. Building Trust in the Community
8. Terms of Agreement

Appendix A - Structure

Appendix B - Witness Support Procedure

1. FOREWORD

This agreement sets out a system of joint working between Warwick District Council Housing Department and the Police to tackle the issue of Anti-Social Behaviour through partnership working, working within the Countywide Sharing of Information Protocol and building upon the Warwickshire Anti-Social Behaviour Protocol.

Partnership working accepts the answer lies, not in the hands of a single body, but in a broad concerted effort, with all involved agencies working together and supporting each other with a common aim.

Anti-Social Behaviour is often the behaviour of the minority that blights the lives of the majority, deeply affecting people who are subjected to it. It is a problem which has many causes and which manifests itself in many different ways, thus by necessity it is one which requires a wide range of responses if it is to be successfully tackled.

This agreement includes details of the close joint case management and information exchange which will be applied to serious Anti-Social Behaviour.

A key issue for Warwick District Council and the Police is to maximise the effectiveness of this approach by extending its benefits to include all properties managed by Registered Social Landlords within the district.

2. KEY OBJECTIVES

1. To co-operate and work together improving the effectiveness of the Police and Warwick District Council (WDC) in meeting the problems of Anti-Social Behaviour on our estates and within our communities.
2. To share relevant information enabling multi-agency involvement, agreeing priorities, and establishing joint action plans for the benefit of our residents.
3. To increase the confidence of our clients in the ability of partnership members to combat Anti-Social Behaviour.
4. To encourage resident's involvement in evidence gathering by providing a joined up approach to witness support, reducing the fear of intimidation and harassment.
5. To pursue all available legal remedies through both the criminal and civil courts with a view to modifying the behaviour of offending individuals and effecting a lasting solution.
6. To reduce Anti-Social Behaviour and the fear of crime in order to create safer communities.

3. PURPOSE

For the purpose of this agreement, examples of Anti-Social Behaviour are as defined by the Crime & Disorder Act (1998):

“That a person has acted in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself”

and/or

“Nuisance, which can be applied to less serious behaviour, such as noise nuisance, verbal harassment and problems associated with youth activity”.

This agreement is produced for the purpose of setting out roles and responsibilities to tackle the problems of Anti-Social Behaviour within the district and to provide a more effective co-ordinated response to reducing neighbourhood nuisance.

4. STRUCTURE

Successful partnerships require a visible commitment from local agencies both in the provision of resources and the exchange of information. Sustainable partnerships should be considered as an investment by partners clear about why they join.

Objectives need to clearly meet the concerns and needs of the communities whilst addressing the performance targets of the local agencies.

Local communities need to be seen as part of the solution. Residents must be encouraged to identify local problems affecting them and then to be active participants in proposed solutions.

Assessing the successful operation on the ground through the careful monitoring of projects and initiatives will ensure resources are deployed as efficiently and effectively as possible.

A steering group including membership of all interested parties including tenants, will oversee district strategies and policies to be adopted in the joint casework management approach with members within the group having the delegated authority to act on behalf of the participating agency.

See Appendix A

5. WORKING TOGETHER

Designated Officers

The Police and WDC Housing Department have made provision for specific officers, namely the Tenancy Enforcement Officer, Community Beat Managers, Housing Officers, Community Beat Officers and Police Community Safety Officers, to tackle the problems arising from Anti-Social Behaviour on our estates and in our communities, using legislation available and liaising closely with each other and local agencies, to reduce the effects of this behaviour on the citizens of WDC.

“Patch Responsible Working”

Whilst it is acknowledged the designated areas do not co-ordinate identically, community Beat Officers and Housing Officers provide each agency with a strong information exchange base adopting joint caseworking arrangements to achieve solutions where court action is not necessarily warranted.

Joint Operational Meetings

As a response to the Crime & Disorder Act (1998) representatives from the Police and key District Council Officers including the Housing Department meet bi-monthly to consider joint strategic agreements to community issues of crime and disorder and in particular Anti-Social Behaviour.

