

Anti-Social Behaviour & Harassment Policy

Author/s	Head of Housing Management
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Scope of policy	All accommodation based services



1.0 Introduction

1.1 CHS Group is committed to providing homes in neighbourhoods where people want to live. Our policy sets out the ways we aim to help to create safe neighbourhoods and environments and tackle all forms of ASB and harassment quickly and effectively.

1.2 CHS's customers and their households have the right to peaceful enjoyment of their home. Equally, every customer has a responsibility not to interfere with their neighbours' right to the peaceful enjoyment of their home. CHS will also comply with the provisions of the Anti-social Behaviour, Crime and Policing Act 2014 which sets out the powers available to social landlords to tackle anti-social behaviour and to give victims a say in the way anti-social behaviour is dealt with.

1.3 For simplicity the rest of this document refers to 'ASB' to include both anti-social behaviour and harassment. A separate policy applies to domestic abuse.

2.0 Definitions

2.1 Anti-social behaviour is defined by Section 2(1) of the Anti-Social Behaviour, Crime and Policing Act 2014 as follows:

- a) conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
- b) conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- c) conduct capable of causing housing-related nuisance or annoyance to any person.

Whether someone's actions can be classed as anti-social behaviour relies heavily on the impact it has on other people. Nuisance and criminal behaviour that is more frequent or persistent is more likely to be considered as anti-social behaviour.

Examples include noisy neighbours, drug dealing, threatening or intimidating behaviour, actual violence to people, vandalism, graffiti, abandoned cars, dog fouling /noise, rubbish and misuse of communal areas, etc. One general guideline is whether the behaviour would be considered a nuisance or an anti-social act according to the standards of a reasonable person.

2.2 Harassment is different from anti-social behaviour because it is targeted against a specific person and is often pre-meditated. It may be motivated by prejudice or dislike, often on the grounds of ethnic origin, race, colour, religion/belief, nationality, gender, gender reassignment, age, sexual orientation or disability. It can have a devastating effect on a person and their family and we treat it very seriously and with urgency. Some forms of harassment, stalking or hate crime will constitute criminal behaviour defined by the Protection from Harassment Act 1997 (as amended) as 'causing alarm or distress' and we will advise customers to report such incidents to the police.

2.2.1 Examples of harassment are:

- Written and verbal abuse or threats
- Targeting by way of social media e.g. facebook, twitter
- Physical assault
- Offensive items left on doors or posted through a letterbox
- Incitement – i.e. stirring up hatred by petitions, leaflets, stickers

- Damage to property e.g. graffiti, slogans, bricks through windows, damage to cars and other possessions
- Malicious and unfounded complaints about someone

2.2.2 Racial harassment is where harassment is perpetrated against an individual or groups because of their colour, race, nationality or ethnic or national origins. A racist incident is any incident which is perceived to be racist by the victim or any other person (see Macpherson Enquiry into the death of Stephen Lawrence). This means that if anyone - the victim, a witness, a police officer, or a Housing Officer – perceives an incident as racist, it should be recorded as such and investigated. What one person takes as harmless 'banter' can be very offensive to another person. CHS adopts this approach to all forms of harassment or hate crime.

2.2.3 A **hate crime** is 'any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity'¹.

These aspects are known as 'protected characteristics'. There is no legal definition of hostility so we use the everyday understanding of the word which includes ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment and dislike. A hate crime can include verbal abuse, intimidation, threats, harassment, assault and damage to property. A **hate incident** is behaviour which isn't a crime but which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice based on the 5 protected characteristics.

3.0 Our approach to ASB

3.1 ASB can have a serious effect on people's quality of life and lead to stress, illness and anxiety. Even the anticipation of further ASB can have a very damaging effect on people's well-being.

3.2 Our aim is to prevent ASB before it starts, intervene appropriately where we can, and enforce tenancy and lease conditions relating to ASB when necessary. Within the terms of all tenancy, licence and lease agreements, customers are responsible for their own behaviour and that of their household members and visitors.

3.3 Every case is different and requires an individual complainant-centred approach, in discussion with customers who make the complaint. Each assessment must take into account the needs of all people involved. Where additional support is needed taking these factors into account, CHS will try to provide it or to obtain the help of other agencies.

3.4 CHS's priority is to stop or prevent further problems by taking early and informal intervention action. Legal action which could lead to evicting a tenant, licensee or leaseholder will be taken as a last resort when all other actions have failed or are not appropriate. Early intervention can be effective in stopping anti-social behaviour in the majority of cases (in 80% of cases according to a 2013 Housemark survey). In some cases it will be more appropriate for action to be taken which is within the power of other organisations e.g. police, environmental health.

