

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Housing Services Cabinet Committee
Date: 2 February 2023
Reporting officer: Jody Bulman, Service Manager (Housing Landlord Services)
Subject: Council Housing Eviction Process and ASB Policy

Purpose and summary of report:

To provide the Housing Services Cabinet Committee with an overview of the eviction process for Gravesham Borough Council as a social housing landlord when dealing with anti social behaviour; including the challenges in obtaining a possession order and best practice in the sector. The report also contains the updated Housing ASB Policy to support this approach to managing ASB within council managed homes.

Recommendations:

1. None – this report is for information only.

Key Implications:	
Item	Implications
Legal	As a social housing landlord, the Council has a duty to ensure that breaches of tenancies are dealt with effectively and that tenants have a safe and welcoming environment to live in as set out in the Landlord and Tenant Act 1985 and the Anti-Social Behaviour, Crime and Policing Act 2014 .
Finance and Value for Money	As above, we have a duty to address any breaches of tenancy.
Corporate Plan	The work that the Housing Team carry out contribute to the corporate plan, particularly <i>#People - Provide a Proactive, Supportive and Efficient housing management service: high quality tenancy management experienced through a service making full use of its assets.</i>
Climate Change	N/A

1. Introduction

- 1.1 As a social housing landlord, eviction should always be viewed as a last resort; there are many reasons for this but some of the main ones are:
- Social Housing Landlords should be seeking to provide some of the most vulnerable people in society with a home.
 - At the point a possession order is granted, a landlord is effectively making someone homeless. This issue is particularly relevant for a local authority, as we could find ourselves in a situation where we have evicted someone who we then may owe a housing duty too.
 - Eviction is a costly process.
- 1.2 In addition to these reasons; the ‘help with anti-social behaviour for social housing tenants’ (November 2021) set out by Government also sets out that eviction should be taken *‘as a last resort only’ where all other reasonable steps to stop the behaviour have failed.*
- 1.3 Shelter classify eviction as a lose-lose situation, as individuals and families face significant disruption and stress as a result of eviction in addition to the cost to the public purse.
- 1.4 Social Housing landlords can use a range of methods for dealing with ASB, such as:
- advising people their behaviour is unacceptable and must stop
 - issuing direct warnings
 - acceptable behaviour agreements
 - offering mediation between the relevant parties
 - asking the victim to complete diary sheets
 - drawing up ‘good neighbour agreements’ between the parties concerned
 - formulating an action plan with the relevant parties
 - issuing a warning to the alleged perpetrator
 - installing sound monitoring equipment.
- 1.5 In addition, in more serious cases of ASB, landlords can work with the Police and other agencies using the powers available under The Anti-Social Behaviour, Crime and Policing Act 2014 to issue:
- **Criminal Behaviour Orders** – issued by a criminal court against a person who has been convicted of an offence and is causing anti-social behaviour.
 - **Dispersal Powers** – this allows police officers to order a person who is causing harassment, alarm, or distress to leave a specific area for up to 48 hours.
 - **Community Protection Notices** – local authorities, the police, and sometimes social landlords can issue Community Protection Notices to address a wide range of problems such as littering and noise nuisance.
 - **Public Space Protection Orders** – used by local authorities to prevent behaviour and nuisance that is persistent, unreasonable and/or detrimental.
 - **Closure Orders** – a court order which closes properties that are causing serious nuisance, disorder, or criminal behaviour. This means there is a temporary ban on occupying the property.

- **Civil Injunctions** - to stop people engaging in acts of anti-social behaviour in a specific location. Some injunctions can be given without notice, but they are only available if there has been a threat or use of violence.