A bi-monthly group “ASBOM” (Anti-Social Behaviour Orders Meeting) meets to discuss individual cases brought by a concerned agency where the pursuit of an Anti-Social Behaviour Order may be appropriate.

Professionals at these meetings are invited from a wide range of local agencies.

Community Against Racism

The Police and Warwick District Council are reporting centres for any racist incident that occurs within the community, together with other statutory community and voluntary agencies.

Reporting centres have trained staff available to enable anyone who may have suffered, or been a witness to harassment, to report the incident in a safe non-threatening environment.

6. THE TOOL KIT

Crime & Disorder Act 1998

Anti-Social Behaviour Orders (ASBOs) obtained from either the Magistrates Court or the County Court by either the Police or Local Authority in consultation with all involved agencies. A preventative measure for future conduct. The standard of proof is Civil i.e. on the balance of probabilities. The Court determines the scope and duration of the Order, although it is for a minimum of 2 years.

Anti-Social Behaviour Act 2003

Further strengthens powers given by the Crime & Disorder Act (1998) to Police and Local Authorities. This bill gives Registered Social Landlords the authority to pursue their own ASBOs and also allows Local Authorities as well as the Police to prosecute any breach of an ASBO. Power is given to Environmental Health Officers to introduce fixed penalties for Noise Nuisance after a short warning and strengthens Police powers to deal with a variety of anti-social activities.

Housing Act 1985

Possession Proceedings

The traditional method - A County Court Judge makes an Order deemed appropriate and reasonable given the evidence provided by residents, other appropriate agencies and professional witnesses i.e. Housing Officers, Environmental Health Officers and the Police.

Injunctions

Section 153 empowers High Court/County Court to attach a Power of Arrest. The Court will often substitute an undertaking given by the defendant to the Judge unless it considers that the respondent has used, or threatens to use, violence. A breach of this undertaking will then be considered a Contempt of Court.

Local Government Act 2002

Section 222 amends the above to make it easier for Local Authorities to get injunctions excluding perpetrators of Anti-Social Behaviour from the area including their home.

Protection from Harassment Act 1997

A Restraining Order made by the Magistrates Court and Crown Court following the conviction of a person for an offence of harassment or of putting people in fear of violence.

The Order prohibits the offender from doing anything described in the Order and may be made for a specified or indefinite period.

NOTE: *The burden of proof is significant and must show a course of conduct of at least 2 incidents. Prosecutions are always Police led but evidence can be jointly obtained by all involved parties.*

Abatement Notices & Prosecution

Often used as evidence in Possession Proceedings where a Council Tenancy is involved requiring co-operation between Environmental Health Officers and Housing Officers. Powers include the seizing of equipment and a fine if a breach of the Abatement Notice results in a Prosecution in the Magistrates Court. These powers are further strengthened by legislation in the Anti-Social Behaviour Bill 2003 as mentioned earlier.

Acceptable Behaviour Contracts

A voluntary contract entered into agreeing the future conduct of a perpetrator of Anti-Social Behaviour made either jointly with the Police and Local Authority or separately by the Police if the perpetrator has no links to a Council Tenancy.

Whilst the commitment is not legally binding it may be used as evidence towards the granting of a Possession Order or an Anti-Social Behaviour Order.

Mediation

Usually by an external facilitator following referral. An approach encouraged by Judges especially when discharging the duty of "reasonableness".

7. BUILDING TRUST IN THE COMMUNITY

Joint responsibility for supporting witnesses of Anti-Social Behaviour leads to a greater trust and faith in the agencies dealing with these problems. Residents are far more likely to take ownership for their estates when they feel secure in standing up and providing evidence to remove the perpetrators from the area.

See Appendix B

Criminal Justice & Police Act 2001

Section 39, 40 and 41 create new offences to increase protection for witnesses in all proceedings other than a proceeding for a criminal offence. Police and Social Landlords together in our area are using these provisions in respect of proceedings taken through the Civil Court when dealing with Nuisance and Anti-Social Behaviour by and against our tenants.

