

BOURNVILLE VILLAGE TRUST

STATEMENT OF POLICY ON ANTI-SOCIAL BEHAVIOUR (ASB)

POLICY STATEMENT

Bournville Village Trust (the Trust) believes that all residents have the right to live peacefully within their home and community and is committed to tackling all complaints of anti-social behaviour swiftly and sensitively.

Bournville Village Trust is fully aware of the distress that anti-social behaviour can have on individuals and communities and we will take a robust approach to tackle problems of anti-social behaviour caused by tenants, their visitors and other residents within the neighbourhood.

the Trust's approach to tackling anti-social behaviour adopts a holistic view, incorporating both preventative and enforcement measures.

the Trust will take a positive approach to tackle the problems of anti-social behaviour and will work closely with residents to try to resolve issues and, where appropriate, make full use of all relevant legal and non-legal remedies.

The emphasis of the Trust's policy on anti-social behaviour is modifying behaviour through support (by identifying vulnerability and co-ordinating relevant support agencies), persuasion, non-legal and legal sanctions rather than moving or displacing the ASB through eviction and re-housing. Ultimately, the Trust's aim is to modify anti-social behaviour and, to accomplish this, it will use its discretion to utilise the most appropriate remedy available.

DEFINITION OF ANTI-SOCIAL BEHAVIOUR

There is no universally agreed definition of anti-social behaviour and the term covers a wide range of behaviour or conduct.

Anti-social behaviour as defined in law (Housing Act 1996 and Anti-social Behaviour Act 2003) relates to conduct which:

- Is capable of causing nuisance and annoyance to any person; and directly or indirectly relates to or affects the landlord's housing management function; or
- Consists of or involves using, or threatening to use, housing accommodation owned or managed by a landlord for an unlawful purpose.
- Causes harassment, alarm and distress.

In classifying anti-social behaviour, the Trust includes all of the definitions of inappropriate behaviour referred to in its tenancy agreements, which include:

- Causing a nuisance, annoyance, disturbance which interferes with the peace, comfort or convenience of other people living in the local area.

Examples of this include: Using or threatening to use violence; storing or handling stolen goods; playing ball games close to properties; being drunk or disorderly in public; writing or spraying graffiti; verbal abuse, arguing; banging and slamming doors; damage to property including cars, bikes etc; criminal activity in property; malicious phone calls; skateboarding; roller-skating and cycling on footpaths or parking areas; prostitution; arson/attempted arson.

- Using the property for any criminal, immoral or illegal purpose including selling, storing or using illegal drugs or the abuse/misuse of any prescribed drugs.
- Playing or allowing to be played any radio, television, record or tape recording or musical instrument so loudly that it causes a nuisance or annoyance to neighbours or can be heard outside the Premises.
- Not keeping under control any animals kept at the Premises and not obtaining the written consent of the Trust before keeping in a flat a dog or any other livestock which might cause a nuisance to neighbours.
- Committing or allowing members of his/her household or invited visitors to commit any form of harassment on the grounds of race, colour, religion, sex, sexual orientation or disability which may interfere with the peace and comfort of, or cause offence to, any other tenant, member of his/her household, visitors or neighbours.

Bournville Village Trust has a separate policy and procedure for dealing with **Racial Harassment**. The policy outlines the Trust's commitment to:

- Eliminating unlawful discrimination and harassment
- Promoting good relations between people of different racial groups
- Encouraging people to report racially-motivated incidents
- Supporting complainants and their families in taking action against the perpetrators

(For further information please see the Trust's **Equal Opportunities Policy, Racial Harassment Policy** and **Tenant Participation and Consultation Strategies**).

Bournville Village Trust has a separate policy and procedure for dealing with Domestic Violence. The policy outlines the Trust's commitment to:

- Prioritising the safety of the person affected and the safety of the children
- Treating people with respect and dignity, believing their experiences and taking concerns seriously
- Maximising the choices/options available

- Empowering individuals to make informed decisions about their lives and supporting self-determination
- Providing sensitive services for diverse groups and needs
- Respecting confidentiality and privacy

(For further information please see the Trust's **Domestic Violence Policy**.)

POLICY OBJECTIVES

In tackling anti-social behaviour, the Trust will:

- In line with the Anti-social Behaviour Act 2003, publish its policy and procedure for dealing with occurrences of anti-social behaviour. A copy of the Policy and Procedure will be freely available to view at our Area Offices, and a summary will be made available, free of charge, to anyone requesting it.
- Take positive action to discourage nuisance and anti-social behaviour by publicising our policy in tenancy agreements, newsletters, tenants' handbook and advising new and existing tenants of it. It is important that the Trust's anti-social behaviour policy is widely known to those who may have recourse to use it. We will also publicise any successful action taken and resolutions in the newsletter and Area Office.
- Use a multi-agency partnership, to develop appropriate responses to tackle anti-social behaviour both at the preventative and enforcement stages. These agencies will include: Local residents, the Police, the Local Authority (particularly housing, social services, environmental health and youth offending service), other Registered Social Landlords and Birmingham community safety strategic partnership.
- Encourage community development on our estates and support diversionary activities that challenge anti-social behaviour.
- Adopt best practice and comply with current legislation when tackling anti-social behaviour.
- Allocate resources to tackle potential and actual problems of anti-social behaviour.
- Ensure that sufficient support and advice are provided to those suffering anti-social behaviour, including re-housing where serious threats of violence occur. This will include additional support and guidance where residents give evidence at Court.
- The Trust's tenancy agreement explicitly prohibits a tenant, other family member or visitor from causing nuisance in their home or within the locality. We will, therefore, meet the aims of this policy by enforcing the

relevant terms and conditions of any tenancy agreement.

VULNERABLE PERPETRATORS

The Trust considers a perpetrator of ASB as 'vulnerable' where there is seen to be issues linked to drug abuse, alcohol abuse, disability, or mental health.

The Trust recognises that the causes of the ASB could be as a result of their drug abuse, alcohol abuse, disability, or mental health, in which case the Trust will endeavour to work alongside any external agencies that are better able to provide the support required to address their problems.

The Trust recognises that whilst it is important to remain in a supportive role to the perpetrator alongside any external agencies, it has an obligation to the wider community and, as a result, may take appropriate enforcement action alongside the supportive measures that are in place to combat the ASB.

JUVENILE PERPETRATORS

The Trust is committed to working with families using Acceptable Behaviour Contracts (10-17 years) and Parental Control Agreements (under nine years) to modify behaviour where necessary and where children are involved in persistent and serious anti-social behaviour.

The consequences of failing to comply with Acceptable Behaviour Contracts and Parental Control Agreements can lead to legal action in the form of an application for an anti-social behaviour order and/or legal action to recover possession of the tenancy.

ASBOs can be used against all residents, including children above the age of 10 years. ASBOs are not criminal convictions but breach of an ASBO is a criminal offence and is punishable by a fine, imprisonment or both. The Courts have, therefore, ruled that evidence required to gain an ASBO needs to be of the highest standard (beyond reasonable doubt), therefore requiring direct witnesses to give evidence in Court. Prior to any ASBO application, the Trust must formally consult with the Police and Local Authority and other interested agencies.

SERVICE DELIVERY

Generic Housing staff will deal with all cases of nuisance/anti-social behaviour, with the exception of serious and/or persistent cases of anti-social behaviour and harassment, which will be dealt with by a specialist anti-social behaviour officer.

Any complaints of anti-social behaviour will be logged on our ASB database and complainants allocated a named officer who will be responsible for progressing the case.

All reports of anti-social behaviour will be responded to quickly and treated sensitively and confidentially, meaning that the identity of the complainant will not be divulged without the complainant's prior agreement. All reports of anti-social behaviour will be investigated objectively and evidence will be sought to substantiate or refute allegations. This may take the form of contacting other

residents and/or the alleged perpetrator (unless the safety of complainant would be compromised) and other agencies prior to any judgements based on the available facts.

The complainant will be advised of the possible course of action that the Trust can take when responding to incidents of anti-social behaviour and any action that is required to be taken will be as a result of a mutually agreed action plan.

The Trust, however, reserves the right to determine the most appropriate and proportionate remedy in tackling incidents of anti-social behaviour.

The Trust will seek to close ASB cases only when a successful conclusion has been reached which the complainant accepts as a final resolution. This could be: effective legal action (injunction that has proved effective or eviction), successful mediation, an assessment that further action is not possible, or the ASB has stopped. **Cases will normally close if there has been no ASB incident over a three-month period.**

PREVENTION (non-legal)

Prevention is an essential part of the Trust's approach to tackling anti-social behaviour. As part of this approach, the use of mediation is regarded as an effective tool to remedy behaviour.

Mediation

Mediation is an effective means of conflict resolution. It helps persons who are in dispute to reconcile their differences themselves rather than have a solution imposed by a landlord or the Courts.

The Trust does, however, accept that not all ASB cases are suitable for mediation, particularly where violence or threats of violence have been used. Internal or external mediators may be used to facilitate mediation.

Acceptable Behaviour Contracts and Parental Agreement Contracts

The Trust is committed to working with families using Acceptable Behaviour Contracts (10-17 years) and Parental Control Agreements (under nine years) to modify behaviour where necessary, and where children are involved in persistent and serious anti-social behaviour.

Parental control agreements identify ASB acts perpetrated by children, and then get the parent/guardian and other interested parties to sign an agreement for the child to stop this type of behaviour. The object of this agreement is to make the parent/guardian aware of the child's behaviour and its impact on others.