2. Best Practice

- 2.1 Landlords should generally only seek to have someone evicted for ASB if the behaviour is serious, persistent and all other interventions have failed. To evict an individual, a landlord will also need substantial evidence that it can rely on in court. The aim is to stop the incident not to evict someone and move the problem elsewhere (Resolve:2022).
- 2.2 Early intervention is crucial. Nationally, three quarters (75%) of ASB cases are resolved at first intervention. This includes using positive engagement, education, mentoring and diversion activities to support people to change behaviour.
- 2.3 Leading practitioners in ASB, specifically for social housing advise that the best course of action when addressing ASB is to adopt a harm centred approach, considering what action is proportionate based on the behaviour type and the impact, other relevant factors such as whether this is a pattern of behaviour, whether the harm causer is cooperating, previous actions taken etc (Janine Green: 2022).
- 2.4 Proportionate is a key term when dealing with ASB, as it is something that people sometimes struggle to understand the most. It also means that on many occasions social landlords have to make some challenging and unpopular decisions that the victims and other members of the community may struggle to understand.
- 2.5 Some examples of these challenging questions are listed below and often lead to much debate before a plan of action is agreed.
 - Is it proportionate to evict someone who has been causing a noise nuisance for a period of once a week for the last month?
 - Is it proportionate to evict someone who has been shouting abuse at the neighbour whenever they see them for the last 3 months when we know they have severe mental issues (paranoid schizophrenia) and their mental health has declined?
 - Is it proportionate to evict a family because the teenage son is riding his motorbike through the local rear accessways on a Friday and Saturday night?
- 2.6 The Anti Social Behaviour Principles as set out by the Home Office 2022 state that *“adults and children who exhibit ASB should have the opportunity to take responsibility for their behaviour and repair the harm caused by it. Agencies should deliver appropriate interventions, which may include criminal justice options, based on the seriousness, risks and vulnerabilities of the case.”*

3. ASB Management in Practice

- 3.1 So what does all of this guidance and best practice mean in reality for a social housing landlord. What it essentially all leads to is that initial message that ‘eviction is a last resort.’

- 3.2 We are expected to give our tenants the opportunity to rectify their behaviour and put a stop to the incident occurring. If the behaviour persists, then we are expected to use all the powers and tools available to us to such as CPW's, CPN's and Injunctions to support our tenant to change their behaviour.
- 3.3 Only once all of these avenues have been explored or the case is one where it meets one of the five mandatory grounds for possession relating to ASB, can we seek to start the legal process of eviction. The five ASB mandatory grounds for possession are:
- Condition 1: Conviction of serious offence
 - Condition 2: Breach of an injunction granted under section 1 of the Anti-social Behaviour Crime and Policing Act 2014.
 - Condition 3: Breach of a criminal behaviour order
 - Condition 4: Closure order
 - Condition 5: Conviction of an offence in respect of noise nuisance
- 3.4 Once the eviction process has reached the court hearing stage, the judge will decide what should happen. The court process is designed to give the tenant a chance to be heard. It can take anywhere from 6 weeks to 6 months for a case to be given a date at court. Where the Council is successful in proving ASB we will still need to persuade the Court that it is reasonable to grant us a possession order to otherwise they will not grant an order.

4. The cost of eviction

- 4.1 The cost of evicting a tenant is high. A study carried out by Shelter in September 2021, identified that it costs the public purse at least £28 million pounds to evict tenants from social housing each year, acknowledging that the approximate cost of supporting a homeless household due to eviction is £24,000 per household.

5. Housing ASB Policy

- 5.1 The Housing ASB Policy has been updated to reflect that we will support all tenants to sustain their tenancies and to emphasise our commitment to tackle any ASB swiftly and effectively.
- 5.2 The policy clearly sets out what is considered anti social behaviour and unwanted behaviour to help better manage tenant expectations from the outset. Some examples of unwanted behaviour are cooking smells and everyday living noise, which may be deemed unacceptable to the person experiencing them, but the council will not consider this to be ASB, as it is very unlikely that legal or tenancy enforcement action can be taken in these situations. If these situations arise, tenants and leaseholders will be encouraged to address the issues directly with each other, encouraging positive outcomes and fostering stronger community spirit.
- 5.3 The policy also clearly sets out how we will assess, investigate and manage ASB, with a focus on prevention and early intervention. It then sets out the enforcement action we will take, such as the tools we will use, if efforts to resolve the ASB informally have not been successful.

5.4 The policy also sets out how we will support victims, by risk assessing all ASB cases and making safeguarding referrals for both victims and perpetrators if required.

5.5 A copy of the Housing ASB Policy can be found in Appendix One

6. Next Steps

6.1 Following support at Housing Committee, the Housing ASB Policy will become a live date, as it has already been approved by CSU, Management Team and Legal.

6.2 Training will be provided to Members as part of the standard Member training in conjunction with the Legal Team to support greater understanding of the eviction process, the difficulties that social housing landlords face when obtaining possession orders in relation to anti social behaviour and best practice across the sector.

7. Background Documents

7.1 None

Secondary Implications	
Risk Assessment	N/A – this report is for information only
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner’s Office website via the above links. No</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? Click here to start typing</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. Click here to start typing</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. Click here to start typing</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>

Crime and Disorder	N/A – this report is for information only
Digital and website implications	N/A – this report is for information only
Safeguarding children and vulnerable adults	N/A – this report is for information only