



**berneslai**  
homes

## **Anti-Social Behaviour Policy**

## Document Control

|                                |   |
|--------------------------------|---|
| <b>Title</b>                   | Anti-Social Behaviour (ASB) Policy  |
| <b>Responsible Officer</b>     | Neighbourhood Manager and ASB Team Leader   |
| <b>Author</b>                  | Neighbourhood Manager/Tenants First Service Manager/ASB Team Leader   |
| <b>Subject</b>                 | Anti-Social Behaviour   |
| <b>Information Asset Owner</b> | ASB Team Leader & Neighbourhood Manager   |
| <b>Approved by</b>             | Kat Allott-Stevens, Head of Estate Services   |
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| <b>Review responsibility</b>   | ASB Team Leader & Neighbourhood Manager   |
| <b>Applicable to</b>           | Tenants including their household, applicants, leaseholders, Berneslai Homes employees, people within the locality of Berneslai Homes managed stock and other customers of Berneslai Homes. |
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| March 2022    | 1.0     | Darren Asquith & Tony Griffiths, Housing Management Group Manager | Approval and Distribution   |
| March 2023    | 1.1     | Tony Griffiths, Neighbourhood Manager                             | Consultation with Tenants Voice Panel following amendments.   |
| March 2023    | 2.0     | Tony Griffiths, Neighbourhood Manager                             | Approval and Distribution   |
| August 2023   | 2.1     | Thomas Guerin, ASB Team Leader                                    | Amendments and consultation with Kat Allott-Stevens (Head of Estate Services), Tracey Powers (Service Manager Tenants First) and Tony Griffiths (Neighbourhood Manager) |
| September 23  | 2.2     | Thomas Guerin, ASB Team Leader                                    | Amendments around Hate Incidents and Noise  |
| September 23  | 2.3     | Thomas Guerin, ASB Team Leader                                    | Added persistent complainants and other amendments after comments from ASB Consultant.  |
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| February 2024 | 3.1     | Jayne Ambrose, ASB Team Leader                                    | Light tough review of Policy to remove use of neighbour card, Consultation with involved tenants regarding the removal of neighbour card.                               |
| February 2024 | 4.0     | Jayne Ambrose, ASB Team Leader                                    | Approved by Kat Allott-Stevens, Head of Estate Services.  |
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## Consultation and distribution

| Type                | Details  |
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| <b>Consultation</b> | <i>With customers on 7.3.23 – Tony Griffiths</i>                                   |
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## 1. INTRODUCTION

Our vision is “Creating great homes and communities with the people of Barnsley.”

Within our Strategic Plan it highlights our commitment to work with partners to address tensions that Anti-Social Behaviour, crime and nuisance can cause so that tenants can live in their homes without stress and fear. Working with partners to tackle poor estate designs to make neighbourhoods safer.

Our Anti-Social Behaviour Policy supports the statutory requirements, priorities outlined in the Barnsley 2030 Plan, with a vision for developing a Healthy, Growing Learning and Sustainable Barnsley.

Berneslai Homes recognises that Anti-Social Behaviour (ASB) in your community can really affect people’s overall health, wellbeing and overall quality of life. It is unacceptable behaviour that comes in many forms, such as unacceptable levels of noise, abusive behaviour, vandalism, fly tipping and drug dealing.

We will adopt a harm centred approach in our case management, we will work with key partners including Barnsley Council and South Yorkshire Police to address ASB in our Communities.

This policy outlines our approach to tackle incidents of ASB and support our communities and individuals through this process and is in line with the Council’s overall ASB Policy.

The overarching principles of this Policy are to set out how Berneslai Homes:

- Work with relevant organisations to deter and tackle ASB
- Adopts a zero tolerance approach towards Hate Incidents
- Enable customers to report ASB easily and how we keep customers informed on their case
- Provide prompt and appropriate action using the full range of tools and powers available
- Support customers affected by ASB

## 2. DEFINITION OF ASB

Working in accordance with the Council’s ASB framework, the definition of ASB as documented within Section 2 of the Anti-Social Behaviour, Crime and Policing Act 2014 is;

*“Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person or conduct capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises, or conduct capable of causing housing-related nuisance or annoyance to any person.”*

Examples of Anti-Social Behaviour can include, but are not limited to:

- Noisy and/or abusive behaviour

- Vandalism
- Graffiti
- Intimidation
- Public drunkenness
- Fly tipping
- Drug dealing
- Hate Crimes/Incidents
- Damage to property and or communal areas

Some behaviour, even though it may cause nuisance to individuals, may not be regarded as ASB.

For example, this can include, but is not limited to:

- one-off parties and barbecues
- infrequent and occasional noise or disturbances
- children's play
- occasional dog barking
- noise associated with normal living for example noise from domestic appliances (e.g., washing machines, vacuum cleaners)
- minor vehicle repairs
- gossip
- escalated disputes.

When considering whether something is Anti-Social Behaviour or not, we will take into consideration whether the behaviour is targeted, escalating, unreasonable or unacceptable, along with the behaviour itself and the harm it is causing.

The above Act contain both civil and criminal enforcement, both of which require different standards of proof. Civil offences are tried on the balance of probabilities, whereas criminal offences are tried beyond reasonable doubt.

