

**Agenda Item No:** 9

**Report To:** Cabinet

**Date:** 9<sup>th</sup> June 2016

**Report Title:** Housing Enforcement Policies

**Report Author:** Jennifer Shaw, Housing Strategy Manager

**Portfolio Holder:** Cllr Clokie



**Summary:**

This report presents to members the Housing Policies that contain enforcement actions and how these are consistent with the corporate approach, agreed by the Policy and Compliance Task Group and presented to the May Cabinet. The policies are:

- Private Sector Housing Enforcement and Prosecution Policy
- Anti-Social Behaviour Policy for Ashford Borough Housing Tenants
- Housing Income and Arrears Management Policy

**Key Decision:** YES

**Affected Wards:** All

**Recommendations:** **The Cabinet be asked to:-**  
**Note the policies align with the Corporate Enforcement Policy**  
**and**  
**Approve each policy for adoption**

**Policy Overview:** The Corporate Enforcement Policy sets out the overarching principles that other specific service based enforcement policies should align with.

**Financial Implications:**

Specific legislative requirements are detailed in each policy Potential Court costs where a prosecution is brought to resolve a serious contravention of legal requirements.

**Risk Assessment**

NO - any risks associated with enforcement activity will be assessed on a case by case basis.

**Equalities Impact Assessment**

YES  
Attached at Appendices 4a,b,c

**Other Material Implications:**

None

**Exemption Clauses:**

N/A

**Background Papers:**

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## **Report Title: Housing Enforcement Policies**

### **Purpose of the Report**

1. This report sets out policies for
  - Private Sector Housing Enforcement and Prosecution
  - Anti-Social Behaviour (Ashford Borough Council Tenants)
  - Housing Income and Arrears Managementand details how these are consistent with the Corporate Enforcement Policy presented to Members at the May Cabinet
2. The report summarises each policy with the full policy appended to the report.

### **Issue to be Decided**

3. To seek Member endorsement of each policy and recommend its adoption.

### **Background**

4. The Policy and Compliance Task Group has reviewed enforcement activity across the Council. In response to this the Housing Service has reviewed any policies that have an enforcement focus to ensure they conform to the overarching approach to enforcement.
5. The Housing Service will adhere to any legal requirements when taking enforcement action or making a prosecution. However the Council will, wherever possible, seek to resolve any issues by informal action in the first instance.
6. Three policies have been reviewed and are detailed in this report:
  - Private Sector Housing Enforcement and Prosecution Policy
  - Anti-Social Behaviour Policy for Ashford Borough Housing Tenants
  - Housing Income and Arrears Management Policy
7. Housing Services takes a firm but fair approach to enforcement and has been successful in resolving serious breaches. The following real examples illustrate the type of approach adopted:
  - Private Sector Housing Empty Dwelling Management Order  
Under the Housing Act 2004, the Council successfully applied for an Interim Empty Dwelling Management Order to take over the management of a long-term empty property, located in Appledore, with the cooperation of the owner. The property had been subject to numerous complaints regarding its condition including anti-social issues. The owner lived abroad for prolonged periods of time and had been unable to deal with the property. As a result of applying for the Order we have gained possession of the property with the view of bringing it back into use. So Works are currently underway to achieve this, with the intention of renting it to a local family, managed by ABC lettings. The rentable income will allow us to recover the cost of the works and our action, we will be able to provide a family home.

- Anti –Social Behaviour

In the summer of 2015 Housing was presented with a serious ASB problem. The perpetrator had initially smashed up his flat and threatened ABC staff when visited. The damage ran into the thousands of pounds. There was also significant evidence of heroin use within the flat. An emergency injunction was sought under the ASB Act of 2014. We were the first local authority in Kent to be given the new type of injunction. After making the flat safe, a Notice of Seeking Possession for breach of tenancy was served upon the perpetrator and the county court was asked for immediate possession of the perpetrators flat. This was granted and the perpetrator was subsequently evicted and to this date is no longer a tenant of Ashford Borough Council. The eviction had an immediate positive impact on the community because people had expressed concern and fear about the perpetrator and his previous actions.

- Income and Arrears Management

The rent collection figures are consistently high. At year end 2015/16 collection stood at 99.66%. The number of tenants owing more than 13 weeks rent has reduced significantly in the 12 months from March 2015 from 58 to 26 as a result of firm but fair action.

8. The policies outlined below will continue to assist Housing Services to use enforcement action successfully when required.
9. Although within each policy timescales are not set, each case will be considered and prioritised according to the severity of the case and any statutory requirements that must be adhered to. Due to the complex and diverse range of potential breaches in the private rented sector and types of anti-social behaviour, setting fixed timescales for dealing with these are not appropriate.
10. Where a member of the public has reported an issue they will be kept informed of progress to resolving that issue, in a manner that will not prejudice any subsequent legal proceedings or potentially escalate the issue. All reported breaches will be acknowledged, treated as genuine and investigated accordingly.

## **Private Sector Housing Enforcement and Prosecution Policy**

11. This policy addresses poor conditions in private sector housing and the actions that can be taken to resolve them. Policies for the licencing and charging of park homes and dealing with unauthorised encampments will be presented to members at a future Cabinet meeting.
12. The policy reflects a presumption that business and individuals have the primary responsibility with regard to ensuring they comply with the relevant statutory provisions.
13. Where a contravention is identified the person responsible is initially given the opportunity to undertake the necessary remedial action on an informal basis.

14. Formal action will be instigated when an informal approach does not achieve the desired result within a reasonable timeframe.
15. Further failure to act may result in prosecution.
16. The principle piece of legislation used is the Housing Act 2004, whose main provisions include
  - The Housing Health and Safety Rating System (HHSRS)
  - Enforcement of housing standards including emergency measures
  - Licensing of Houses in Multiple Occupation (HMO's)
  - Empty Homes
  - Home Information Packs
17. In specific cases other legislation maybe more appropriate to use and Officers will use their professional judgement in determining the best course of action to take.
18. In all areas of private sector housing enforcement the Council is committed to acting in a fair and consistent manner. The Council will be
  - Transparent
  - Accountable
  - Proportionate
  - Consistent
  - Target only at cases where action is needed
19. The full Private Sector Housing Enforcement and Prosecution Policy is attached at Appendix 1.

## **Anti-Social Behaviour Policy for Ashford Borough Housing Tenants**

20. The policy has been developed in line with the Anti-Social Behaviour Act 2003, the Crime and Disorder Act 1998 as amended by the Anti-Social Behaviour, Crime and Policing Act 2014.
21. Each case of reported anti-social behaviour will be investigated and wherever possible early intervention and informal interventions will be explored before using more formal enforcement actions.
22. A quick and efficient response will be made to all reports of ASB to prevent wherever possible escalation of events.
23. Any action taken will be reasonable and proportional to the behaviour taking place and it will be assumed all complaints are genuine unless proven otherwise.
24. If necessary, Officers will use enforcement powers available under the relevant legislation to tackle anti-social behaviour. There are a range of formal tools that can be used dependent on the characteristics of the anti-social behaviour.
25. All complainants will be offered support and reassurance as agreed with the complainant.

26. Performance in dealing with and resolving ASB cases will be monitored to identify areas for improvement and staff training needs.
27. Case reviews will be held in specific circumstances to ensure better responses from local partners.
28. The full Anti-Social Behaviour Policy for Ashford Borough Housing Tenants is attached as Appendix 2.

## **Housing Income and Arrears Management Policy**

29. This policy sets out how the Council will maximise income by efficient rent collection, arrears prevention and recovery whilst supporting vulnerable tenants.
30. The legal framework that affects the recovery of rents and arrears are prescribed in:
  - The Housing Act 1985, 1988 1996
  - The Housing and Regeneration Act 2008
  - The Localism Act 2011
31. Tenants are advised of their rights and responsibilities and methods available to pay their rent (prior to the commencement of their tenancy) to maximise rent collection.
32. For rent arrears a firm but fair approach is taken but a 'zero tolerance' approach is taken for tenants who can afford to pay their rent but chose not to.
33. Former tenant arrears will be pursued unless circumstances dictate that it is impractical to do so.
34. Income management is monitored and reported to members quarterly through the Housing Services quarterly report.
35. The full Housing Income and Arrears Management Policy is attached as Appendix 3.

## **Equalities Impact Assessment**

36. An equalities impact assessment has been completed for each policy. These are attached at Appendix 4 (a, b & c).

## **Consultation**

37. The Anti-Social Behaviour Policy sought the views of other partners including the Community Safety Unit. A working group session including tenants helped shape the policy and feedback/suggestions were sought via the tenants' e-newsletter.

38. Consultation for the Income Management and Arrears Policy included the then tenants' forum.
39. The Private Sector Housing Enforcement and Prosecution Policy is governed by the legislative requirements the Council is required to abide by and therefore wider consultation was not undertaken.