3.5 CHS has procedures that aim to ensure that:

- customers are encouraged to try to resolve problems between themselves if possible

¹ Definition agreed by the police and the Crown Prosecution Service

- customers are encouraged to report incidents to relevant organisations that can take appropriate action e.g. police, local authorities
- it is easy to report incidents to us
- we listen sensitively and act promptly
- a named CHS employee takes the lead for each case
- we agree with people who make a complaint the best approach to take and keep them informed regularly of any action we are taking
- we take quick and effective action to try to stop problems escalating
- action is taken according to specific timescales
- we keep cases under review and change our approach if it isn't working
- staff are well-trained, have the knowledge and confidence to identify and investigate incidents/reports of ASB and work collaboratively alongside appropriate agencies who are leading on such cases
- we offer support/advocacy to witnesses in legal action being taken by CHS and to customers at risk
- we offer translation / interpreting where it is needed
- our approach to ASB is reviewed at least every three years with our customers or sooner if there is a specific legislative, regulatory or service requirement change in guidance, law or practice.

3.6 Our procedures and Customer Service Standard include dealing with harassment urgently (within 24 hours i.e. next working day) and taking seriously a customer's report of harassment. This means if a customer tells us they feel they are suffering harassment we continue to treat the complaint as harassment until we have investigated it fully, and not pre-judge whether we agree it is harassment until we have all the facts. Where CHS considers that the harassment may be deemed a criminal offence, we will advise it is reported to the police who may take more immediate action than is possible for CHS. Police and criminal justice intervention may be the more appropriate action and may also provide essential evidence for CHS to take its own action.

3.7 We try to close every case by agreement with the complainant although this may not always be possible. We will ask at the outset what the complainant is expecting and what would be a satisfactory outcome for them, giving us the opportunity to be honest with them about what can and cannot be achieved. If it becomes clear that it is not appropriate for CHS to remain involved, or we cannot offer action that will help the situation, we will explain this carefully to the complainant and offer support wherever possible in looking to another solution, e.g. involving a mediation service (see para 8). In supported housing our staff team will remain involved to resolve the issues.

4.0 When CHS will get involved

4.1 CHS will open a formal case where it appears that a customer may have significantly or repeatedly broken one or more conditions of their tenancy, lease or licence agreement. Even where this is the case, we often encourage a customer who makes a complaint to take the first steps in trying to resolve the problem e.g. by politely explaining to a neighbour that they are disturbed by noise. However we do understand that this can be a difficult thing to do if the relationship between neighbours is not comfortable or has broken down. We will also advise customers on the most appropriate circumstances to report incidents or behaviour to agencies that may have powers to take action that is more appropriate.

4.2 Sometimes neighbours make allegations about each other. We listen to both parties and any other witnesses to find out what is happening, although at times it may not be clear who is responsible for ASB without independent evidence.

4.2 Some examples of the type of ASB where CHS does get involved are:

- Children regularly playing more noisily than is reasonable or causing nuisance or damage;
- Excessive noise such as music, TV, shouting, slamming doors etc on a regular basis;
- Pets causing a nuisance, e.g. dogs barking loudly, causing damage, escaping;
- Allowing gardens to become full of rubbish so that they become a health hazard;
- Criminal behaviour e.g. supplying drugs in a property;
- Running a business which causes nuisance e.g. car repairs;
- Abandoning or storing unroadworthy cars except for normal repairs carried out within a reasonable time;
- Nuisance caused by dangerous driving in roadways;
- Vandalism or damage to personal property;
- Being involved in criminal activity that has an impact on neighbours or the neighbourhood
- Harassment/hate crime
- In CHS accommodation with on-site support, entering another resident's room uninvited; allowing excluded visitors entering the scheme; invading personal space; using offensive language.

5.0 When will CHS not be involved?

5.1 While officers are happy to give advice, CHS will **not** normally consider the following to be ASB / harassment:

- Personal disputes between customers and their neighbours (unless tenancy/ lease/licence conditions are broken)
- Children playing reasonably
- People gathering socially
- Occasional dog barking
- Disagreements about parking
- Disagreements about domestic CCTV
- Reasonable living or domestic noises, including:
 - Banging doors
 - Conversation heard through walls or floors
 - Neighbours walking around their home
 - Normal domestic activity such as vacuuming or using washing machines
 - Normal vehicle noise

Customers are expected to take some responsibility by trying to resolve such problems in a reasonable way. CHS will support them in doing so. Where appropriate this may be with the help of an independent mediation service, the use of which CHS may support financially (see para 8). We may also help with guidance e.g. on legal responsibilities for domestic CCTV.