The Berneslai Homes tenancy agreement also gives tenants clear guidance on what Anti-Social Behaviour constitutes to and what must be complied with.

The standard of evidence gathered by us and partners before formal action can be taken will depend on the ASB in question and what is deemed to be the most appropriate course of action.

To assist in our investigation of a complaint, the reporter will be required to provide evidence detailing what they have witnessed and/or experienced and should be willing to do so when making complaints.

## 2.1 NOISE

Noise reports will be assessed to identify whether the noise is Anti-Social Behaviour or other, such as household or general living noise. If the noise is assessed not to be Anti-Social Behaviour, it will not be dealt with using the Anti-Social Behaviour Policy or Procedures. However, it may still be dealt with using a separate Policy and Procedure, acknowledging non statutory noise nuisance can still have an impact on lives. However Berneslai Homes intend to be clear on which noise reports will be dealt with as Anti-Social Behaviour or not.

Some examples of noise deemed to be Anti-Social are:

- Very loud music played often and for long periods
- Shouting and arguing that can be heard outside of someone's property
- Parties that emanate excessive amounts of noise, inconsiderate of neighbours

Some examples of noise not deemed to be Anti-Social are:

- Use of household appliances
- Sound of footsteps thudding
- Children playing
- Doors banging

Berneslai Homes will make this assessment and decision by using evidence provided, the type of noise being reported, the frequency and length of the noise nuisance and in some instances, the use of sound monitoring equipment provided by the Council.

## **2.2 Domestic Abuse**

Berneslai Homes sets out clearly how it intends to deal with reports of Domestic Abuse and support victims of Domestic Abuse within its Domestic Abuse Policy.

## **2.3 Neighbour Disputes**

Neighbour disputes will not be dealt with under the Anti-Social Behaviour Policy in the first instance. For example, if there is a dispute over a boundary, driveway, fencing etc this will not be treated as Anti-Social Behaviour and will be dealt with under a separate Policy and Procedure. If the dispute escalates and Anti-Social Behaviour becomes present, such as abuse or threats for example, this behaviour will be dealt with under the Anti-Social Behaviour Policy.

## **3. REGULATORY FRAMEWORK**

Berneslai Homes will comply with all relevant legislation and associated regulations, including:

- Anti-Social Behaviour Act 2003
- Environmental Protection Act 1990
- Anti-Social Behaviour, Crime and Policing Act 2014
- Crime and Disorder Act 1998
- Data Protection Act 2003
- General Data Protection Regulation (GDPR) 2016
- Equalities Act 2010
- Housing Acts 1985, 1996 and 2004
- Clean Neighbourhoods & Environment Act 2005
- Refuse Disposal (Amenity) Act 1978
- Mental Health Act 1983 (amended 2007)
- Human Rights Act 1998

- Freedom of Information Act 2000
- Care Act 2014
- Local Government Act 2000
- Serious Crime Act 2015
- Home Office Serious Violence Strategy (2018)
- Social Housing (Regulation) Act 2023
- Regulatory for Social Housing – Consumer Standards

Some of this legislation has the tools and powers available to Social Landlords and Local Authorities to tackle ASB, all of them are to be complied with.

## 4. ACCESS TO SERVICE

In most cases of low- harm Anti-Social behaviour, we encourage customers to speak with their neighbours if it is appropriate to do so. Please see our “good neighbour” guide to help promote positive conversations.

If this is not an option or you have tried this and it has not resolved the behaviour, then customers can report ASB by:

- completing [our online form](#); or
- phoning us on 01226 787878.
- phoning the police on 101 (or 999 in an emergency)

Remember to tell us your name, address, and phone number. We may need to ring you back.

If customers are victim of or affected by a crime, they should contact the police as soon as possible. We will work closely with the Police on many instances and support each other with the best course of action.

To contact the South Yorkshire Police for:

- Non-emergency calls on 101
- An emergency, such as a violent attack on 999.

## 5. OUR PARTNERSHIP

Berneslai Homes is part of the Safer Barnsley Partnership that is the statutory partnership responsible for tackling crime and disorder, protecting vulnerable people, and reducing reoffending. This includes a number of key partners and stakeholders including the Council and its Safer Neighbourhood Service, South Yorkshire Police, and South Yorkshire Fire and Rescue.

Berneslai Homes works with a number of other key partner agencies including (not exhaustive)

- Registered Social Landlords
- Education Services
- Youth Justice Service
- South West Yorkshire Foundation Trust (NHS)
- Registered Charities
- Tenants and Residents Associations (TARAs)
- Community Interest Groups
- Safeguarding Services
- Local Area Councils
- Voluntary Sector
- Public Health
- Neighbourhood Watch
- Other Police Forces

All of the above partners, and others, have a significant role to play and by working together we can ensure we develop a safer and stronger local community. Utilising the skills of all key partners we can resolve issues quickly and more effectively and as part of the collaborative approach. An information sharing protocol has been developed to ensure that appropriate information flows between key organisations to expedite the resolution of issues.

This Policy is part of the process adopted for escalated enforcement. Our tenancy agreement sets out the responsibility of both the tenant and of Berneslai Homes as the managing agent on behalf of the Council.