## **Handling**

40. Once adopted the policies will be available to view on the Council's website. The key elements of each policy will be summarised on the enforcement web pages that are being developed to provide a more user-friendly interface for the public.
41. Enforcement activity is monitored and recorded using the 'M3' system for Private Sector Housing and 'Orchard' for Anti-Social Behaviour and Income Management. Rent collection information is reported to members in the Housing Services Quarterly report.
42. For each of the three policies procedure documents will be updated to provide guidance to officers implementing each policy.
43. As Housing Policies are reviewed, that incorporate enforcement action, due regard will be given to ensuring they conform to the principles set out in the Corporate Enforcement Policy and where necessary reviewed by the Policy and Compliance Task Group.

## **Conclusion**

44. The three policies presented within this report meet the principles set out in the Corporate Enforcement Policy to take a firm but fair approach within the boundaries of any legislative requirements.

## **Portfolio Holder's Views**

45. This report shows that Housing Services are taking a pro-active approach to enforcement and have reviewed their enforcement policies to ensure they follow the corporate approach reported to Cabinet in May. The report sets out that our policies afford Officers the opportunity to tackle breaches early to resolve them informally. Officers will use the legislative powers available to them, as and when necessary, to ensure compliance by taking firm but fair action. I recommend the three policies presented are approved and adopted.

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## **Private Sector Housing Enforcement and Prosecution Policy**

## Contents

1. INTRODUCTION .....	3
2. METHODS OF ENFORCEMENT .....	3
2.1 Legislative Powers.....	4
2.2 Decision Making.....	4
2.3 Formal Enforcement.....	5
2.4 Informal Action .....	6
2.5 Charges for Enforcement Action .....	6
2.6 Emergency Action .....	7
2.7 Simple Cautions.....	7
2.8 Other Powers – works in default .....	7
2.9 Powers of Entry.....	8
3. HOUSES IN MULTIPLE OCCUPATION.....	8
3.1 Licensing of Houses in Multiple Occupation.....	8
3.2 Standards of Houses in Multiple Occupation .....	10
3.3 Management of Houses in Multiple Occupation .....	10
3.4 Article 4 Directions.....	10
4. EMPTY PROPERTIES .....	10
5. OWNER OCCUPIERS .....	11
6. WHAT WE WILL EXPECT OF TENANTS .....	11
7. TRAINING AND QUALIFICATIONS OF ENFORCEMENT OFFICERS .....	11
8. HOW WE WILL DEAL WITH ANY REPORTS OF POOR HOUSING CONDITIONS.....	11
9. HOW TO REPORT A PROBLEM TO US .....	12
10. HOW TO COMPLAIN ABOUT OUR SERVICE .....	12
Appendix 1 .....	13

## 1. INTRODUCTION

This Policy is consistent with the Council's Policy on the use of enforcement powers. This approach ensures that firm but fair enforcement action will be taken on a case by case basis guided by the law.

This policy details how the Council will use its enforcement powers relating to legislation covering Housing and Environmental Protection issues affecting poor housing conditions only, and does not apply to unauthorised encampments or mobile/park homes. These are addressed in a separate policy.

Ashford Borough Council will seek to resolve problems and achieve the right outcomes at the earliest possible stage with regard to our housing and environmental duties. When appropriate we will look to engage with other agencies such as Kent Fire and Rescue Service (KFRS), in order to rectify problems in a constructive manner. At times enforcement action may be required to resolve issues and such action will be in accordance with this Enforcement Policy.

The Council's approach will be in accordance with the principles of the national Concordat on Good Enforcement as promoted by the government and formally adopted by the Council. This means the Council will carry out their functions in an equitable, practical and consistent manner to secure a safe and healthy environment for all residents.

Our objectives are to ensure that the conditions in the private rented sector, including houses in multiple occupation (HMO's) comply with statutory standards, making the most effective use of capital and manpower resources and reduce the number of long term empty dwellings.

## 2. METHODS OF ENFORCEMENT

We recognise that prevention is better than cure, but where necessary enforcement action will be taken. The term "enforcement" has a wide meaning and applies to all dealings between the Council and those on whom the law places a duty. The range of actions available to the authority include:-

- No action
- Informal action and advice
- Housing Act Notices
- Local Government Act Notices
- Public Health Act Notices
- Building Act Notices
- Smoke and Carbon Monoxide Alarms– Remedial Notices
- Works in default
- Charges for enforcement
- Standards of Houses in Multiple Occupation
- Management of Houses in Multiple Occupation
- Licensing of Houses in Multiple Occupation

- Simple Caution
- Prosecution
- Rent Repayment Orders
- Compulsory Purchase Orders
- Penalty Charge Notices

## 2.1 Legislative Powers

The principal piece of legislation used by the Private Sector Housing team is the **Housing Act 2004** (referred to as “the Act”). However, there are circumstances where other pieces of legislation may be more appropriate in dealing with the identified problem. Officers are expected to use professional judgement to determine the most appropriate piece of legislation to use. In some cases it may be appropriate to use a range of enforcement tools.

A list of legislation is attached at Appendix 1. (This list is not exhaustive.)

### General Principles

When carrying out enforcement action it is important that the Council works within the statutory framework set out and that it follows best practice and procedure.

In particular, the Council is committed to acting in a fair and consistent manner and has adopted this enforcement policy as part of this commitment. When exercising its enforcement functions, the Council will act in such a way that is:

- Transparent
- Accountable
- Proportionate
- Consistent

## 2.2 Decision Making

The decision to take action, whatever that action may be, will be based on the available evidence and professional judgement.

All prosecutions must be endorsed by the Head of Housing. Prior to submitting a prosecution file to the Head of Housing, the Case Officer must first consult with the Senior EHO within Private Sector Housing to ensure that the prosecution is in accordance with this enforcement policy. The Case Officer must then consult with the appropriate Officer from Legal Services to ensure that the case has been properly considered and is sound.

## 2.3 Formal Enforcement

Enforcement action may only be initiated by Officers who are authorised to do so.

The Private Sector Housing Team recognises and affirms the importance of achieving and maintaining consistency in its approach to making all decisions which concern enforcement action, including prosecution. The Council follows the principles of the Enforcement Concordat. It will also ensure that all actions will be consistent with the Human Rights Act 1998.

The Council will, other than in exceptional cases, always ensure that landlords, tenants and owners have the opportunity to discuss the Council's proposed action before a notice is served.

Exceptional circumstances will normally only be such situations where this might cause an unacceptable delay in alleviating the hazard.

It is our policy to ensure that enforcement decisions are always consistent, balanced, and fair and ensure the public is adequately protected. In coming to any decision many criteria will be taken into account including the seriousness of the offence, the individual's past history, the confidence we have in the management, the consequences of non-compliance, and the likely effectiveness of the various enforcement options.

- **Formal Notices**

Formal notices can be an effective way of securing the undertaking of necessary remedial works where an informal approach is unsuccessful or inappropriate. For most types of notice, the recipient has the right to appeal to the Courts.

A range of enforcement options are available to the Council and how these discretionary powers are used in Ashford will depend on the circumstances of each case. In making decisions the following will be taken into account except that where a category 1 hazard exists within a property the Council must take some action

- The nature of the hazard
- The nature and circumstances of the current occupier (Age, vulnerability etc.)
- Views of the occupiers
- Local priorities for improving housing conditions
- Availability of other forms of Housing Assistance
- Action must be proportionate to the risk

The Government has issued guidance both on the operation of the Housing Health and Safety Rating System (HHSRS) and on the enforcement framework. Ashford will at all times have regard to available government guidance before taking enforcement decisions.

- **Formal Enforcement – Prosecution**

The Council will generally initiate prosecution where:-

- The person served with a notice fails to comply with the requirements of the notice and
- There has been no appeal against the terms of the notice or any appeal made has not been upheld

In deciding whether to prosecute the Council will follow the general principles set out in the Code for Crown Prosecutors and will consider both the evidence and whether it's in the public interest to prosecute, in light of this.

## 2.4 Informal Action

There may be circumstances in which informal action is appropriate. Many persons, having had a problem for which they are responsible drawn to their attention, will be anxious to comply with their statutory obligations. In such cases the Officer's role will be to guide and support.

Officers will supply appropriate guidance on legislation, Council procedures and criteria used to assess the extent of the problem whenever a complaint is received or a problem is otherwise drawn to the Officer's attention.

- Any requirements will clearly identify whether they are mandatory or advisory in nature. If the requirements are mandatory, a timescale for compliance will be specified
- Due regard will be had to any special circumstances when a timescale for compliance is specified

### **It is appropriate to use informal action in the following circumstances:-**

- When the act or omission is not serious enough to warrant formal action
- When, from the individual's/enterprise's past history it can be reasonably expected that informal action will achieve compliance
- When confidence in the individual's/enterprise's management is high
- When the consequences of non-compliance will not pose a significant risk to public health.

## 2.5 Charges for Enforcement Action

The Council reserves the right to charge and recover its costs where we have the right to do so.

Landlords have a duty of care to their tenants and should provide accommodation that is both free from significant hazards and properly maintained, thus avoiding the

need for invention from the Council. The Housing Act 2004 enables the Council to recover its reasonable expenses associated with serving notices and other enforcement activity. The recovery of expenses will be considered on a case by case basis.