6.0 Taking diversity into account

6.1 We will apply this policy consistently and fairly and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equality Act 2010. We understand that some people living in our housing may behave at times in ways that are anti-social. This may be because of their mental ill health or learning disability or because they have hearing difficulties, or have dementia for example. People may not realise that their behaviour is perceived as anti-social by others or they may not be aware of the effect of their behaviour on others, and may not have intended to cause an issue. CHS will ensure that the appraisal of each situation takes account of these factors and that discussion and action to resolve any issues are sensitive, reasonable and fair.

6.2 We realise that some perpetrators of ASB may themselves have support needs and require intervention to help them to change their behaviour; or to manage the impact of a neighbour's behaviour. When we investigate a complaint of ASB we try to identify any underlying causes of the behaviour. Where the perpetrator is willing to accept help from a relevant agency then we encourage this and help to arrange it. It may be appropriate to delay more formal action to allow an opportunity for a perpetrator to receive support to see if this improves the situation – but not if this leads to unreasonable distress for their neighbours.

6.3 Any actions we take will be compliant with the Equality Act 2010. Any decision to take formal legal action will be accompanied by a review of the proportionality of the action, taking account of recent case law and the Human Rights Act 1998.

7.0 What measures can we take?

7.1 CHS has a varied range of measures that can be used to address ASB, and we will take action that is appropriate and proportionate to solve the problem. Where there is evidence of criminal behaviour we expect customers to report this to the police who may be better placed to take action. Any action taken by police including prosecution may also be instrumental in enabling CHS to take formal action including possession action if appropriate.

7.2 The ASB procedure outlines the type of actions that can be taken and the likely timescales for such actions. Except in very serious cases these are incremental in nature, aiming to bring about real changes and improvements in behaviour of those who commit ASB. However, if there is no change and/or improvement in the behaviour we will take appropriate further action.

7.3 We use a wide range of possible measures which can be used where suitable. These include (but are not limited to) :

- Approaching the alleged perpetrator to discuss and resolve the problem behaviour
- Advising that actual or criminal acts are reported directly to the police
- Working with external support agencies to tackle the behaviour
- Providing support from CHS teams to the complainant and perpetrator to resolve the issues
- Treating offensive graffiti and damage motivated by harassment as urgent repairs
- Referral to Mediation specialists
- Warning letters
- Formal warnings/cautions
- Notice of Seeking Possession
- Civil Injunctions / Undertakings
- Extension of a Starter Tenancy by six months
- Ending a Starter Tenancy within the 12 or 18 month Starter period
- Acceptable Behaviour Contracts (ABCs)
- Involvement of Environmental Health Officers
- Civil Injunctions under the Anti-social Behaviour, Crime and Policing Act 2014

- Support for Community Protection Notices, Criminal Behaviour Orders or Closure Orders (to be issued by the police or local authorities)
- Demotion of Assured Tenancies
- Possession Proceedings which may lead to eviction (depending on there being sufficient evidence). Such cases are very rare, high cost and reliant on the ongoing willingness of witnesses to provide evidence; and with uncertain outcomes. This should be seen as the last resort once all other options are excluded.

8.0 Mediation

8.1 Mediation can be a very effective way to resolve disputes and some ASB issues between neighbours. It encourages neighbours to see each other's point of view and agree a solution that suits both sides. CHS supports the use of independent mediation services that work in our areas – free to the customer, confidential and independent. If customers are worried about what is involved in mediation CHS will advise on what is involved and can arrange for the mediation service to talk through the process with them. CHS has an annual budget for meeting mediation costs and may be unable to commit this support where the budget would be exceeded; each case will be assessed on its own merits.

8.2 Some cases may reach the point where CHS will be unable to help any further as there is no breach of tenancy conditions. Examples include personal disputes between neighbours or clashes of lifestyle. In such cases CHS may inform the parties involved that the best way forward is mediation and that this is the only potential solution we can support.

9.0 Prevention

9.1 CHS is committed to preventing ASB before it starts and addressing it as soon as we can. This reduces the great distress that ASB can cause, and is more cost effective by preventing lengthy cases and legal costs.

9.2 Preventative measures we take include:

- Seeking references from former landlords when considering an applicant for housing, and considering risk assessments of applicants moving on from hospital or supported housing. We will usually refuse the application if the household has a history of ASB; or if they will not have the necessary support in place to manage a tenancy.
- Publicising our commitment to dealing with ASB and neighbour disputes, for example in newsletters.
- Publicise successful prosecutions undertaken in our newsletter.
- Using Starter Tenancies for all new tenants which require them to show they can abide by their tenancy conditions for at least 12 months before they progress to an Assured Tenancy.
- Clearly explaining at the beginning of a tenancy/licence agreement the tenant's/licensee's responsibility regarding ASB and how CHS deals with breaches.
- Offering support if possible to new tenants in general needs housing who are at risk, either directly using our own Tenancy Support Officer or with other service providers, e.g. floating support, social care and appropriate voluntary agencies.
- Using local lettings policies in areas where it is necessary to help prevent ASB and where there is a need to encourage the development of a stable community.
- Referring disputes to a specialist mediation service at an early stage to prevent them from escalating.