Berneslai Homes will investigate any instances of nuisance or annoyance caused by and/ or affecting Berneslai Homes tenants and residents in or near the properties they are responsible for, in accordance with this policy. We will continue to work with partners to address tensions that Anti-Social Behaviour, crime and nuisance can cause so that tenants can live in their homes without stress and fear.

When a subject of Anti-Social Behaviour is a tenant of another housing provider and is affecting a Berneslai Homes customer, we will work with the provider and expect them to lead on tackling the behaviour as they hold the tenancy which conditions would be being breached. We may also choose to work alongside the Safer Neighbourhood Service within Barnsley Council in tackling the behaviour.

## 6. DATA PROTECTION

Any information provided to Berneslai Homes in respect of an ASB complaint will be treated in the strictest of confidence and will not be used for any purpose without the express consent of the person who has provided it. However, it will be difficult to progress and resolve cases unless we are able to discuss the issues with the subject.

Anonymous reports will be logged on the case and used where appropriate, for example in evidence when using a legal intervention if we are sure it will not remove the anonymity of the reporter.

Individuals have the right to request access to the information that we hold about them. Berneslai Homes aims to deal with requests as quickly as possible and hope to do this within one month from the date of request. There may be occasions where the process takes longer, if this is the case we'll always tell you as soon as possible and within the one month time frame. All requests should be responded to within twelve weeks of the request.

Individuals do not have the right to see information about other people and as such Berneslai Homes will not disclose personal information to subjects.

There are certain circumstances where consent based sharing of information may not apply, for instance where children are deemed to be at risk of harm which requires immediate referral to Children's Services, or under the Prevent duty.

Any data held by Berneslai Homes will be managed in accordance with the Data Protection Legislation (the GDPR (UK) and Data Protection Act 2018), which covers the collection, storage, processing and distribution of personal data, but is also subject to the terms of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

Berneslai Homes aims to fully fulfil its obligations under the legislation; only processing personal data for the reason it was collected, ensuring you are aware of why it is being processed (with some exceptions due to legislative requirements) and by ensuring we take appropriate measures to protect your information.

## **7. WHAT WILL HAPPEN WHEN ASB HAS BEEN REPORTED AND WHAT ACTION WILL WE TAKE?**

Following an initial report, either a Neighbourhood Officer or ASB Officer (depending on the nature of your report) will contact the reporter in accordance with the priority listed in Section 7.2 i.e., 3, 5 or 10 working days to obtain further details and develop an agreed action plan. An appointment may be made at this point to visit the reporter for an in depth interview.

We will keep the reporter up to date on action being taken. An agreement will be made on the preferred method of communication, whether verbally, in writing either through a letter or by e-mail a minimum of once each calendar month, whilst the case is being investigated.

We will also confirm that we are closing the case down within 5 working days of this decision being made. If you are unhappy with the decision to close the case or are not in agreement with it, we will provide information on how the decision can be reviewed, such as a case review by the ASB Team Leader.

We are unable take action against someone without evidence. We may ask for 'incident diaries' to be filled out and submitted to give an overview of the ASB you see or hear. We may need other evidence, like photographs, video or audio recordings. We will make use of the 'ASB App' where

information and evidence can be collated then sent directly to us. We might have to speak to other people who have witnessed the problem. It could be difficult to take the case any further without these other witnesses.

We will let the harm caused and the evidence we obtain guide our decision making in respect of what action to take. We will remain proportionate in our decision making and justify our decisions where necessary. In some circumstances, where the harm and risk are high, legal intervention may be the first intervention but, in most cases, we will try to use the least restrictive tools and methods to resolve the behaviour.

Where an area is experiencing significant and reoccurring ASB perpetrated by groups as opposed to individuals, a multi-agency action plan will be put in place in partnership with neighbourhood policing teams and the Safer Neighbourhood Service, this could also be referred to as a 'Problem Oriented Policing Plan'. Where there are younger individuals identified as subjects of Anti-Social Behaviour or being criminally exploited, such cases will be referred to appropriate partnership agencies promptly. In some cases, where there is little or no evidence available then we may not take any action, and the case will be closed.

We will provide and facilitate support to residents who are being subjected to Anti- Social Behaviour as defined in Section 2 and this will be tailored to their individual needs. We have also introduced the 'ASB Respectline' whereby residents can be called out of hours to give appropriate welfare support, this service is a 24/7 service and an opportunity for victims of Anti-Social Behaviour to speak to someone whilst the nuisance is ongoing.

Where Subjects in an Anti-Social Behaviour Case are willing to cooperate to address their behaviour and willing to engage, Berneslai Homes will always offer support, or referrals for support, should any needs be identified.

## **7.1 MANAGING CASES AND ASSESSING RISK**

Effective case management underpins the successful resolution of ASB. This starts from when a report is received until the matter is resolved. The welfare, safety and well-being of victim/s, whose reports form the basis of any action, are the main consideration at every stage of the process.