Acceptable behaviour contracts are used to deter and eradicate acts of anti-social behaviour perpetrated by children above the age of 10 years. It identifies anti-social acts carried out by children and is a signed agreement by the child, the parent and other relevant agencies (e.g. the police and youth services) not to participate further in that type of behaviour.

The consequences of failing to comply with Acceptable Behaviour Contracts and Parental Control Agreements can lead to legal action in the form of an application for an anti-social behaviour order and/or legal action to recover possession of the tenancy.

ENFORCEMENT (legal)

In standard cases of anti-social behaviour, there is generally a hierarchy of legal action that can be taken. These are: Injunctions, Anti-social Behaviour Orders (ASBO) and Possession action.

Injunction pursuant to the Anti-social Behaviour Act 2003 and breach of tenancy injunction

Injunctions offer a fast and effective way of dealing with nuisance. Injunctions are orders of the Court, which requires a person to refrain from carrying out particular acts. A breach of injunction orders is a contempt of Court and punishable by imprisonment and/or fine or both.

Where there have been threats of violence or actual violence, the power of arrest can be applied for and attached to the injunction.

Injunctions can be more effective in tackling ASB than seeking eviction as it tackles the behaviour itself rather than displacing the perpetrators of ASB.

Anti-Social Behaviour Order

Anti-social behaviour orders were introduced in the Crime and Disorder Act 1998. They are similar to an injunction in that they are orders issued by the Courts prohibiting certain forms of behaviour. ASBOs can be used against all residents, including children above the age of 10 years. ASBOs are not criminal convictions but breach of an ASBO is a criminal offence and is punishable by a fine, imprisonment or both. The Courts have, therefore, ruled that evidence required to gain an ASBO needs to be of the highest standard (beyond reasonable doubt), therefore requiring direct witnesses to give evidence in Court. Prior to any ASBO application, the Trust must formally consult with the Police and Local Authority and other interested agencies.

Demotion Order

A tenancy may be demoted in situations where the Trust believes that there has been anti-social behaviour but it is willing to allow a tenant one last chance. If the tenancy is demoted and further anti-social behaviour takes place, the Trust will ask the Court for a possession order, which at that point will be mandatory.

Possession proceedings

The use of possession proceedings for anti-social behaviour will generally only be used after consideration of other options has been explored. However, there are some cases where it is absolutely imperative that possession proceedings are sought, in which case a notice seeking possession will be served with the intended consequences of eviction.

TRAINING

The Trust understands that it is essential that its staff obtain the knowledge and confidence to enable them to investigate incidents of ASB and apply the appropriate remedy. BVT staff receive regular briefings on current issues, new legislation and best practice guidance on ASB.

EQUALITIES

The Trust aims to ensure that all residents receive a fair and equal standard of service regardless of race, gender, sexuality, religion and disabilities (both physical and mental).

The Trust believes that it is vital that the service delivered to those approaching the Trust is based on the principles of equality and customer care.

COMPLAINTS/COMPLAINANTS

The Trust is committed to providing a high quality service to all residents and we, therefore, operate a comprehensive complaints and appeals procedure for any residents who are dissatisfied with the service received. Complaints are dealt with quickly and efficiently with all personal information kept strictly confidential. Complainants are kept well-informed throughout the stages of complaint with additional support offered where it is deemed necessary. Residents also have the opportunity to pursue their case to the Ombudsman Service. All residents have access to advice leaflets on complaints and appeals which are displayed at all Area Offices.

(For further information please see the Trust's **Complaints and Appeals Procedure** and **Confidentiality Procedure**.)

SUPPORTING THE COMPLAINANT(S)/WITNESS(ES)

The Trust recognises that being a witness can be a daunting task and, therefore, will support any witness by talking to, discussing, explaining, listening, assessing risk and acting upon risk to ensure any witness is as comfortable and as prepared as possible.

The Trust is committed to ensuring that sufficient support and advice is provided to those suffering anti-social behaviour including re-housing where serious threats of violence occur. This will include additional support and guidance where residents give evidence at Court, mainly through Court Liaison Work where the resident will be made familiar with the Court proceedings, including layout, etc.

DATA PROTECTION, CONFIDENTIALITY AND INFORMATION EXCHANGE

The Trust operates strict confidentiality guidelines that adhere to the Data protection Act 1998. This means that all information we receive relating to Anti-Social Behaviour will be treated in confidence, and that we will not disclose to any other persons without prior consent of the individual unless there is compelling reason to do so. The Trust actively participates in information exchange with other organisations in order to eradicate Anti-Social Behaviour. We are part of

the Safer Estate Agreement and have signed up to the Information Exchange Protocol with the Police and other partnership agencies. The Trust will continue to comply with the Data Protection Act and any new legislation when dealing with reported incidents of Anti Social Behaviour.

REVIEW

This policy and procedure will be reviewed annually to take account of any changes in legislation, development in best practice and in line with the aspiration of residents and stakeholders. Minor updates will also be made as they become necessary.

Author:	Winston White
Section:	Housing
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