In cases where Possession Proceedings are ongoing, Police are working with Landlords providing statements and evidence in Court and providing visible support on estates when Possession orders are obtained.

Community Safety Forums

These are estate based meetings attended by interested parties and agencies set up to deal with specific problems of Anti-Social Behaviour affecting individual estates. It is hoped these will be seen by the community as a real opportunity to get involved and tackle Anti-Social Behaviour together. Interested parties include Local and County Council Councillors, the Police, Neighbourhood Watch, The Church, Community Leaders, Local School Representatives and Voluntary Organisations working on the estates.

The work of these forums is backed up and supported by the Warwick District Crime and Disorder Reduction Strategy (2002-2005).

8. TERMS OF AGREEMENT

1. Key estates and/or issues will be identified by the Steering Group (and will change as appropriate). In each case the important issues and problems will be identified by local staff who will identify key witnesses and perpetrators. A strategy to tackle them both will be jointly agreed by the Police and Warwick District Council at the Steering Group.
2. The essence of the Partnership is a clear understanding of the types of information that are relevant to both parties and an awareness on the part of the officers involved of the need to offer it proactively.
3. All relevant information to support criminal and/or civil proceedings which is known to the Police or Warwick District Council will be recorded and exchanged. It is understood that certain information which is to be used for a criminal prosecution will not be available to be used in civil action until after the conclusion of legal proceedings in the criminal case.

Both the Council and the Police agree to respond to a request for information exchange within 7 days.

4. Where appropriate, Police Officers will appear as witnesses for the Social Landlords when legal action is being pursued via the Courts.
5. All agencies will have regard to ECHRA, all legal powers available to them - i.e. enforcement of Tenancy Conditions by seeking evictions, use of Injunctions; use of Public Order powers and seeking appropriate bail conditions.
6. All parties will operate in accordance with the provisions of the Sharing of Information protocol and in compliance with the scope of those provisions.
7. The parties will employ a problem solving approach to the issues agreed and will pursue effective responses via mutual co-operation and joint case management.

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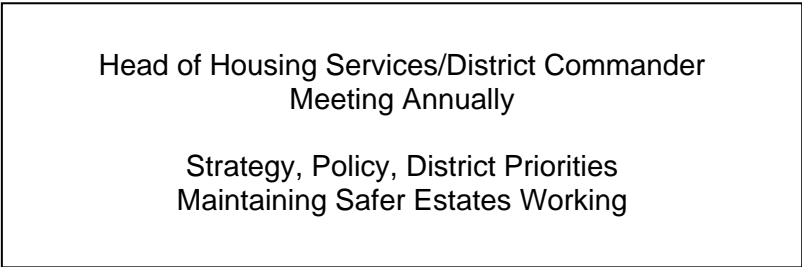
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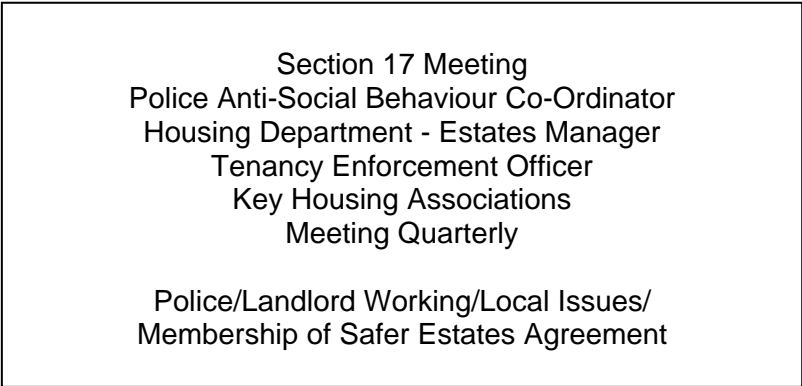
Safer Estates Agreement