Assessing the risk of harm and effectively safeguarding the victim is also an important part of case management. It is important to identify the impact ASB is having on the victim, particularly if repeated incidents are having a cumulative effect on their well-being. A continuous and detailed investigation helps to identify cases that are causing, or could result in serious harm to the victim, either as a one-off incident or as part of a targeted and persistent campaign of ASB against the victim. Where appropriate, we will utilise the Councils SNS Victim and Witness Support Officers to engage with the victim and/or those with fear relating to ASB or the relevant processes. The Officer dealing with the case will also complete a Risk Assessment at the point of opening a case and complete further risk assessments if there are any changes of circumstance.

The Investigating officer will create an action plan for responding to each reported case of ASB. It will also:

- Support victims of ASB throughout the case working alongside partners to ensure that any support needs are met via a victim centred approach.
- Treat all reports as confidential unless considered that information should be shared for safeguarding purposes, or to prevent crime and disorder.

- Share information only with other relevant organisations that can help with the problem

## 7.2. OUR APPROACH

An initial assessment of each case is made to establish the circumstances that have led to the complaint and if the complaint has any vulnerability that we need to take into consideration during the investigation.

| Priority   | Examples of ASB   | Response time to customer | Possible Action  |
|--|---|---------------------------|--|
| <p><b>HIGH</b></p> <p>These are the most serious cases of ASB, requiring a timely and proportionate response. The harm caused in these cases is usually high.</p>                            | <p>Examples of such issues at this level may include the following:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Acts of violence</li> <li><input type="checkbox"/> Serious intimidation/threats of violence</li> <li><input type="checkbox"/> Criminal behaviour affecting the local community (where it is deemed that a civil power is the most appropriate solution e.g., Injunction)</li> <li><input type="checkbox"/> Damage to property or communal areas</li> <li><input type="checkbox"/> Hate Crime</li> </ul>   | 3 working days            | In many of these cases action may be taken by Berneslai Homes pursuing enforcement action working in partnership with other agencies, namely the Safer Neighbourhood Service, who have access to additional enforcement opportunities. Some Examples of interventions for the most serious cases are Injunction Orders, Closure Orders, Possession Proceedings. Informal approaches may also be utilised prior to enforcement if it is proportionate and appropriate to the case in hand, dependant on risk. |
| <p><b>Medium</b></p> <p>This includes the persistent cases of less serious allegations of ASB which do not require an urgent response. The harm caused in these cases is usually medium.</p> | <p>Examples of issues that could fall within this category generally relate to being unreasonable enough to cause prolonged disturbances. Some examples of such issues may include the following:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Excessive noise, especially late at night from loud music or DIY.</li> <li><input type="checkbox"/> Rowdy or aggressive behaviour</li> <li><input type="checkbox"/> Intimidation, harassment or verbal abuse</li> <li><input type="checkbox"/> ASB from visitors to premises.</li> <li><input type="checkbox"/> Regular and persistent ASB from known offenders.</li> </ul> | 5 working days            | In many of these cases action may be taken by Berneslai Homes pursuing early interventions, support and tools such as Acceptable Behaviour Contracts. However, if the behaviour continues or escalated, or if the harm increases, then it may result in formal action being pursued.   |
| <p><b>Low</b></p> <p>This includes those cases where there is a low amount of harm and often involves an intolerance of lifestyle.</p>   | <p>This would include complaints where there are not witnesses or lines of investigation, examples of incidents could be:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Nuisance caused by ball games</li> <li><input type="checkbox"/> Isolated incidents</li> <li><input type="checkbox"/> Neighbour Disputes</li> </ul>  | 10 working days           | For these types of reports, we will investigate and assess whether it is or isn't ASB, if it is decided that the behaviour isn't ASB, there will not be an ASB case opened, and it will not be placed on the ASB Process. The Neighbourhood Team may assess whether they are able to assist in any way other than the ASB process.   |

In many of these cases action may be taken by Berneslai Homes pursuing enforcement action in partnership with other agencies, who have access to additional enforcement tools and powers.

Informal approaches may also be utilised prior to enforcement if it is proportionate and appropriate to the case in hand, dependant on risk.

### **7.3 INVESTIGATION**

A triage process is in place at Berneslai Homes to establish the ASB category type, impact and risk. New ASB cases will be picked up by either a Neighbourhood Officer or ASB Officer within Berneslai Homes or by a Case Management Officer within the Safer Neighbourhood Service at Barnsley Council. In most cases, cases will be triaged by the Anti-Social Behaviour Team Leader or an Anti-Social Behaviour Officer.

When a new report is received, the Neighbourhood Officer or ASB Officer will make reasonable attempts to contact the reporter at least 3 times by visiting, and by telephone. If these attempts are unsuccessful, a letter will be sent to encourage contact. If the reporter does not contact the Neighbourhood Officer or ASB Officer within 10 working days of that letter being sent, the case will be closed.

Berneslai Homes, working with the Council uses discretion and professional judgement in deciding whether reports should be investigated and in prioritising cases. During an investigation, evidence is gathered objectively in a thorough and fair manner ensuring that it is unbiased and accurate. Any allegations and anonymous information are substantiated to the required legal standard before any legal action is considered.

