

# POLICY AND PROCEDURE FOR SUPPORTING COMPLAINANTS, WITNESSES AND PERPETRATORS OF ANTI SOCIAL BEHAVIOUR

## 1.0 INTRODUCTION

- 1.1 Gosport Borough Council's Housing Service is responsible for enforcing legislation dealing with anti-social behaviour and the enforcement of tenancy conditions.
- 1.2 We aim to ensure effective compliance with legislation and the tenancy agreement, and where necessary to protect residents and their environment.
- 1.3 The Council has a variety of options available against perpetrators of anti-social behaviour in order to ensure compliance. These options include preventative and enforcement tools, which range from education and guidance for perpetrators, and mediation, to injunctions, anti-social behaviour orders, demoted tenancy orders, parental control agreements, acceptable behaviour contracts and possession action. The Council can also work with the police to assist in obtaining a Closure Order where its property is being used for the selling or taking of drugs.
- 1.4 In dealing with Anti-Social Behaviour, the Housing Service recognises the importance of providing effective support to both complainants and witnesses, and vulnerable perpetrators. The effects of anti-social behaviour can be harmful to individuals and communities, and it is vital that support is offered, where appropriate, as part of tackling the problem. It is recognised that a "one size fits all" approach does not work in supporting witnesses, complainants and perpetrators of anti-social behaviour and each situation must be considered individually when providing support.
- 1.5 This policy sets out how we will provide support, where appropriate, to witnesses and complainants, and perpetrators of anti-social behaviour.

## 2.0 RELEVANT LEGISLATION

- 2.1 Local housing authorities have certain powers when dealing with anti-social behaviour, which are set out in the *Housing Act 1996*, and the *Anti-Social Behaviour Act 2003*. Other relevant legislation must also be considered when supporting witnesses, complainants and perpetrators of anti-social behaviour and this includes;
- Crime and Disorder Act 1998
  - Disability Discrimination Act 1995
  - Children Act 1989
  - Homelessness Act 2002
  - Race Relations Act 1990
  - Human Rights Act 1998
- 2.2 Recent case law, whereby the defence has argued that the landlord has acted in a way that amounts to unlawful discrimination, has used the Disability Discrimination Act 1995 (DDA) to launch a defence for anti-social behaviour. This should be considered where perpetrators have a 'disability' as defined within the act, and ensure that action is justifiable. Section 22 of the DDA states that a person discriminates against another person if;

- for a reason which relates to a person's disability, he treats him less favourably than he treats or would treat others to whom that reason does not or would not apply; and
- he cannot show that the treatment in question is justified.

### 3.0 UNDERLYING PRINCIPLES

- 3.1 The Housing Service must take action against anti-social tenants or others, and the support of witnesses and complainants, as well as perpetrators, is an important part of this process. The following principles underpin the way in which we will encourage reporting of anti-social behaviour, and support those involved when tackling these issues.
- 3.2 *Respect, Dignity and Sensitivity* – any complainant or witness can expect their reporting of anti-social behaviour to be treated with respect, dignity and sensitivity and that complaints will be treated in a confidential manner (unless by prior agreement with the witness or complainant in cases which require court action). Vulnerable perpetrators can also expect that personal information, which might contribute to acts of anti-social behaviour, will not be discussed with complainants or witnesses.
- 3.3 *Communication* – complainants, witnesses and perpetrators can expect to receive regular communication with the officer dealing with the case and to be involved (where appropriate) in the processes of developing an agreed action plan, to be kept informed during an ongoing case and in deciding that a case may be closed.
- 3.4 *Support* – a complainant or witness can expect to feel that they are continually supported, emotionally or otherwise, throughout an ongoing case - especially where legal action is required. Where appropriate, support should also be provided after a case has closed. The complainant or witness can expect to feel satisfied that a case has been managed successfully by the Housing Service and the issue dealt with effectively in the interests of all parties involved. The vulnerable perpetrator can expect to be offered support to manage their tenancy or amend their behaviour or conduct.
- 3.5 *Early Intervention* – complainants, witnesses and perpetrators identified as vulnerable will receive access to relevant support services as soon as the need is identified. Early intervention can contribute to effective case management, in particular in the prevention of the situation deteriorating and the need for further action.
- 3.6 *Reputation* – the Housing Service is committed to developing good practice and a reputation for dealing with anti-social behaviour effectively, and in encouraging and supporting individuals and communities to report incidents to enable the Housing Service to take action.