Structure

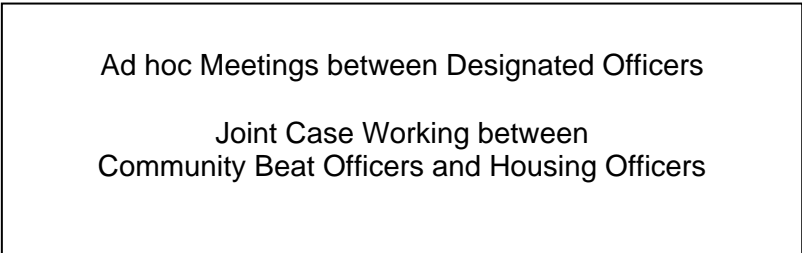
Steering Group



District Forum



Operational Level



Witness/Victim Support

This procedure is based on a commitment to working with witnesses to make estates a better place to live; often the witness will also be the victim. Successful support is the result of partnership working with local residents and other agencies such as the Police and the Warwickshire Victim and Witness Information Partnership.

Support Measures for Witnesses

Provision of better information designed to help witnesses through the Court process. This is provided by the following:

Provision of a Dedicated Officer who will keep in contact with the witness when they have been asked to attend Court, the office will be on-hand to answer any questions or concerns they may have.

Before the Hearing, a visit may be arranged to show the witness around the Courtroom, explain what will happen at the Hearing and what their role will be.

On the day of the Hearing, transport is provided to and from the Court for all witnesses and the Dedicated Officer will support and stay with the witnesses for the duration of the Hearing.

If possible, a separate waiting room will be arranged with the Court for witnesses to use when they are waiting to give evidence.

After the Hearing the Dedicated Officer will keep in contact with the witness and offer continued support.

Home Security

The security of a witness/victim's home can be improved to give additional security by the provision of window locks, spy holes, letterbox covers, door chains, smoke alarms and, if necessary, environmental work around the property for example the provision of additional street lighting.

Police

Liaison with local Police to ensure they are aware of any potential problems for witnesses leading to possible prosecution for serious cases of witness intimidation.

Out of Hours Response

Service provided whereby witnesses can contact Council Officers or the Police in an emergency situation via an alarm system linked to a telephone line to their home. Victims of harassment can be offered reassuring advice and support with Police response if necessary. With agreement from the victim, evidence gained from the callout may be used as evidence against the perpetrator.