All evidence is recorded and used in considering the most appropriate course or type of action to take. In doing so several factors will be considered:

- The seriousness of the alleged offence or situation
- The previous history of the individual or company
- The consequences of non-compliance
- The confidence in a resolution without legal action
- The public interest
- The harm that is being caused
- Adequate justification to use a particular tool

There are several ways in which Berneslai Homes working with the Council and the Safer Neighbourhood Service will gather evidence to support a complaint, some examples are given below:

- Interviewing reporters
- Incident diaries
- Overt Surveillance for example CCTV
- Obtaining information from other agencies
- The utilisation of professional witnesses.
- Interviewing subjects, this could be under caution
- The reviewing of sound monitoring equipment.
- Using the ASB app for incident diaries, videos and audio recordings

If investigations continue, regular contact minimum of four weeks with the reporter will be maintained by the Neighbourhood Team or ASB Team to ensure updates are provided regarding progress and actions.

Berneslai Homes will confirm in writing to the reporter an agreed preference method of contact during the investigation and timescales.

Berneslai Homes will always respect requests for anonymity, investigations and actions can still be done with anonymous information however, in some instances, this will restrict which tools can be used and may slow any progression that would otherwise be made.

#### **7.4 ACTION BERNESLAI HOMES MAY TAKE – For further information regarding each intervention, both early and formal/legal, please see Appendix 1.**

##### **7.4.1 The provision of information to residents to help them deal with issues themselves**

There's a wide range of options available for early intervention and this may include: In some cases, information will be provided to residents to help them deal with the issues themselves. Information is available both on the Berneslai Homes and the Council's website and in other formats and will include:

- Noise nuisance
- Neighbour disputes
- Football and ball games

##### **7.4.2 Early Intervention**

Dealing with ASB can be complex. Information, support and low risk interventions to tackle the causes of ASB at an early stage are as important as effective case management and timely enforcement action.

Most complaints can be resolved through early intervention and these methods are considered with the reporter during the initial contact investigation with the emphasis on stopping unacceptable behaviour before it escalates. Legal action will usually be approved where all relevant and proportionate early interventions have failed or the ASB is serious enough to warrant such action and it is proportionate to take further action.

Some examples of early intervention tools are as follows (list not exhaustive):

- Diversionsary Activity***
- Community Resolutions***
- Home or Office Interviews***
- Target Hardening***
- Tenancy Support***
- Mediation***
- Overt Surveillance***
- Informal Action***
- Verbal Warnings/Written Warnings***
- Acceptable Behaviour Contract/Parenting Contract***
- Community Protection Notice Warnings***

### **7.4.3 Examples of Formal and Legal Action\* which may be considered** include:

- Civil Injunctions**
- Criminal Behaviour Orders**
- Community Protection Notices (CPN)**
- Public Spaces Protection Orders**
- Closure Orders**
- Possession Order**
- Demotion Order**

\*the decision in respect of any formal / legal action is made by the Council, and considers the views of Berneslai Homes and other key partners

For further information on formal and legal action which may be considered, please see Appendix 1 ASB Interventions.

### **7.4.4 Case resolution and closure**

A case will be closed when:

- An investigation has been undertaken and it has been deemed not to be ASB
- An investigation has been undertaken and there is no corroborating evidence
- It has been successfully resolved through early intervention attempts or formal action, this will be agreed with the reporter.
- The reporter has not been in contact for 4 weeks or more despite reasonable efforts from the Officer to contact them.

Before closing a case, the reporter(s) will be contacted giving the reasons for the decision. The subject(s) will also be informed of the decision and reasons underpinning that decision and should the conduct recur in the future the case may be reopened. This will be within 5 working days of this decision being taken.

### **7.5 Recovery of costs**

Where any enforcement action is taken by Berneslai Homes/Barnsley Council in relation to ASB then we will seek to recover all associated costs.

### **7.6 ASB Case Review**

The Anti-Social Behaviour, Crime and Policing Act 2014 includes a measure which is designed to give victims and communities a say in the way Anti-Social Behaviour is dealt with; The 'Community Trigger' or ASB Case Review gives victims the ability to require action, starting with a review of their case, where the locally defined threshold is met.

If there have been 3 separate incidents recorded from the same reporter within a six-month period of Anti-Social Behaviour and the reporter does not feel that they have been dealt satisfactorily they can apply for an ASB Case Review where the case will be reviewed.

In terms of the behaviour itself, what is seen as 'Anti-Social ' will vary from victim to victim, and community to community. This is one reason why the way in which incidents of Anti-Social Behaviour are reported has changed; no longer solely focusing on the behaviour, but an emphasis on the impact it has on the victim.

Berneslai Homes including the council, police, local health teams and registered providers of social housing have a duty to undertake a case review when someone requests one and the case meets the above criteria.

## **7.7 Vulnerable People**

A person may be vulnerable for a variety of reasons, e.g., mental illness, learning disability, drug or alcohol dependence, physical disability, sensory impairment, ethnicity, or due to being subjected to trauma. If a person is deemed to be vulnerable, interventions are made as soon as possible to prevent further problems occurring. Every effort is made to work with vulnerable people to try to resolve the issues. However, any enforcement action taken by the Council will be proportionate to the risks posed and the seriousness of their behaviour. As far as the law allows, the Council will consider the circumstances and attitude of the individual when considering what action to take.

Berneslai Homes complies with the Public Sector Equality Duty (PSED) and promotes equality and equity both within its communities and across its services. An Equality and PSED consideration form will be completed when the Subject in an ASB case is considered to have a disability or be deemed vulnerable.