## **2.6 Emergency Action**

In certain emergency situations where it is not possible to contact the relevant person and gain their co-operation enforcement action will be taken that will involve carrying out work without the prior need to serve legal notice, for example:

- Where there is an imminent risk of serious harm to the health or safety of occupiers or others
- Where there is an immediate need to secure a building against unauthorised entry or to prevent it becoming a danger to public health.

## **2.7 Simple Cautions**

The decision to issue a simple caution will be made by the Head of Housing Services in consultation with the appropriate Officer in Legal Services.

A simple caution may be an appropriate course of action where there is a criminal offence but the public interest does not require a prosecution.

In considering whether a Caution is appropriate, the Council will consider the following questions:-

- Has the suspect made a full and frank admission of the offence (either verbally or in writing)?
- Is there a realistic prospect of conviction if the offender were to be prosecuted?
- Is it in the public interest to use a Caution as the appropriate means of disposal?

## **2.8 Other Powers – works in default**

Where the requirements of a notice are not carried out, in many instances the Council is empowered to do whatever is necessary in execution of that notice and recover the costs of doing so from the person responsible. The Council will if deemed necessary and appropriate carry out works in default when:

- The person served with a notice has failed to comply with the requirements of the notice *and*

- There has been no appeal against the terms of the notice or any appeal made has not been upheld
- The Council may recover the costs of the work from the person responsible as a civil debt or by placing a legal charge on the property, which is a local land charge.

## **2.9 Powers of Entry**

In carrying out their duties, duly authorised Officers have a range of far reaching powers, including the right to enter any premises at any reasonable time in order to:-

- Ascertain whether or not a breach of legislation exists
- Carry out any action or works authorised in accordance with this enforcement policy

Entry to any residential property shall not, except in an emergency, be demanded as of right unless 24 hours' notice has been given. If entry is refused, an Officer may apply to a Justice of the Peace for a Warrant to enter the premises, if needs be, by force.

## **3. HOUSES IN MULTIPLE OCCUPATION**

### **3.1 Licensing of Houses in Multiple Occupation**

#### **Mandatory Licensing**

Mandatory Licensing of Houses in Multiple Occupation under part 2 of the Housing Act 2004. The Council is required to have a licensing scheme in place, seek properties that require licenses and license properties that are licensable.

A Mandatory licence is required for HMOs with three or more storeys with five or more occupiers living in two or more households sharing some facilities.

A landlord's failure to license a property is an offence with the maximum fine on summary conviction being £20,000. The other actions that could be taken is rent repayment orders to recover up to one year's worth of rent.

## Duration of Licences

Licences will normally be granted for the full five year period.

## Fit and Proper Person Policy

In granting a licence the Council must be satisfied that the proposed licence holder, manager and any person involved in the management of the property are fit and proper persons. A person's fit and proper status may be reviewed at any time if circumstances change. Removal of this status could lead to refusal and or revocation of licence.

The proposed licence holder will need to be exempt from the following before granting a licence:

- Any unspent convictions for offences involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003
- Any unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or in connection with the carrying on of a business
- Any contravention of any provision of the law relating to housing or of landlord and tenant law (including any civil proceedings that resulted in a judgement against you)

## Discretionary licensing

The Council may, at its discretion bring into force licensing of other residential accommodation, as defined by parts 2 and 3 of the Housing Act 2004, which allows local authorities to require landlords of some privately rented properties to apply for a licence. There are two types of discretionary licensing.

**Additional licensing** may be appropriate where a large number of HMOs in an area are not being managed effectively and causing particular problems for the people who live in these HMOs or members of the public.

**Selective licensing** may be appropriate where there is a problem with anti-social behaviour in an area or an area of low housing demand, and that some or all of the landlords in the area are failing to take action to combat the problem.

Ashford does not consider that there is a need to introduce discretionary licensing at this time.

### **3.2 Standards of Houses in Multiple Occupation**

HMOs will be inspected having regard to the Housing Health and Safety Rating System and the Management Regulations.

If after an inspection it is found the HMO does not meet the Council's standards or has serious hazards under the rating system, enforcement action may be considered.

### **3.3 Management of Houses in Multiple Occupation**

The Management Regulations apply to Houses in Multiple Occupation (HMOs) in England, but do not apply to converted blocks of flats to which section 257 of the Act applies. These are buildings that have been converted into and consist of self-contained flats where the building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them, and less than two thirds of the self contained flats are owner occupied.

### **3.4 Article 4 Directions**

Ashford Borough Council has Article 4 areas within its Borough. This limits the works that can be carried out without needing planning permission from the Council.

In respect of this policy Article 4 Direction relates to restrictions on both licensed and non-licensed HMOs in certain areas of the Borough.

### **3.5 Management Orders (Housing Act 2004)**

These powers will be used as a last resort in relation to HMO's where other attempts to deal with breaches of the Management Regulations have failed in the most serious cases, where there is no reasonable prospect of a licence being granted or it is necessary to protect the health, safety or welfare of occupiers, visitors or persons living in the vicinity or where serious anti-social behaviour can be evidenced and is found to be significantly affecting other occupiers, visitors or persons in the vicinity of the premises.

## **4. EMPTY PROPERTIES**

The Private Sector Housing Service identifies long term empty properties and will work with the owner to bring back into use.

Action will be tailored to match housing need, nuisance issues and length of time the property has been empty.

Where necessary, we will take enforcement action to deal with the symptoms that arise when a property is left empty.

## **5. OWNER OCCUPIERS**

Priority will be given to addressing poor housing conditions that threaten the safety and wellbeing of occupiers.

Enforcement will be targeted particularly at situations where occupiers have little influence over the conditions of the accommodation they occupy. For this reason the service of notices or enforcement action on owner/occupiers will only be used in exceptional circumstances (see informal action).

## **6. WHAT WE WILL EXPECT OF TENANTS**

Before considering taking any action in tenanted properties, we will require the tenant to have contacted their landlord. This applies to both private and housing association tenants. Legislation covering landlord and tenant issues requires that the tenant notify their landlord (preferably in writing) of any problems with the property. Landlords can only carry out their repairing obligations once they are made aware of any problems. Any copies of correspondence between the tenant and the landlord should be provided to Officers.

Tenants will be expected to keep Officers informed of any contact they have with their landlord (or landlord's agent, builder etc.) that may have an effect on what action the Council takes.

## **7. TRAINING AND QUALIFICATIONS OF ENFORCEMENT OFFICERS**

No Officer will carry out enforcement duties unless suitably trained and experienced and authorised by Ashford Borough Council.

Prosecution will only be instigated following a review of the matter by the Case Officer and an appropriate Officer from Legal Services, and authorisation by the Head of Housing.

Training will be provided for all enforcement Officers as required to meet changes in legislation and enforcement procedures.

## **8. HOW WE WILL DEAL WITH ANY REPORTS OF POOR HOUSING CONDITIONS**

We will acknowledge your report within 3 working days and will contact you to discuss the issue you have reported in more detail within 5 working days. We will agree the appropriate course of action with you and can offer telephone advice or may wish to visit the property concerned to find out more and investigate the condition of the property. We will wherever possible keep you informed of the progress of the investigation, but we cannot reveal any information that may be

restricted under data protection. Following our investigation we will notify you in writing of the action we plan to take and the timescales involved.

## 9. HOW TO REPORT A PROBLEM TO US

Please contact:

Private Sector Housing Department  
Ashford Borough Council  
Civic Centre  
Tannery Lane  
Ashford  
Kent  
TN23 1PL

Tel: 01233 330688

E-mail [privatesectorhousing@ashford.gov.uk](mailto:privatesectorhousing@ashford.gov.uk)

## 10. HOW TO COMPLAIN ABOUT OUR SERVICE

If you are dissatisfied with the service you receive please let us know.

- On line at [www.ashford.gov.uk/feedback](http://www.ashford.gov.uk/feedback)
- Email [customer.care@ashford.gov.uk](mailto:customer.care@ashford.gov.uk)
- Call us on 01233 331111
- In person at the Civic Centre , Ashford

If you are still unhappy you can discuss your complaint with your local ward Councilor, MP or can complain to the Local Government Ombudsman.

### Information in other languages

If you require this policy in an alternative format please contact – 01233 330 688or  
Email: [privatesectorhousing@ashford.gov.uk](mailto:privatesectorhousing@ashford.gov.uk)

## Appendix 1

### Housing Act 2004

#### **The Housing Health and Safety Rating System (HHSRS)**

Under the Housing Act 2004, local housing authorities are able to assess housing conditions for specific hazards. It looks at the effect that deficiencies in the home can have on the health and safety of occupants and visitors by using a risk assessment approach called the Housing Health and Safety Rating System (HHSRS). The aim of individual risk assessment is to reduce or eliminate hazards to health and safety in domestic accommodation. Potentially there are 29 hazards and each hazard is assessed separately and rated according to how serious the likelihood of harm.