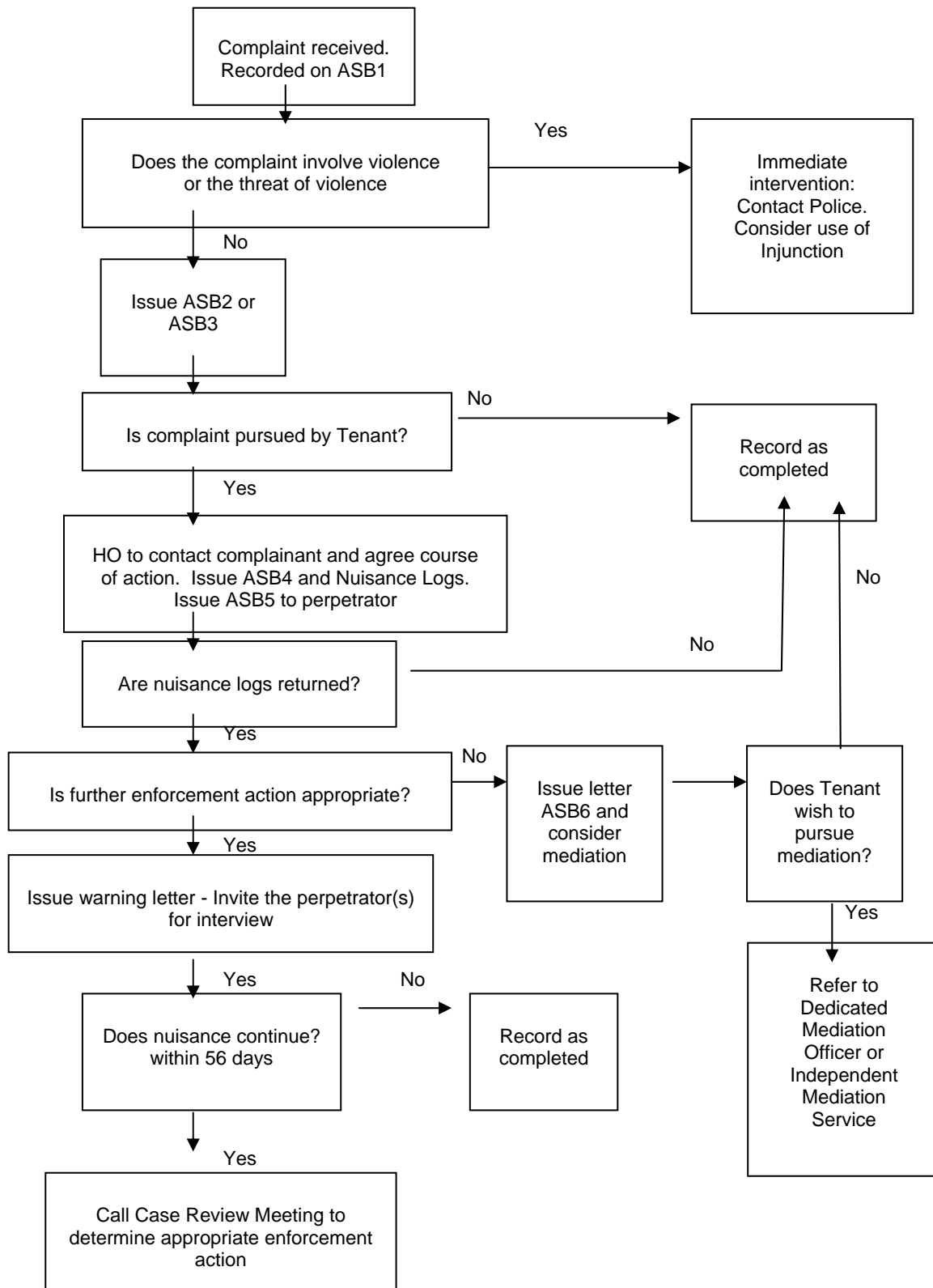
Witness Support Meetings

These are arranged at a location of the victims choice and are designed for witnesses and victims of Anti-Social Behaviour to meet with Housing Representatives, the Police and each other to discuss concerns, share information, alley fears and hopefully engender community empowerment.

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Appendix 2 (to Appendix One)

ANTI-SOCIAL BEHAVIOUR PROCEDURE FLOW CHART



Anti-Social Behaviour Activity

Table 1

Reported Levels of Anti-Social Behaviour	
2004/05	572 cases
2005/06 1 st quarter	151 cases

Table 2

Outcome of Action Taken		
	2004/05	2005/06 1st quarter
Eviction	3	1
Possession Order	4	0
Notice Served	20	5
Acceptable Behaviour Commitments	10	0

Appendix Three

Anti-Social Behaviour 2005/06 1st Quarter

Category	Area					Total
	South Leamington	North Leamington	Lillington	Warwick (except Percy Estate) and rural areas	Kenilworth and Warwick Percy estate	
Nuisance 1						
Youths	1					1
Drugs						0
Noise	3					3
Graffiti	1					1
Personal Anti-social behaviour	2			1		3
General						<u>0</u>
						8
Nuisance 2						
Youths	7	14		2	5	28
Drugs		1	1	1		3
Noise	10	16	1	6		33
Graffiti	1					1
Personal Anti-social behaviour	7	16	2	25	4	54
General	7	14	1	1	1	<u>24</u>
						143
						<u>151</u>