### 4.0 PRACTICAL APPLICATION OF THE POLICY

- 4.1 The Housing Service will strive to ensure that complainants and witnesses of anti-social behaviour feel encouraged to report incidents and that they are supported and kept informed throughout this process, in line with the principles of this policy, other relevant policies and procedures, and the procedures set out within this document.
- 4.2 Particular support will be made available to vulnerable perpetrators of anti-social behaviour where an individual or household has specific support needs to enable the behaviour to be modified and the tenancy or license maintained.
- 4.3 Officers dealing with anti-social behaviour will take into account a wide variety of vulnerabilities when supporting complainants, witnesses or perpetrators which include; mental health, age, disability, gender, sexual orientation, race, language, social disadvantage, education, unemployment and the personal history of the relationship(s) between complainants/witnesses and perpetrators. The support service will reflect the specific needs of an individual.

- 4.4 The Council will ensure that all staff involved in dealing with anti-social behaviour will receive sufficient training to enable them to deal with the issue properly.
- 4.5 The Housing Service will work closely with other agencies to provide support to complainants and witnesses, and perpetrators, which may include;
- Hampshire Police
  - Southern Focus Trust
  - Hampshire County Council Social Services
  - Fareham and Gosport Outreach Service
  - Victim Support
  - Local schools
  - Citizens Advice Bureau
  - Mediation services
  - Connexions
  - Avalon
  - Breathing Space
  - Home Start

## 5.0 DEFINITIONS

- 5.1 This document accepts the definitions as identified within the Housing Services Statement on Anti-Social Behaviour.
- 5.2 Housing Services recognises the vulnerability of some perpetrators and witnesses, and the increased sensitivity to anti-social behaviour that may result. We will try to be as sensitive as possible to those vulnerabilities and support needs, and respond to them accordingly.

## 6.0 PERFORMANCE MONITORING

- 6.1 Satisfaction with the Housing Services management of a case may be measured using satisfaction survey cards once a case has been closed.

## 7.0 PROCEDURE

### GENERAL

- 7.1 In any action taken by the Housing Service to deal with anti-social behaviour, supporting the complainant and witness, and where appropriate, the perpetrator, is a priority as part of the processes of case management and good practice.
- 7.2 The underlying principles set out within this document must be adhered to when dealing with anti-social behaviour in order to support all parties involved. Supporting witnesses, complainants and perpetrators must be viewed as part of the overall approach in tackling anti-social behaviour in order to strengthen existing good practice and to support preventative and rehabilitative activities.
- 7.3 The level of support offered to individuals should be consistent with the level of anti-social behaviour and the action that the Housing Service may be taking in each case. The lead officer should decide on an appropriate course of action in supporting an individual, whether that is the witness, complainant or perpetrator, and will make a decision based on the facts known

about an individual and the anti-social behaviour situation they are involved in. For example; a perpetrator of harassment who is known to have mental health problems, will require support in a different way to a complainant who is sometimes disturbed at night by another resident's loud music.

7.4 It must be recognised that although there may be similarities between cases of anti-social behaviour, the support provided will differ. One course of action in one case should not set a precedent for future cases.

7.5 Within this document, the procedures for providing support for complainants/witnesses and perpetrators will be presented.

#### SUPPORTING COMPLAINTS AND WITNESSES

7.6 Complainants and witnesses of anti-social behaviour differ, as their experience of a situation may be markedly different depending on how they are affected. Complainants may not be directly affected by a behaviour or conduct, for example they may be able hear loud music within their block but may not live directly next door to the problem. The degree to which the witness is affected will depend on the nature of the anti-social behaviour, proximity and their vulnerability.

7.7 The level of support service required for complainants and witnesses will differ in low-level anti-social behaviour cases and in possession, injunction, demotion, ABC, PCA and ASBO proceedings. Support may need to be increased as a case progresses to legal action.