The 29 Hazards:

Damp and mould growth	Crowding and space	Falling on stairs etc
Excess cold	Entry by intruders	Falling between levels
Excess heat	Lighting	Electrical hazards
Asbestos	Noise	Fire
Biocides	Domestic hygiene	Hot surfaces
Carbon monoxide	Food safety	Collision/Entrapment
Lead	Personal hygiene	Explosions
Radiation	Water supply	Ergonomics
Uncombusted fuel gas	Falls/baths	Structural collapse
Volatile compounds	Falls on level	

The assessment process is not just a question of examining defects to a property, but it comprises risk assessment, probable outcomes and the resulting effects on the occupiers' health, safety and welfare.

Two key tests are applied:

- The likelihood of an occurrence (such as an accident or ill health) as a direct result of this deficiency in the house;
- The likely outcomes in terms of injury or ill health (physical and mental) arising from the deficiency.

The final score is divided into bands ranging from A – J. Councils have a duty to take action to remedy hazards which fall into bands A – C. These are termed Category 1 hazards.

Category 2 hazards are also subject to enforcement powers by Councils. Each case is individual and the appropriate enforcement action will be chosen which reflects the circumstances concerned.

The Act also provides a range of enforcement tools:-

**Improvement Notices** – section 11 is used for category 1 hazards, section 12 is used for category 2 hazards. An improvement notice should be used where reasonable remedial works can be carried out to reduce the hazard sufficiently.

**Prohibition Orders** – section 20 for category 1 hazards and section 21 for category 2 hazards. This order may prohibit the use of part or all of premises for some or all purposes or for occupation by a particular number or description of people. An order may be appropriate where conditions present a risk but remedial action is not possible because of cost or other reason. It may also be used to limit the number of persons occupying the dwelling, or prohibit the use of the dwelling by specific groups. In an HMO it can be used to prohibit the use of specified dwelling units.

**Hazard Awareness Notices** – section 28 for category 1 hazards and section 29 for category 2. This is used where a hazard has been identified but it is not necessarily serious enough to take formal action. It is a way of drawing attention to the need for remedial action. This notice should not be used if the situation is considered serious enough for follow up inspections to be made. This notice is not registered as a land charge and has no appeal procedure.

**Emergency Remedial Action** - section 40 – this is only acceptable for use where there is an **imminent** risk of serious harm and the hazard must rate as a category 1. The authority must undertake any necessary remedial works that are required to reduce the immediate risk. A warrant to enter the premises in order to carry out the work may be granted by a Justice of the Peace where he/she is satisfied that the authority would not be granted admission by the owner.

**Emergency Prohibition Order** – section 43 – this is only acceptable for use where there is an **imminent** risk of serious harm, the hazard rates as a category 1 and where it is not practical to carry out the remedial works as in section 40.

**Demolition Order** – this can only be used in response to category 1 hazards, but not if the building is listed. It must take into account availability of accommodation for re-housing, demand for accommodation, and the possible future use for the cleared site.

**Clearance Area** – All residential buildings in the proposed area must have at least one category 1 hazard. It must take into account availability of accommodation for re-housing, demand for accommodation, and the possible future use for the cleared site.

**Suspend Improvement Notices or Prohibition Orders** – these notices may be suspended where enforcement action can safely be postponed until a specified event or time. This can be a period of time or a change in occupancy. Current

occupation and wishes must be taken into account. These may also be used where there is programmed maintenance. The suspensions must be reviewed at the very least every 12 months. The advantage of suspending a notice is that there is a record of the LHA's involvement and the situation must then be reviewed. It is also recorded as a local land charge.

The Act requires enforcing authorities to produce a statement of reasons justifying the type of action they are taking. This must accompany all notices and orders served.

### **Other Legislation**

- **Local Government (Miscellaneous Provisions) Act 1976**

This act enables the Council to re-connect or prevent the disconnection of gas, electricity or water supply in tenanted properties. These powers will be used in exceptional circumstances when all other negotiation has failed. These powers will only be used where the tenant is not responsible for the payment of the bill.

- **Local Government (Miscellaneous Provisions) Act 1976**

This act enables the Council to obtain information about the interest in land. The notice is used to determine who owns, manages, and occupies a dwelling. The information must be provided within 14 days of service of the document. Failure to provide the information may result in the Council bringing a prosecution. On summary conviction the Magistrates Court can fine the relevant person.

- **Local Government (Miscellaneous Provisions) Act 1982**

This act enables the Council to board up unsecure empty properties. The Council will attempt to contact the owner to carry out the work. If the property remains unsecure the Council may serve a notice giving the owner 48 hours to make the property secure. If the property remains unsecure after this the Council may carry out the work and re-charge its costs. A local authority need not to give any such notice if it is necessary to undertake works immediately or owner/occupier cannot be reasonably traced.

- **Public Health Act 1961**

This act enables the Council to require owners / occupiers to unblock or repair toilets. If negotiation fails the Council may serve a notice requiring the toilet to be unblocked within 7 days. After which the Council may carry out the work and re-charge its costs.

If the toilet requires repair the Council may serve a notice requiring the toilet to be repaired within 14 days. After which the Council may carry out the work and re-charge its costs.

- **Environmental Protection Act 1990**

This act enables the Council to deal with premises that are deemed to be a nuisance/prejudicial to health. Prejudicial to health is defined as injurious or likely to cause injury to health.

- **Building Act 1984**

Section 59 of the Building Act 1984 allows by notice the Council to require owners to provide new, repair, or upgrade existing: drains, guttering, cesspools, sewers, drains, soil pipes, and rainwater pipes etc.

The Council must give the owner of the property reasonable time to carry out the work. If the owner fails to carry out the work the Council may carry out the work itself and prosecute.

- **Smoke and Carbon Monoxide Alarm Regulations 2015**

The Council has a duty to serve a remedial notice (within 21 days of having reasonable grounds to believe that a breach of the landlord's duty has occurred) on a private landlord if there is no smoke alarm fitted on each storey of the premises on which there is a room used wholly or partly as living accommodation.

The Council has a duty to serve a remedial notice (within 21 days of having reasonable grounds to believe that a breach of the landlord's duty has occurred) on a private landlord if there is not a carbon monoxide alarm fitted in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance.

The notice will require the landlord to take action within 28 days



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# Anti-Social Behaviour Policy for Ashford Borough Council Housing Tenants

## **1. Policy Statement**

- 1.1 Housing Services (Housing) are committed to ensuring all our residents enjoy their right to peace, quiet and security in and around their homes and we will not tolerate anti-social behaviour (ASB) from residents or their visitors.
- 2.1 Housing will challenge ASB quickly and stop activity which causes nuisance and annoyance to our residents. Housing will provide support to victims and take enforcement action where appropriate.
- 3.1 This is Housing's policy document, which explains what we mean by anti-social behaviour and sets out our responsibilities for dealing with anti-social behaviour and how we will tackle it.

## **2. Introduction**

- 1.1 This policy has been developed in line with the Anti-social behaviour Act 2003, the Crime and Disorder Act 1998 as amended by the Anti – social behaviour, Crime and Policing Act 2014 to ensure that ASB is dealt with consistently and robustly, ensuring prompt, proportionate and justified action will always be taken.
- 2.1 Housing recognises and acknowledges:

- i. That ASB can have a devastating impact on individuals and whole communities; it affects community cohesion and if left unchallenged leads to the breakdown of communities.
- ii. That every individual is entitled to peaceful enjoyment of their home and surrounding areas regardless of the tenure of the property.
- iii. The importance of doing everything that is reasonably practicable to tackle ASB in a robust but proportionate manner.

## **3. Definitions**

- 1.1 For the purpose of this policy the definition of ASB as defined by the Anti-social behaviour, Crime and Policing Act 2014 will be used:
  - i. Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
  - ii. Conduct capable of causing a nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
  - iii. Conduct capable of causing housing-related nuisance or annoyance to any person.
- 2.1 Those who may be affected by the conduct include, but not limited to:
  - i. Tenants and leaseholders of Housing and their visitors,
  - ii. Owner occupiers, private rented tenants or visitors,
  - iii. Any person lawfully carrying out work for Housing or any ABC commissioned contractor.

#### **4. Reporting Methods**

1.1 Allegations of ASB can be reported to us in the following ways:

- i. By telephoning the Housing Services Team 01233 330688
- ii. By email at [housingservices@ashford.gov.uk](mailto:housingservices@ashford.gov.uk)
- iii. Online at <http://www.ashford.gov.uk/asb-report-it-form>
- iv. You can write to us at: Housing Services, Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL.

***In an emergency situation, where there is an immediate risk to life or property, complainants and witnesses should always dial 999 and ask for the police.***

#### **5. Roles and Responsibilities**

- 1.1 It is important that all complainants understand the importance of working with our staff to resolve issues of ASB.
- 2.1 We will normally ask complainants to complete diary sheets (if appropriate) for a short period of time. This will allow us to make an informed assessment on what is happening and focus on how to resolve the matter.
- 3.1 Where the ASB complaint is related to noise we may also ask the complainant to allow sound recording equipment to be installed in their property to monitor the alleged noise nuisance.