We will assess all the tools we have available to us in supporting Vulnerable customers, particularly those who are reporting ASB. An example of this is the use of the “Respect Line”, a 24/7 channel of contact for our customer who can phone the Respect line themselves to report instances of ASB and to call upon support from the trained call handlers. This service can also be a scheduled outbound service where time and frequency of contact from the Respect line is agreed with the customer, making it easier for customers to both report incidents and to offer an extra layer of support.

## **7.8 Hate Incidents**

Berneslai Homes defines hate as:

“Any act committed against a person or property that, the victim or anyone else thinks, was motivated by hostility towards someone based on their race, religion or belief, gender identity, disability, sexual orientation or alternative sub-culture”

Berneslai Homes intend to create sustainable and thriving communities whereby people from all backgrounds can co-exist side by side peacefully and respectfully. Berneslai Homes adopts a zero-tolerance approach towards hate incidents. When hate incidents occur and are evidenced, Berneslai Homes in partnership with the Safer Neighbourhood Service and South Yorkshire Police will aim to take immediate and appropriate action.

A zero-tolerance approach means firstly adopting the harm centred approach, understanding the harm caused by the incident and acting accordingly to that and not the incident itself, then using the legislative framework available to ensure the incidents and harm stops, this could be in the form of an Injunction Order for example.

Berneslai Homes will make attempts to ensure victims of hate incidents are supported, should consent be given.

## 8. HOW WILL WE MEASURE SUCCESS?

As outlined in our Strategic Plan, Neighbourhood Safety is a key priority, and our aim is that at least 90% of our tenants are satisfied with their neighbourhood as a place to live.

Satisfaction data will be collected through a variety of ways including: -

- Annual Tenant Satisfaction Survey;
- Satisfaction Surveys on ASB Cases when closed; We carry out a 100% postal sample size for cases where there is an identified reporter.
- Rates of ASB per 1,000 properties;
- ASB Cases that involve Hate incidents

The results of the above will be published on our website and shared with customers through our engagement framework.

Tenants / households who submit dissatisfied reviews from the satisfaction survey will be contacted by the Anti-Social Behaviour Team Leader and improvements will be noted and put in place.

Internal case reviews will be carried out by the Anti-Social Behaviour Team Leader.

Training will be delivered to employees of Berneslai Homes who are involved in dealing with ASB cases, this might be internal training or delivered by an external provider and renewed when deemed necessary.

## 9. Appeals, Reviews, and Complaints

### Appeals

Customers have the right to appeal any decision Barnsley Council make to use any grounds for mandatory possession.

### Reviews

Customers may request their case to be reviewed if they are dissatisfied with the way in which it is being handled, or the outcome of the case. This review will be done by someone other than the officer that has been dealing with the case. Customers would then be encouraged to make use of the Community Trigger/ASB Case review if this review has concluded, and the customer remains dissatisfied.

### Complaints

Customers can raise a formal complaint if they believe that the case has not been dealt with in line with this Policy.

Should you feel that your enquiry is not being investigated in line with our ASB Policy please contact us through our Customer Services Team and register a stage 1 formal complaint by:

- Completing our [online form](#)
- E-mail us at [customerservices@berneslaihomes.co.uk](mailto:customerservices@berneslaihomes.co.uk)
- Ringing us on 01226 787878

For more information about how we deal with complaints visit our website [here](#).

### **Persistent and unreasonable complaints**

Where a customer persistently raises complaints that aren't upheld, or complaints that are deemed to be unreasonable, Berneslai Homes will take appropriate action to stop this. If complaints are being raised with multiple people within Berneslai Homes, the customer will be asked to stick to one point of contact and one method of contact. Where persistent and unreasonable complaints continue, if they are deemed to be malicious or for purposes of personal gain and are impacting heavily on Berneslai Homes' ability to carry out it's housing management functions, Berneslai Homes might consider enforcement action. Berneslai Homes' will ensure any decision made around persistent and unreasonable complaints are justified and in writing to the customer.

## **10. FOR FURTHER INFORMATION**

For further information on how we respond to Anti-Social Behaviour please see the following website links:

- Barnsley Council: [www.barnsley.gov.uk](http://www.barnsley.gov.uk)
- South Yorkshire Police: [www.southyorks.police.uk](http://www.southyorks.police.uk)
- Berneslai Homes: [www.berneslaihomes.co.uk](http://www.berneslaihomes.co.uk)

## **11. RELATED DOCUMENTS**

- ASB Interventions – Appendix 1

## **Appendix 1 – ASB Interventions**

### ***Diversionsary Activity***

These activities are particularly useful to address issues such as low self-esteem and extreme behaviour. Wherever possible, Berneslai Homes will work with partners and commissioned organisations to provide additional support to divert individuals away from ASB, crime and disorder. There is a range of such support from empowering young people with self-esteem to drugs and alcohol support for all ages. This gives opportunities to be diverted from negative behaviours and engage in more positive activities. General support can also be accessed for families on a holistic basis through Early Help

### ***Community Resolutions***

For less serious issues of ASB, a community resolution may be used between the parties involved to avoid progression to legal action. The aim is to bring together victims and perpetrators of low level crime, ASB and nuisance in a meeting where trained volunteers use restorative or reparative approaches to agree on a course of action for those involved. Providing the perpetrator admits liability and both consent to coming together, a meeting is held to consider the issues relating to the incident.