7.8 The lead officer should take into account vulnerability issues, which may require a particular support service or additional commitment from the lead officer in supporting an individual. Such issues that may arise include; mental health, age, gender, sexual orientation, disability, race, language, social disadvantage, education, unemployment and the personal history between individuals involved in a case.

7.9 Officers dealing with complainants and witnesses should be aware that the processes of reporting and becoming involved in an anti-social behaviour case could be intimidating. Wherever possible, officers should avoid using 'jargon' and creating a 'barrier' between the Housing Service and the complainant or witness by requesting that all incidents are reported in writing.

7.10 Officers should endeavour to ensure that communication with the complainants and/or witnesses is consistent and in line with the seriousness of the case. The complainant or witness must be advised of contact telephone numbers for the lead officer and support agencies if appropriate, and other means by which such persons are contactable such as e-mail, open office hours, request for a home visit, letter etc. The complainants and witnesses must be kept informed of developments within a case, reassuring those persons that action is being taken. This is particularly important when a case is being prepared for court action and they are required to give evidence. Where action such as warning letters, interviews with the perpetrator, ABC's, PCA's has been taken, the officer may advise the complainants/witnesses without disclosing specific details about the action such as conditions set out within a PCA or warning letter.

7.11 In the initial stages of a case, the complainant and witness must be reassured that the information they give will be treated in confidence. If court action is appropriate as the case develops, the use of the complainants and witnesses' evidence must be discussed with the individual. Consent to use such evidence must be given as they may be required to give evidence at court.

7.12 In the development of an action plan, consideration must be given and discussed with the complainant/witness, as to the level of contact from the lead officer. Where a referral has been made to a support service such as Victim Support, Southern Focus Trust or Social Services, the level of contact will be agreed between the individual and the agency. It should be recognised that the level of contact from the lead officer may change as the case progresses or is closed. Contact for support may still be required after action, such as an injunction whereby the situation will need to be monitored.

7.13 The lead officer should consider if it might be appropriate to further support the complainant/witness by making their home more secure (where they reside within a Council property). Security measures such as the installation of additional window locks; a panic alarm, door chain etc can be arranged through a referral to the Crime Reduction Officer at Hampshire Police.

7.14 Early intervention or referrals to appropriate support services must be made where a complainant or witness is considered to be vulnerable. This will assist the individual to cope with the situation they are in, and may assist in helping to resolve a case. The agencies used for supporting complainants and/or witnesses include:

- Hampshire County Council Social Services
- Fareham and Gosport Outreach Service
- Southern Focus Trust
- Victim Support
- Citizens Advice Bureau
- Gosport Police – Crime Reduction Officer
- Connexions
- Avalon
- Breathing Space
- Home Start

Where a referral is made, it is appropriate to request feedback from the agency on a 'need to know' basis to ensure that the support is effective.

7.15 It is good practice for officers dealing with anti-social behaviour cases to contact others residing within the area who may be affected to establish the facts of the case and in collating evidence. In addition, it may assist in further supporting the complainant or witness by developing support within the community, locality or residential block.

7.16 During an ongoing case, officers should ensure that they contact the complainant or witness to request an update of the situation or to collect evidence such as log sheets, photographs, letters of complaint etc. The officer should be aware that a home visit to the complainant or witness may not be appropriate as it may exacerbate a situation or identify those persons to the perpetrator(s).

7.17 If court action is appropriate and the complainant or witness is required to attend court to give evidence (such as with possession, ASBO or demotion proceedings), support must be 'stepped up'. The officer must ensure that the complainant or witness is able to get to court and should offer to transport them if appropriate. It may be necessary for the Housing Service to reimburse the individual for travel expenses, child care costs, loss of earnings or food and beverages on the day of the hearing. Before the hearing, the lead officer should ensure that the witness is aware of what may happen in court and the possible outcomes at the hearing. The lead officer should arrange for the witness to meet with the Housing Services legal representation, and accompany the witness to the court before the day to familiarise themselves with the building. If appropriate, the officer must ensure that the witnesses are protected on the day of the hearing, such as ensuring that they are not waiting in the same area as the perpetrator.