#### **6. How we deal with Anti-social behaviour**

- 1.1 We will assist our residents who are suffering ASB by responding quickly and efficiently to all reports of ASB. We recognise that this can prevent situations from escalating.
- 2.1 Area Managers will be expected to manage customer expectations. We will not make promises that we cannot keep and will always do our best to do what we say we will.
- 3.1 We will **not** move complainants or perpetrators who are tenants of ABC as a means to resolving the ASB (except in exceptional circumstances and where consultation has been carried out with partner agencies and the ABC Housing Options team).
- 4.1 Any action that we take will always be reasonable and proportionate to the behaviour which is taking place. We will assume that all complaints are genuine unless proven otherwise.
- 5.1 We will, whenever it is appropriate, work closely with partner agencies to prevent ASB from occurring and to support those who are the subject of ASB.

#### **7. Partnership Working and Information Sharing**

- 1.1 Partnership working is essential if we are to prevent ASB and tackle it quickly and effectively.

2.1 We will work in partnership with various organisations and agencies including but not limited to:

- i. Ashford Supporting Families
- ii. Community Mental Health Team
- iii. Community Safety Partnership/Community Safety Unit
- iv. Environmental Services (Ashford Borough Council)
- v. Kent Fire and Rescue
- vi. Kent Police
- vii. Probation Services
- viii. Social Services
- ix. Third or Voluntary Sector Service providers

3.1 We have all signed the Kent and Medway Information Sharing Protocol (KMISP), which enables us to share relevant and appropriate information when dealing with cases of ASB. All information shared is in line with the KMISP, Data Protection Act 1998 and the Crime and Disorder Act 1998 (as amended) and the Anti-social behaviour, Crime and Policing Act 2014.

4.1 We attend a number of partnership meetings for the purpose of taking a multi agency problem solving approach to tackle ASB.

## **8. Supporting Vulnerability**

1.1 We recognise the importance of supporting vulnerable members of our communities. We also recognise that, by definition, those more vulnerable members may be more likely to be a target of ASB or be the cause of ASB.

2.1 A person may be considered vulnerable for many reasons, including but not limited to; age, alcohol or drug dependencies, disability (as defined by the Equalities Act 2010) or mental health issues.

3.1 When a complaint of ASB is received, we will make an assessment of vulnerability on every case. This will be included as part of the Risk Assessment Matrix (RAM). When a complainant, witness or perpetrator of ASB is identified as being vulnerable, a referral may be made to the relevant support service. We will work collaboratively with carers and support agencies.

4.1 Where a complaint is made against someone who we know or suspect is vulnerable, we will make every effort to assist them in engaging with support services. We will make it clear to them however, that failure to engage with such support services and the continuation of the alleged ASB, may lead to formal action being taken against them.

- 5.1 We will not accept vulnerability as a reason for a perpetrator being allowed to continue to behave badly.

## **9. Safeguarding**

- 1.1 Safeguarding is everyone's business and we all have a part to play in protecting the most vulnerable members of our community.
- 2.1 We recognise that when dealing with ASB we may well come into contact with children and adults for whom there are safeguarding concerns. All ABC employees receive safeguarding training and have access to information to enable them to respond appropriately
- 3.1 We actively participate in multi-agency arrangements to safeguard children, young people and adults.
- 4.1

## **10. Supporting Complainants**

- 1.1 Everyone who makes a complaint to us will be offered support and reassurance and we will consider each case with the complainant in terms of what support measures are required. We will always be open and honest about what is suitable and available.
- 2.1 We recognise that giving evidence in court can be a stressful and worrying time. We will provide full support and give a full explanation of what to expect. This may include a visit to the court prior to the hearing if required. The support we provide will be in line with The Ministry of Justice's Witness Charter which outlines in greater detail the support that can be given by Housing to complainants and witnesses required to attend court.
- 3.1 Whilst attending court complainants can expect:
- i. Transport to and from court,
  - ii. A separate waiting/consultation room away from the perpetrators (where possible),
  - iii. To be accompanied by a member of Housing at all times whilst in court,
  - iv. Compensation for any loss of earnings whilst attending court,
  - v. Refreshments and lunch throughout the duration of their attendance of court,
  - vi. Childcare costs.
- 4.1 After being involved in a case that is resolved using court proceedings, the complainants and witnesses will continue to be supported by their Area Manager or any other relevant support agency for a period of time after the hearing. This will vary in length from case to case and will be agreed with the complainant on an individual basis.
- 5.1 Where an employee of ABC, a contractor or subcontractor is the complainant of ASB, they are required to attend court if necessary and act as a

representative of ABC. We cannot reasonably expect tenants, leaseholders and members of the community to attend court if our employees are not prepared to do so. ABC will provide all the necessary support to employees as witnesses.

## **11. Support for Perpetrators**

- 1.1 We are aware that some perpetrators may have support needs. Where such support needs are identified we will refer the perpetrator to the relevant third party agencies.

## **12. Action we can take**

- 1.1 The majority of complaints of ASB do not require legal action as a means of resolution. We will, in the first instance, assess the type of ASB, the risk of harm to the victim and any vulnerability to identify how we will deal with the complaint. Early intervention through informal approaches will be considered in the first instance before exploring the more formal enforcement tools.

- 2.1 **Early and Informal Interventions:** Early intervention through an informal approach can be successful in stopping ASB committed by most perpetrators. These methods should be considered and exhausted first as they can stop ASB before it escalates.

- i. **Verbal warnings/written warnings**

Warnings are issued when there is evidence of ASB occurring or likely to occur. They make it clear to the perpetrator what behaviour is causing the issue and what effect this is having on the victim or the community and the consequence of not adhering to the warning.

- ii. **Mediation**

Mediation can be an effective tool, solving the issues by bringing all parties together to talk through their concerns. Our area managers are able to offer mediation on a confidential, impartial basis that can solve many incidences of misunderstanding or ASB. An example of when mediation would be used is when two neighbours fall out over a minor difference, such as the position of a boundary fence.

- iii. **Acceptable Behaviour Agreements (ABA)**

These are voluntary written agreements between an individual and ABC, though sometimes other agencies, like the Police, may be involved too. They contain pledges to behave in a certain manner or to stop doing certain things. ABA's are not legally enforceable but if they are broken it is usual to proceed to another level of action, such as court.

- iv. **Support and Counselling**

In many cases there are underlying causes for ASB such as substance misuse or alcohol dependency. Where appropriate we will refer people to partner agency's that can offer support and counselling

**3.1 Legal Actions:** If a perpetrator is unwilling to change their behaviour following attempts along the informal intervention route then there are some formal tools that can be used when dealing with ASB.

i. **Civil injunction**

The Civil Injunction is a court order to stop or prevent individuals engaging in ASB. It can resolve any issues before they escalate and can help the perpetrator to address the underlying cause of the ASB. The injunction can be obtained for people causing ASB from the age of 10 years and can be used on all tenures not just for social housing tenants. If the terms of an injunction are not adhered to it can result in a fine or imprisonment for up to two years for over 18's and for under 18's it could result in a supervision order or detention up to three months. In addition to this, the breach of an injunction means that our tenants could be evicted following the introduction of a new mandatory ground for possession.

ii. **Community Protection Notices (CPN)**

The Community Protection Notice is intended to deal with particular, on-going problems or nuisances which negatively affect the community's quality of life, such as graffiti, rubbish or noise by targeting those responsible.

iii. **Demotion Orders**

Demotion orders allow us to apply to the courts to reduce the security of tenure for tenants and can be a precursor to possession. These orders remove a number of rights including the right to buy and the right to exchange. The orders are a serious warning to tenants that if the ASB continues swift action can be taken to seek possession of their home.

iv. **Possession Proceedings**

This is court action that can lead to tenants being evicted from their homes. Before this stage is reached the tenants involved will have had several warnings to stop their ASB. Evicting someone, who may have family and children, from their home is a very serious matter. ABC would have to prove to the court that on the 'balance of probabilities' the tenant has broken the terms of their tenancy agreement and that it is reasonable for the court to evict the tenant.

The Anti-social behaviour, Crime and Policing Act 2014 introduced a new ***absolute ground for possession*** of secure and assured tenancies

where ASB or criminality has already been proven by another court. This means that ABC will no longer need to prove that it is reasonable to grant possession and the court must grant possession, providing set procedures have been followed.

v. **Closure Orders**

This can be used to close a property of any tenure down when it is being used or likely to be used to commit nuisance or disorder. This is a fast and flexible power that can be used to protect victims and communities by quickly closing premises causing ASB.

vi. **Criminal Behaviour Orders (CBO)**

The Criminal Behaviour Order can be issued in a criminal court against a person aged 10 upwards, who has been convicted of an offence to tackle the most persistent anti-social individuals who are also engaged in criminal activity. Breaching a CBO is a criminal offence and for over 18's can result in up to five years in imprisonment or a fine or both and for under 18's could face a two year detention order.