### ***Target Hardening***

This is used to identify practical ways to design out ASB from a location as a protective and preventative approach, such as lighting schemes, boundary definition, structural or planting initiatives or certain implementation of equipment that may be beneficial to reduce any harmful factors. Target hardening activity is subject to available funding which wouldn't normally be met by Berneslai Homes or the Council.

### ***Tenancy Support***

This is used to put in place support mechanisms to ensure tenants are able to manage their tenancy correctly and to ensure there are no issues identified with the tenancy itself. This can be offered through our own Tenants First Service for example through Family Intervention Keyworkers, Tenant Support Officers, Mental Health Support and Housing Coaches.

### ***Mediation***

Mediation can be used successfully in most low level disputes. Officers can offer (subject to availability) an independent mediator on an impartial basis for neighbour disputes, family mediation and also offer mediation in an attempt to avoid court action. As part of our partnership arrangements, we have access to trained mediators.

### ***Overt Surveillance***

Berneslai Homes working with the Council reserves the right to work with partner agencies to carry out surveillance in the community to assist in ongoing investigations. This may include applying for CCTV footage or use of mobile CCTV solutions, where there is a need for the prevention and detection of crime in accordance with prevailing legislation in line with the Regulation of Investigatory Powers Act 2000.

### ***Informal Action***

If there is enough evidence available to show that the complaint is justified, or if the allegations are admitted by the perpetrator, further proportionate informal action may be taken such as:

### ***Verbal Warnings/Written Warnings***

Warnings are issued initially if ASB is admitted or the investigating officer feels ASB has or is likely to occur. The perpetrator will be told the nature of the behaviour which has resulted in the warning and the consequences of not adhering to the warning. This can be via a letter, telephone or other means of communication. Berneslai Homes keeps a record of verbal or written warnings issued so that they are available to use, even by partner agencies, as evidence in court proceedings, should the issue escalate for further action. Such a warning could also include a Pre Legal or pre warning before seeking an Injunction or a Notice of Possession Proceedings (NOPP) for Introductory Tenants or Notice of Seeking Possession (NOSP) for Secure Tenants.

### ***Acceptable Behaviour Contract/Parenting Contract***

These are voluntary written agreements between an individual, Berneslai Homes, the Council and partners such as education and Police. They are useful in dealing with children and young people aged over 10 as an effective way to assist in addressing truancy and ASB. These agreements are not legally binding however they are useful in highlighting children and young people's behaviour to their parents and guardians and in communicating the consequences if they are not adhered to.

The Youth Offending Service and relevant education setting will be notified when an Acceptable Behaviours Contracts (ABCs) or Parenting Contract is being pursued with a child or young person.

There is no formal sanction in refusing to participate in an ABC or Parenting Contract, so individuals cannot be forced to do so but refusal may persuade a court that only formal action such as a civil injunction or criminal behaviour order will prevent the ASB.

### ***Community Protection Notice Warnings***

Community Protection Notice (CPN) warnings were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014 and can be used in ongoing problems or nuisances which negatively impact on the community's quality of life, for example graffiti, rubbish or noise.

These warnings are given in writing and can be served by Berneslai Homes Anti Social Behaviour team, working with the Council or the Police, highlighting the behaviour that needs to stop or positive action to be taken, in order to prevent a Community Protection Notice being served.

### ***Formal and Legal Action***

More serious cases may require formal / legal action being pursued with or without any warnings being given. In the majority of cases a warning will be given and if a perpetrator fails to address their behaviour then legal action will be considered.

In a small number of the most serious cases, where time is of the essence, the Berneslai Homes working in partnership with the Council reserves the right to take legal action without prior warning to the perpetrator in order to provide a swift resolution.

Under the Anti-Social Behaviour Crime and Policing Act 2014 there are a number of formal / legal actions that can be taken and some are detailed below: We work in partnership with the Safer Neighbourhood Team within Barnsley MBC to agree and progress the most appropriate legal tool(s) available to ensure that we offer give tenants and residents and the wider community the best chance to achieve continued sustainability. A case that requires legal intervention will be

referred into the Safer Neighbourhood Team, partnership working will continue to achieve the aim in resolving the Antisocial Behaviour.

### ***Civil Injunctions***

A Civil Injunction is a court order to stop or prevent individuals engaging in ASB. The injunction can offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from continuing.

Injunctions can be utilised to control the actions or omissions of anyone, not just Berneslai Homes tenants, over the age of 10 years.

For ASB in a non-housing related context, the test is; conduct that has caused, or is likely to cause, harassment, alarm or distress to any person. This will apply, for example, where the ASB has occurred in a public place, such as a town centre or local park, and where the behaviour does not affect the housing management functions of Berneslai Homes or other social landlords or people in their homes.

For ASB in a housing context, the test is where the conduct is capable of causing a nuisance or annoyance to a person in relation to that person's occupation of residential premises or the conduct is capable of causing housing related nuisance or annoyance to any person.