7.18 If the County Court grants an injunction or ASBO that prohibits behaviour or conduct, or specifies that the perpetrator should not contact the complainant or witness, further support to the witness should be provided. This may be done in partnership with the Police or another agency, and from regular contact from the lead officer to the witness to ensure that the injunction or ASBO has not been breached.

## SUPPORTING PERPETRATORS

- 7.19 The lead officer should take into account vulnerability issues, which may require a particular support service or additional commitment from the lead officer in supporting an individual. Such issues that may arise might include; mental health, age, gender, sexual orientation, disability, race, language, social disadvantage, education, unemployment and the personal history between individuals involved in a case (this list is not exhaustive).
- 7.20 Where perpetrators' support needs contributes or can be attributed to their behaviour or conduct, officers should be aware that they should not discuss personal information about that individual with complainants or witnesses. Similarly, officers should not discuss specific details about letters to the perpetrator or interviews, PCA's, ABC's, or other action taken by the Housing Service or another agency. Confidentiality will not be required if court action is sought as it may be necessary for such details to be included in witness statements.
- 7.21 In supporting perpetrators of anti-social behaviour, it is necessary to reinforce the tenancy conditions wherever possible so that the perpetrator is informed of behaviour that is a breach of the tenancy conditions, and what is acceptable behaviour.
- 7.22 If appropriate, officers should use tools for dealing with anti-social behaviour that assist a perpetrator to amend their behaviour, such as a PCA or ABC.
- 7.23 Early intervention or referrals to appropriate support services must be made where a perpetrator is considered to be vulnerable, especially in cases where an individual has mental health problems or a learning disability. This will assist the individual to receive the support they need to amend their behaviour and manage their tenancy, and may assist in helping to resolve a case. The agencies used for supporting perpetrators include:
- Hampshire County Council Social Services
  - Fareham and Gosport Outreach Service
  - Southern Focus Trust
  - Citizens Advice Bureau
  - Connexions
  - Avalon
  - Breathing Space
  - Home Start
  - Local schools (Education Welfare Officer)
- Officers should also ensure that where court action is being taken, the perpetrator is advised to get a solicitor or to contact the CAB.
- 7.24 If appropriate, officers should actively encourage perpetrators to become involved in preventative activities within their area as it may have a rehabilitative effect on their behaviour. This can be particularly useful when perpetrators are children or young people as they can be excluded from enjoying such activities if their behaviour or conduct becomes worse. This should be discussed with the Community Development Worker, Customer Services or the agency managing the activity before a decision is taken as (due to resources) preventative activities will be concentrated in areas with higher levels of anti-social behaviour.
- 7.25 Officers should endeavour to ensure that communication with the perpetrator is in line with the seriousness of the case. Where a referral for support has been made, the perpetrator must be advised of the ways in which they may contact the agency. The perpetrator must also be reminded that they may contact the lead officer to discuss the situation and any action that the Housing Service takes.

## SUPPORTING STAFF

- 7.26 Officers should adhere to the policy and procedures for Lone Working (particularly when conducting a home visit). Where appropriate, a risk assessment should be conducted.
- 7.27 When a vulnerable tenant is identified, officers should ensure that this is made apparent to other officers using the Red Flag Procedure. This is particularly important when a tenant presents as a 'risk to others' or where they have particular support needs.
- 7.28 The Council will ensure that all staff involved in dealing with anti-social behaviour will receive sufficient training to enable them to deal with the issue properly.

## **8.0 OTHER REFERENCES**

8.1 The following references should be used in support of this policy and procedure;

- Housing Services Statement on Anti-Social Behaviour
- Anti-Social Behaviour and Enforcement Policy and Procedures
- Racial Harassment Policy and Procedures
- Domestic Violence Policy
- Anti-Social Behaviour and the Media: Policy and Procedure
- Housing Officer Guide
- Police and Housing Joint Protocol
- Joint Protocol on Anti-Social Behaviour Orders
- Management Re-housing Policy
- Gosport Borough Council Equal Opportunity Policy
- Joint Housing Register Policy
- Crime and Disorder Strategy 2002-2005
- Housing Strategy
- Tenancy Agreement
- Tenants Handbook
- Customer Information leaflets relating to Anti-Social Behaviour