### **13. Hate Incidents**

1.1 Hate incidents are taken to mean any crime or incident where the perpetrator's hostility or prejudice against an identifiable group of people is a factor in determining who is victimised.

2.1 A hate incident is any crime or incident which is perceived, by the complainant or any other person, to be motivated by hostility or prejudice based on a person's actual or perceived social group or characteristics. Areas covered include:

- i. Disability
- ii. Gender – identity
- iii. Race or ethnicity
- iv. Religion or belief
- v. Sexual orientation

3.1 We will treat all hate related incidents as very serious and ensure that all appropriate staff receive specialist training in how to deal sensitively with such issues. ABC is a hate crime reporting centre. If complainants or witnesses are not comfortable reporting an incident to the police we will help them to make a complaint and deal with the matter as part of the management of the ASB case.

### **14. Protection of Staff and Contractors**

1.1 We will not, under any circumstance, tolerate abusive, threatening or violent behaviour towards our staff or contractors and will always take swift and robust action to protect our staff. All acts of aggression towards staff

members will be dealt with as very serious under this policy. We will involve the police if it is decided that it is appropriate.

- 2.1 We will ensure, together with the employee or contractors line manager, that a prompt and robust response takes place. Where there is a direct threat of harm or violence towards the complainant we will commence legal action in the county court to obtain an injunction which will provide protection for the complainant and other employees or contractors.
- 3.1 Where there is a risk of harm or violence from someone at an address, a notification will be made in Ashford Borough Council's risk register and a flag will be added to ABC's housing system as a warning to all staff that might come into contact with this person.

## **15. Publicising our Success**

- 1.1 We will consider publicity in all cases of ASB where the action we have taken has had a positive impact, whether this is legal or non legal action. We will never publicise anything with the intention of punishing anyone.
- 2.1 There are many benefits to publicity which include:
  - 3.1 When legal action has been taken and a court order has been granted, it is expected that publicity will always take place, unless there is a legal reason for not publicising successful action.
- 4.1 Publicity relating to a court order will always be proportionate to the ASB that has taken place.

## **16. Performance Monitoring**

- 1.1 We will closely monitor our performance in relation to dealing with ASB. We will do this by:
  - i. Setting challenging performance targets for staff to achieve.
  - ii. Ensuring the Senior Area Manager carries out audits and reviews of sample of cases.
  - iii. Ensuring the Senior Area Manager will speak to all dissatisfied customers to try and establish why there was dissatisfaction in the way we dealt with the complaint.
- 2.1 We will regularly benchmark our performance against similar organisations. This will allow us to identify areas of strength and weakness in the way we deal with ASB and introduce improvements to how we operate.
- 3.1 The Housing Operations Manager will ensure that any issues around performance will be reported to the Head of Housing, where applicable.

## **17. Closing Cases**

- 1.1 We will not assume that a situation has improved if we have not heard from the complainant and we will always try and make contact with the complainant before closing their case. This will include telephoning, visiting and writing. Only when all of these have failed will a case be closed.
- 2.1 In all cases the complainant will be sent a letter explaining the reasons why their case has been closed.

## **18. Staff Training**

- 1.1 Dealing effectively with ASB requires knowledgeable and well trained staff. ABC will ensure that all staff are regularly trained, refreshed and updated on best practice and changes in policy and legislation and that officers dealing with ASB clearly understand this policy and are able to deliver it. We will also ensure that area managers are fully trained on our procedures.

## **19. Anti-social behaviour Case Reviews**

- 1.1 The Anti-social behaviour case review is designed to ensure that there is a better response from local partners to cases of persistent ASB, especially where the victim is vulnerable or at greater risk. The trigger gives victims and communities the right to request a case review to examine how local agencies have responded to previous ASB complaints and consider whether further action should be taken.
- 2.1 ABC and the other eleven Community Safety Partnerships from across the Kent region have agreed that the threshold for invoking the trigger will be as follows
  - i. You reported three separate incidents relating to the same problem in the past six months to the Council, Police or your landlord;
  - OR
  - ii. You report one incident or crime motivated by hate (due to race, religion, disability, sexual orientation or gender identity) in the last six months and no action has been taken.
  - OR
  - iii. At least five people from different households have made reports about the same problem in the past six months to the Council, Police or your landlord and no action has been taken.
- 3.1 A victim of ASB or someone acting on their behalf can ask us to look at the issue under the Community Trigger rules. Under the scheme, the Police, Council and other organisations are required to review their response if someone has complained about ASB and are not happy with the response.
- 4.1 A Community Trigger can be invoked by telephone, email or post:

- i. By phone: 01233 330513
- ii. By email: [cssteamleaders@ashford.gov.uk](mailto:cssteamleaders@ashford.gov.uk)
- iii. By post to: Ashford Community Safety Service, Ashford, Borough Council, Civic Centre, Ashford, Kent, TN23 1PL

## **20. Supporting Legislation**

1.1 Together with our partners, we will make full use of the enforcement powers available to us under relevant legislation, including the following:

- i. Anti-social behaviour, Crime and Policing Act 2014
- ii. Anti-social behaviour Act 2003
- iii. Crime and Disorder Act 1998
- iv. Data Protection Act 1998 and 2003
- v. Equalities Act 2003
- vi. Housing Acts 1985, 1996 and 2004
- vii. Environmental Protection Act 1990 and 2002
- viii. Mental Health Act 1983 (amended 2007)
- ix. Human Rights Act 1998
- x. Freedom of Information Act 2000
- xi. Care Act 2014
- xii. Local Government Act 2000

*\*\*\*This list is not exhaustive\*\*\**

## **21. Complaints and Compliments**

We welcome all feedback from our customers and partners.

1.1 We welcome all feedback from our customers and partners.

2.1 If you are pleased with the service that you have received and you would like to pass on your comments to the member of staff concerned or their line manager, or if you are not satisfied with the response that you have received and would like to make a formal complaint, you may do this by contacting us in the following ways:

- i. By telephoning the Housing Services Team: 01233 330688
- ii. By email: [housingservices@ashford.gov.uk](mailto:housingservices@ashford.gov.uk)
- iii. On our website: [www.ashford.gov.uk/compliments-and-complaints](http://www.ashford.gov.uk/compliments-and-complaints)
- iv. You can write to us: Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL

Any complaints made will be dealt with in accordance with ABC's Corporate Complaint Policy.

## **22. Monitoring and Review of the Policy**

- 1.1 We will review this policy every three years to ensure that any changes in legislation or best practice are included and updated. We will consult with service users, staff and internal and external partners in the review.

DRAFT

# Housing Income and Arrears Management Policy for Ashford Borough Council Tenants



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## **Income Management.**

It is important that all the rent due is collected so money can be invested into delivering a good quality housing service to our tenants. Effective management of rent collection and arrears recovery is necessary to achieve this.

Housing services will therefore aim to provide tenants with a clear and consistent approach to rent collection and arrears recovery. While maximising income will be our priority it is recognised that there should be a balance between this and support for our tenants.

The Policy outlines the objectives of the Authority regarding income collection, arrears prevention and recovery, performance management and review procedures that will assist the Authority to successfully achieve the aim of maximising rent collection and reduce the outstanding debt to the Housing Revenue Account (H.R.A).

## **Legal and Regulatory Framework.**

The legal and regulatory framework that affects the recovery of the rent and arrears are prescribed in the Housing Act 1985, re-enforced by the Housing Act 1988, 1996, the Housing and Regeneration Act 2008, Localism Act 2011 and legal case law.

In addition to statutory regulation, housing providers are to comply with Civil Procedure Rules in particular the Rent Arrears Pre-Action Protocol.

## **Income Management: Rent Collection.**

Housing Services will aim to:

- ☐ Provide information to potential tenants, at the point of sign up, about the type of tenure, rent, service charge due for the property they have been offered.
- ☐ Explain to all new tenants why and how they are affected by their rights and responsibilities of their tenancy.

- ☐ Tell the tenants in writing and in person whenever possible, of any changes to the rent due at the earliest possible time.
- ☐ Ensure that payment opportunities are convenient, and that these are reviewed every 12 months.
- ☐ Where appropriate advise tenants about their right to assistance with their rent by applying for housing benefit and give assistance with the application.
- ☐ Provide all tenants with a rent account statement every 6 months.
- ☐ Encourage the use of Direct Debit as a convenient way to pay their rent.