Breach of the injunction is not a criminal offence, but breach must be proved to the criminal standard, that is, beyond reasonable doubt. The penalties are:

- Over 18s: civil contempt of court with unlimited fine or up to two years in prison
- Under 18s: supervision order or, as a very last resort, a civil detention order of up to three months for 14-17 year olds.

### ***Criminal Behaviour Orders***

The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court.

CBOs can be issued against a person aged over 10 years, who has been convicted of an offence to tackle the most persistent ASB where involvement includes criminal activity.

Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt. The penalties are:

- For over 18s on summary conviction: up to six months imprisonment or a fine or both
- For over 18s on conviction on indictment: up to five years imprisonment or a fine or both
- For under 18s: the sentencing powers in the youth court apply.

### ***Community Protection Notices (CPN)***

The Community Protection Notice (CPN) is intended to deal with the conduct of an individual or body that is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those living in the locality and that the conduct is considered to be unreasonable.

A CPN can be issued against any person aged 16 years or over or a body (corporate), including a business. The notice can impose requirements to stop doing specified things, or to do specified things and to take reasonable steps to achieve specified results. A CPN can only be served once a written warning has been issued. They can also be used to the parent or guardian of those aged under 16 years.

Breach of a Community Protection Notice is a criminal offence, any liability to which can be discharged by payment of a fixed penalty notice, if deemed appropriate, or upon prosecution through the Magistrates Court. On breach of a Community Protection Notice there is also the option to undertake works in default and recover its costs.

### ***Public Spaces Protection Orders***

Public Spaces Protection Orders (PSPOs) are intended to stop individuals or groups of individuals committing ASB by imposing specific conditions that apply to everyone, regarding the use of that space. This may include multiple restrictions and requirements throughout the Borough or in specific areas for example parks or communal areas, where ASB is evident and is deemed to be detrimental to the wider community.

PSPOs are set following a public consultation process and are subject to review every three years.

PSPOs are designed to ensure the law-abiding majority can use and enjoy public spaces, and feel safe from ASB. Breach of any of the PSPO conditions can result in a Fixed Penalty Notice being issued by any delegated Officer of the Council, Police Officer or prosecution through the Magistrates court.

### ***Closure Orders***

Working with the Police or Council, Closure orders can be obtained to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder.

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder.

A closure notice can be issued for 24 hours if the Council or Police Officer (of at least the rank of Inspector) is satisfied on reasonable grounds:

- a) That the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public; or
- b) There has been, or (if the notice is not issued) is likely to be, disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

The closure notice can be issued in the first instance for 24 hours by the Chief Executive or a person delegated by them such as the Head of Community Safety or Group Leader and extended up to a maximum of 48 hours by the Council's Chief Executive or designate thereof or by a Police Superintendent.

A closure order can subsequently be applied for and issued if the court is satisfied:

- a) That a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or

- b) That the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public; or
- c) That there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

It is a criminal offence to breach the conditions imposed by a Closure Notice or Order, with up to three months imprisonment for the former, six months for the latter and an unlimited fine for breaching both.

### ***Possession Order***

In the most serious and/or persistent cases of criminal activity or anti-social behaviour, working with the Council we may use the Housing Act 1985 to seek possession of a property that we own. We will do this where the tenant, a lodger, sub-tenant or visitor has engaged in criminal or immoral activity or conduct that is capable of causing nuisance or annoyance to others in the locality. Possession action can be a lengthy process and prolongs the suffering of victims, witnesses and the community. The court will assess all the evidence presented and apply the 'reasonable in all the circumstances' test before making a decision whether to give possession of the property back to the council. For introductory tenancies and demoted tenancies, working with the council we may seek a mandatory possession order if proportionate to do so.

Additionally, working with the council we may use the ASB, Crime and Policing Act 2014 absolute ground for possession of a secure tenancy where the anti-social behaviour meets one of the 5 triggers, is of a very serious nature, and has already been proven in another court. These are that a tenant, member of their household or visitor has;

- been convicted of a serious offence;
- been found by a court to have breached a Civil Injunction;
- been convicted of breach of Criminal Behaviour Order;
- been convicted of breaching an abatement notice, or;
- the Property has been closed for more than 48 hours under a Closure Order.

If possession is sought under the new absolute ground or as an introductory or demoted tenancy, subject to any human rights defence, the court must grant possession where the council has followed the correct procedure. The court does not have the discretionary right to suspend the possession order.

Possession orders will only be sought as a last resort and we will look to resolve the issue wherever possible using other powers available that are listed in our ASB Policy for example support, mediation, CPN or Closure Orders.

### ***Demotion Order***

Where serious ASB occurs in or around our housing stock, working in collaboration with the Council we can use the Housing Act 1985 to seek a Demotion Order for a secure tenancy as an alternative to seeking full possession.

A Demotion Order significantly reduces the security of tenure for 12 months and removes some of the rights enjoyed by a secure tenant. Demoted tenants are expected to modify the behaviour that lead to Berneslai Homes and the council seeking an order. If they do, at the end of the demoted tenancy period they will be offered a new secure or flexible tenancy. If the behaviour continues to cause nuisance, annoyance, offence or harm to others, Berneslai Homes working with the council may make a further application to the court for a possession order.