- In housing with support/care on site, we work proactively with tenants/licenseses to encourage behaviours which do not result in ASB through the support/care planning and thorough risk assessments and mitigation actions.

10.0 Multi-agency partnerships

10.1 As part of our approach to prevent and tackle ASB we rely on effective partnership working with the police, probation, social care services, Environmental Health, support agencies, mediation services, community groups, Local Authority Problem Solving Groups, etc. We also work with landlords of properties neighbouring our own stock to share information and take joint action where appropriate. We regularly arrange and attend problem solving meetings with other agencies to discuss individual cases and agree approaches to issues of anti-social behaviour in particular areas. Where a person involved in ASB as a complainant or perpetrator is at risk, we will ensure that the relevant CHS Safeguarding Policy and Procedure is followed and that the County Council Safeguarding Team is involved as appropriate.

11.0 Supporting witnesses and confidentiality

11.1 While witness evidence of ASB is very important to tackle cases of ASB we always put the safety and well-being of witnesses first. Many complainants / witnesses fear that there will be reprisals from the perpetrator if they give evidence or report incidents. We will treat reports of ASB confidentially if that is the wish of the witness (although it is sometimes easy for a person to guess who has complained about them and CHS will advise the complainant of this possibility) and when there is no safeguarding risk. If there is a safeguarding risk the need to mitigate the risk will override confidentiality on a 'need to know' basis, in line with the CHS Safeguarding Policy and Procedure.

11.2 Where we are able to keep the issue confidential at the request of a complainant / witness, this will apply to all stages of any complaint of ASB including:

- providing the first report;
- providing further/ongoing incident reports;
- ensuring that our contact with people does not identify the witness;
- where the complainant requires it to protect their safety, keeping any evidence which CHS presents on a customer's behalf (hearsay evidence) anonymous, where a court hearing takes place. We must recognise that this could reduce the chance of success in court action and may indirectly identify the complainant to the perpetrator. We would take thorough legal advice in such cases.

11.3 We will support witnesses involved in CHS legal action by:

- keeping them informed of how we are tackling the complaint;
- visiting those involved to talk about the ASB face to face;
- Identifying and signposting relevant support agencies to provide support where necessary (including Victim Support where applicable);
- offering practical and emotional support through the whole process of giving evidence.

12.0 Community Trigger

12.1 The Community Trigger was introduced by the Anti-social Behaviour, Crime and Policing Act 2014. It gives victims and communities the right to request a review of their case and bring agencies together to take a joined up, problem-solving approach to find a solution.

12.2 CHS Group sees such reviews as a positive way of reviewing the effectiveness of any steps already taken and to work with other relevant agencies to resolve the problem, and will therefore co-operate fully where such a request is received.

13.0 Data protection and information sharing

13.1 The Crime and Disorder Act 1998 and Schedule 2 of the Data Protection Act 2018 allows us to share information with the Police, and other statutory agencies, for the purpose of preventing and detecting ASB and crime. The information that we will share may include personal or sensitive data that we hold about customers or other individuals. CHS complies with Data Protection legislation in the way we collect, store, process, and share personal data, and sets out the basis for information sharing in a Privacy Notice for customers.

13.2 CHS is a signatory to any Community Safety Partnership Information Sharing Agreements with each local authority we work in. The Agreements are intended to ensure that when agencies disclose information, this is done lawfully and with proper consideration for the rights of the individual relative to the need to achieve important broader objectives. These broader objectives will include preventing crime, disorder and ASB and protecting the interests of the data subject. CHS will share personal and sensitive data on a case by case basis where such sharing is necessary to protect the interests of individuals and communities. The Agreements set out in full the basis for sharing information and the responsibilities for each partner agency.

14.0 Training

14.1 New employees working in our General Needs Housing Team, Community Support Services, Older People's Services and Customer Service Advisers receive internal training on our ASB policy and procedure as part of their induction. Such employees attend external refresher training days from time to time to improve their knowledge of ASB and to equip them to take appropriate action.

15.0 Monitoring

15.1 CHS reports to its Operations Committee at least annually with monitoring information on ASB cases, and in the Monthly Quality Assurance (QA) framework reported to all Board members. This information includes (but is not limited to) :

- Number of cases opened (QA & Annual Report)
- Customer satisfaction with how well we handled their complaint (QA & Annual Report)