### **Income Management: Arrears Recovery.**

To aid in prevention of arrears Housing Services will aim to:

- ☐ Provide potential and existing tenants with relevant, good quality housing advice, including clear information and necessary support to prevent arrears arising.
- ☐ Ensure that all tenants, at the point of sign up, are aware of their duty to pay the rent due and the consequence of non-payment.
- ☐ Avoid letting a garage to a tenant who has arrears for their dwelling, preventing multiple debts to Housing Services by one tenant. (If a tenant falls into arrears after a garage tenancy has been granted on their dwelling possession will be sought on their garage).
- ☐ Provide tenants with information about the arrears recovery process, including contact names and numbers should they find themselves unable to pay the rent due or keep to an agreement to clear arrears.
- ☐ Advise all tenants when their claim for Housing Benefit has been suspended, adjusted or expired. If necessary provide support in completing forms and providing supporting information to prevent unnecessary delay in processing the claim.
- ☐ Oversee and chase the progression of an outstanding Housing Benefit claim, liaising with the Housing Benefit Section and tenant accordingly.
- ☐ Identify peak periods of non-payment; target such times with publicity campaigns about the consequence of non-payment. Include information from the Housing Benefit Section about the uptake of Housing or Welfare Benefits and ensure the Service Level Agreement reflects this.
- ☐ Seek to identify those tenants who may need extra support to uphold their tenancy, including budgeting and debt counselling support.

- ☐ Ensure Area Managers have suitable skills to help tenants maximise their income, to ensure that rent account payments become frequent and sufficient enough to prevent possession proceedings.
- ☐ Review procedures every 12 months, including all written information provided to tenants, to ensure that procedures are suitable, successful and prompt to help with prevention of arrears.
- ☐ Ensuring the rent arrears process is “firm but fair” and that a policy of “zero tolerance” is adopted for those who can pay but choose not to.
- ☐ Ensure that contact with tenants in arrears is at an early stage, by letter, telephone or personal visit. Housing staff will find out how and why there are arrears and provide the necessary information and support to reduce them.
- ☐ Check rent accounts with arrears in compliance with the Arrears Procedure Manual, recording the course of action undertaken on the integrated housing system.
- ☐ Take a sequential approach to arrears recovery to give the tenant opportunity to arrange to pay the arrears before any formal action, including the serving of notices, is pursued.
- ☐ Only seek eviction as a last resort following the referral of the tenant’s case to the Eviction Panel for a review of the actions taken by the Area Manager. The Panel will comprise of the Senior Housing Options Officer and Housing Operations Manager who will consider the social, financial and legal implications for the tenant taking into consideration the issue of the proportionality of commencing legal proceedings.
- ☐ Provide an Arrears Procedure Manual to be used as a guideline with Area Managers being able to exercise their discretion where appropriate.

### **Income Management: Former Tenancy Arrears.**

- ☐ All former tenancy arrears where economical will be pursued.
- ☐ Where possible Housing Services officers will aim to collected contact information including a forwarding address regarding the exiting tenant.
- ☐ Practical repayment agreements will be made with former tenants with consideration given to their current social and financial situations.
- ☐ Consideration will be given to the use of tracing and debt collection agencies.
- ☐ Legal remedies will be considered for high level debts (>£500)
- ☐ Money Judgements will be requested at the time of a Possession hearing.

- ☐ A dedicated recovery officer will be responsible for all former tenancy arrears.
- ☐ Former tenancy arrears will only be submitted for write off to the Housing Operations Manager when there is no possibility of recovering the outstanding debt, pursuing the arrears is not appropriate or where it is uneconomical to do so.

### **Income Management: Performance Monitoring.**

With the introduction of National Indicators for Local Authorities and Local Authority Partnerships from April 2008 all previous Best Value Performance Indicators for rent collection and arrears are no longer in existence. In addition to the Local performance indicators, 8 week audits of arrears actions will take place, and will consist of the following values: £300-£500, £500-£800, £800-£1000 and £1000+. Local performance indicators will monitor the following:

- ☐ Rent collection (annually) inclusive of arrears
- ☐ Total number of tenants more than seven weeks of (gross) rent arrears (weekly)
- ☐ Total number of tenants more than thirteen weeks of (gross) rent arrears (weekly)
- ☐ Number of tenants in arrears who have had a Notice of Seeking Possession served (annually)
- ☐ Number of tenants who have had a Notice of Proceedings for Possession for rent arrears (annually)
- ☐ Number of court applications made for rent arrears (monthly/annually)
- ☐ Number of possession granted for rent arrears (monthly/annually)
- ☐ Number of tenants evicted for rent arrears (monthly/annually)

### **Income Management: Targets.**

Housing Services will set SMART (specific, measurable, achievable, realistic and timetabled) targets for the collection of rent and arrears. Staff will be encouraged to accept responsibility for achieving these targets and performance will be discussed at team briefings and officer one-to-ones, to ensure that rent collection and arrears recovery remain high profile and important to the team and Authority.

### **Income Management: Reporting.**

Performance information for rent collection and arrears recovery is reported to the Cabinet quarterly. The report will include a breakdown of the outstanding debt to the Housing Revenue Account, data including; rent collection (%) and number of tenants who are over 7 and 13 weeks in arrears, court applications and evictions undertaken. When necessary the report will provide the Cabinet with an explanation as to any change in our performance and if necessary the action to be taken to improve.

For further information please contact:

Housing Services  
Ashford Borough Council  
Civic Centre  
Tannery Lane  
Ashford  
Kent  
TN23 1PL  
Tel: 01233 330688



**ASHFORD**  
BOROUGH COUNCIL

## Impact Assessment

### When is an assessment needed?

Councils must assess the impact of **proposed policies or practices** while they are being developed, with analysis available for members before a decision is made (i.e. at Cabinet).

Broadly, *policies and practices* can be understood to embrace a full range of different activities, such as Cabinet decisions which substantially change the way in which we do something, setting budgets, developing high-level strategies, and organisational practices such as internal restructuring. Assessments should especially be undertaken if the activity relates closely to an equalities group (see next page).

Importantly, this does not include reports that are 'for note' or do not propose substantial changes – assessments should only be considered when we propose to do something differently.

Assessments should also be carried out when conducting a large-scale review of **existing policies or practices** to check that they remain non-discriminatory. This does not mean filling out an assessment on every report on a subject – it is up to you to decide if the report's scope or scale warrants an assessment

1. General Information	
1.1 Name of project, policy, procedure, practice or issue being assessed	Private Sector Housing Enforcement and Prosecution Policy
1.2 Service / Department	Housing / Private Sector Housing
1.3 Head of Service	Sharon Williams
1.4 Assessment Lead Officer	Julian Watts, Senior Environmental Health Officer
1.5 Date of Assessment	3 May 2016
1.6 Is this assessment of an existing or a proposed project, policy, procedure, practice or issue?	Updated policy
2. What is Being Assessed?	
2.1 What are the aims of this project, policy, procedure, practice or issue?	The Policy sets out the Council's approach to enforcement action and dealing with complaints relating to issues within the private rented sector. The Policy accords with the corporate policy to apply a consistent, firm and fair approach, within our legislative obligations.
2.2 Who is intended to benefit from this project, policy, procedure, practice or issue?	Private sector landlords and tenants will have a clear understanding of how the Council will deal with complaint's and enforcement procedures covering housing legislation which relate to issues affecting

	housing.
2.3 Who else is involved in the provision of this project, policy, procedure, practice or issue? i.e. other sections, public or private bodies	
- within Ashford BC	The policy mainly applies to the daily functions of the private sector housing team. On occasions legal and planning services may be involved in delivery of the Policy
- from other agencies	No

### 3. Possible Sources of Information

In order to assess the impact of proposed decision it is important to bring together all information you have on it to, analyse them and come to conclusions on how it affects those with protected characteristics.

Information on a policy, project or procedure can come in many forms :-

- ☐ Census and other demographic information
- ☐ User satisfaction and other surveys
- ☐ Previous consultation exercises
- ☐ Performance Indicators
- ☐ Eligibility Criteria
- ☐ Service uptake data
- ☐ Complaints
- ☐ Customer Profiling
- ☐ MOSAIC data

In order to come to conclusions on impacts in section 4 you **must** have taken in to account all appropriate information, and be able to provide this if necessary in support of the judgements you make.

Also, it is not enough to have broad information on service users – to meet equalities duties this information **must** be broken down – where applicable – into the relevant protected characteristics which may be affected by this decision. For example, when considering disabled access to a new community facility, overall usage figures are not enough – an understanding of how many disabled users within this total must be demonstrated.

The protected characteristics are :-

Age	Disability	Gender reassignment	Marriage and civil partnership	Pregnancy and maternity
Race	Religion and belief	Sex	Sexual orientation	

More information on the definitions of these characteristics can be found here - <http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/protected-characteristics-definitions/>

4. What judgements can we make?				
4.1 Does the evidence already available indicate that the project, policy, procedure, practice or issue may affect these groups differently? (please check the relevant box and provide evidence where possible)	Positive Impact?	Negative Impact?	No Differential Impact	If yes, can it be justified (and how)?
<b>Impact Factors:</b>				
<b>Age</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Disability</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Gender</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Gender Reassignment</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Marriage / Civil Partnership</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Pregnancy &amp; Maternity</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Race</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Religion / Belief</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Sexual Orientation</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Other (please specify)</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

5. Conclusions	
5.1 Does the decision maximise opportunities to promote equality and good inter-group relations? If “yes” please state how?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5.2 Based on the answers to the above can we confidently say that in its present form the decision treats different groups <u>fairly</u> (bearing in mind “fairly” may mean differently) and that no further amendment is required?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>If further action is identified to ensure fair impacts please complete the Action Plan available on the intranet and attach it to this form</b>	

<b>6. Monitoring and Review</b>	
How will monitoring of this policy, procedure or practice be reported (where appropriate)?	Officers record enforcement action on the Council M3 database. This data will be transfered to the Socrata dashboard for corporate reporting.
When is it proposed to next review the project, policy, procedure, practice or issue?	3 years from date of adoption unless legislative changes require an earlier review.
Any additional comments?	



**ASHFORD**  
BOROUGH COUNCIL

## Impact Assessment

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Councils must assess the impact of **proposed policies or practices** while they are being developed, with analysis available for members before a decision is made (i.e. at Cabinet).

Broadly, *policies and practices* can be understood to embrace a full range of different activities, such as Cabinet decisions which substantially change the way in which we do something, setting budgets, developing high-level strategies, and organisational practices such as internal restructuring. Assessments should especially be undertaken if the activity relates closely to an equalities group (see next page).

Importantly, this does not include reports that are 'for note' or do not propose substantial changes – assessments should only be considered when we propose to do something differently.

Assessments should also be carried out when conducting a large-scale review of **existing policies or practices** to check that they remain non-discriminatory. This does not mean filling out an assessment on every report on a subject – it is up to you to decide if the report's scope or scale warrants an assessment

1. General Information	
1.1 Name of project, policy, procedure, practice or issue being assessed	Anti-social Behaviour Policy for Ashford Borough Council Housing Tenants.
1.2 Service / Department	Housing
1.3 Head of Service	Sharon Williams
1.4 Assessment Lead Officer	Vikki Perry
1.5 Date of Assessment	27th April 2016
1.6 Is this assessment of an existing or a proposed project, policy, procedure, practice or issue?	Existing policy and practice with proposed amendments following the Anti-social Behaviour, Crime and Policing Act 2014.

  

2. What is Being Assessed?	
2.1 What are the aims of this project, policy, procedure, practice or issue?	To tackle anti-social behaviour through a variety of measures, including preventative work. We always to aim to support those accused of such behaviour to change their ways and thereby sustain their tenancy, but enforcement action remains an option.
2.2 Who is intended to benefit from this project, policy, procedure, practice or issue?	All residents, be they perpetrators or victims of such behaviour
2.3 Who else is involved in the provision of this project, policy, procedure, practice or issue? i.e. other sections, public or private bodies	
- within Ashford BC	Yes – Legal services, Environmental Services.
- from other agencies	Yes – Community Safety Unit( CSU); floating support providers; Kent Adult Social Service & Children

	and Families; Youth Offending Team; Probation; SureStart; Court Service
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### 3. Possible Sources of Information

In order to assess the impact of proposed decision it is important to bring together all information you have on it to, analyse them and come to conclusions on how it affects those with protected characteristics.

Information on a policy, project or procedure can come in many forms :-

- ☐ Census and other demographic information
- ☐ User satisfaction and other surveys
- ☐ Previous consultation exercises
- ☐ Performance Indicators
- ☐ Eligibility Criteria
- ☐ Service uptake data
- ☐ Complaints
- ☐ Customer Profiling
- ☐ MOSAIC data

In order to come to conclusions on impacts in section 4 you **must** have taken in to account all appropriate information, and be able to provide this if necessary in support of the judgements you make.

Also, it is not enough to have broad information on service users – to meet equalities duties this information **must** be broken down – where applicable – into the relevant protected characteristics which may be affected by this decision. For example, when considering disabled access to a new community facility, overall usage figures are not enough – an understanding of how many disabled users within this total must be demonstrated.

The protected characteristics are :-

Age	Disability	Gender reassignment	Marriage and civil partnership	Pregnancy and maternity
Race	Religion and belief	Sex	Sexual orientation	

More information on the definitions of these characteristics can be found here - <http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/protected-characteristics-definitions/>

4. What judgements can we make?				
4.1 Does the evidence already available indicate that the project, policy, procedure, practice or issue may affect these groups differently? (please check the relevant box and provide evidence where possible)	Positive Impact?	Negative Impact?	No Differential Impact	If yes, can it be justified (and how)?
<b>Impact Factors:</b>				
<b>Age</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Disability</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Gender</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Gender Reassignment</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Marriage / Civil Partnership</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Pregnancy &amp; Maternity</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Race</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Religion / Belief</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Sexual Orientation</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Other (please specify)</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

5. Conclusions	
5.1 Does the decision maximise opportunities to promote equality and good inter-group relations? If “yes” please state how?	<input checked="" type="checkbox"/> Yes Profiling will enable us to identify specific patterns in relation to discrimination and populations. We will support all parties in order to tackle the issue. We can and have provided translation services and appropriate floating support in cases, and we will tailor our input however necessary taking an initial meditation approach to build better relationships and neighbourhoods <input type="checkbox"/> No
5.2 Based on the answers to the above can we confidently say that in its present form the decision treats different groups <u>fairly</u> (bearing in mind “fairly” may mean differently) and that no further amendment is required?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>If further action is identified to ensure fair impacts please complete the Action Plan available on the intranet and attach it to this form</b>	

<b>6. Monitoring and Review</b>	
How will monitoring of this policy, procedure or practice be reported (where appropriate)?	The Community Action Module for monitoring in conjunction with the ASB Best Practice Working Group. ASB will be reported in the Housing Quarterly report presented to Members
When is it proposed to next review the project, policy, procedure, practice or issue?	The policy will be reviewed within 2 – 3 years of being adopted or sooner if there are any changes to legislation affecting the policy.
Any additional comments?	



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BOROUGH COUNCIL

## Impact Assessment

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1. General Information	
1.1 Name of project, policy, procedure, practice or issue being assessed	Housing Rental Income and Arrears Management for Ashford Borough Council Tenants
1.2 Service / Department	Housing
1.3 Head of Service	Sharon Williams
1.4 Assessment Lead Officer	Anthony Crossley until February 2017. Rebecca Wilcox February 2017 onwards.
1.5 Date of Assessment	12 <sup>th</sup> May 2016
1.6 Is this assessment of an existing or a proposed project, policy, procedure, practice or issue?	Existing policy
2. What is Being Assessed?	
2.1 What are the aims of this project, policy, procedure, practice or issue?	<p>The effective management of rent collection and arrears recovery which is necessary to deliver and maintain a good quality housing service. It aims to:</p> <p>Provide information to potential tenants Advise tenants in writing and in person where possible of any changes to the rent due at the earliest possible time Ensure that payment opportunities are convenient and reviewed at regular intervals To signpost tenants for housing, debt and welfare benefit advice Provide tenants with twice yearly rent</p>

2.2 Who is intended to benefit from this project, policy, procedure, practice or issue?	Anybody who rents or has previously rented a dwelling or garage in the Borough.
2.3 Who else is involved in the provision of this project, policy, procedure, practice or issue? i.e. other sections, public or private bodies	
- within Ashford BC	Housing Options Team Housing Services Team Accounts Management (Housing) Revenue and Benefits Finance ICT including the Customer Contact Centre Legal Services
- from other agencies	KCC – Supporting People (Including floating support providers) Social Services, and Gateway County Courts CAB Shelter

### 3. Possible Sources of Information

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4.1 Does the evidence already available indicate that the project, policy, procedure, practice or issue may affect these groups differently? (please check the relevant box and provide evidence where possible)	Positive Impact?	Negative Impact?	No Differential Impact	If yes, can it be justified (and how)?
<b>Impact Factors:</b>				
<b>Age</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	x	
<b>Disability</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	x	
<b>Gender</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	x	
<b>Gender Reassignment</b>	<input type="checkbox"/>	<input type="checkbox"/>	x	
<b>Marriage / Civil Partnership</b>	<input type="checkbox"/>	<input type="checkbox"/>	x	
<b>Pregnancy &amp; Maternity</b>	<input type="checkbox"/>	<input type="checkbox"/>	x	
<b>Race</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	x	
<b>Religion / Belief</b>	x	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Sexual Orientation</b> (please detail any specific groups considered)	<input type="checkbox"/>	<input type="checkbox"/>	x	
<b>Other (please specify)</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

5. Conclusions	
5.1 Does the decision maximise opportunities to promote equality and good inter-group relations? If “yes” please state how?	<input type="checkbox"/> Yes X No
5.2 Based on the answers to the above can we confidently say that in its present form the decision treats different groups <u>fairly</u> (bearing in mind “fairly” may mean differently) and that no further amendment is required?	X Yes <input type="checkbox"/> No
<b>If further action is identified to ensure fair impacts please complete the Action Plan available on the intranet and attach it to this form</b>	

6. Monitoring and Review	
How will monitoring of this policy, procedure or practice be reported (where appropriate)?	Profiling, tenant engagement and staff engagement.
When is it proposed to next review the project, policy, procedure, practice or issue?	N/A
Any additional comments?	