

TONBRIDGE & MALLING BOROUGH COUNCIL

COMMUNITY AND ENVIRONMENT SCRUTINY SELECT COMMITTEE

19 October 2022

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 WORKING WITH HOUSING ASSOCIATIONS TO TACKLE ANTI-SOCIAL BEHAVIOUR

Following a request from Members to look at how the Community Safety Partnership works with Housing Associations to tackle Anti-Social Behaviour (ASB), this report considers how the Borough Council, and its housing association partners work together to tackle anti-social behaviour. The report will also identify the actions that can be taken against residents who cause anti-social behaviour and look at whether any improvements to the service are required.

1.1 Definition of Anti-Social Behaviour

1.1.1 Tonbridge & Malling Borough Council produced an Anti-Social Behaviour Policy which set out what we meant by anti-social behaviour and our objectives for how we would tackle ASB. Within the Policy we define anti-social behaviour using the definition set out in the Anti-Social Behaviour, Crime & Policing Act, 2014.

1.1.2 Section 2(1) of the Act defines the meaning of anti-social behaviour as:

- Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person.
- 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

1.1.3 However, the term anti-social behaviour (ASB) can be applied to a wide range of behaviours, impacting on a persons or community's quality of life. Anti-Social Behaviour may include but is not limited to the following:

Noise:

- Loud televisions and music
- Persistent, unnecessary or excessive noise
- Shouting or yelling
- Persistent alarms
- Excessively loud or frequent parties

- Dogs persistently barking
(Reports of noise may be passed to other departments in the Council to investigate as appropriate).

Intimidation, harassment and violence:

- Verbal or written abuse, which could also include social media posts
- Threats of violence
- Assault
- Damage to property
- Keeping or failing to control an aggressive dog
- Using or allowing the premises to be used for illegal activity such as prostitution, handling or storing drugs and handling or storing stolen goods
(Reports of intimidation, harassment and violence may be reported to the Police).

Environmental ASB:

- Dumping rubbish or littering
- Vandalism
- Dog fouling
- Graffiti
- Fly posting
- Abandoned vehicles
- Overgrown vegetation

(Reports of environmental ASB may be passed to other departments in the Council to investigate as appropriate).

Other ASB issues:

- Malicious behaviour from a neighbour
- Drone use which causes alarm, harassment, or distress
- Boundary issues/overgrown hedges

1.1.4 Within the ASB Policy, the Borough Council has stated that the following will not be considered as anti-social behaviour:

- Children playing in the street or in communal areas
- Young people gathering socially unless they are being intimidating
- Being unable to park outside your own home
- DIY and car repairs unless they are taking place at night
- Civil disputes between neighbours e.g. shared driveways
- One off complaints against noise e.g. parties

1.1.5 As well as the Borough Council, other organisations also tackle anti-social behaviour including the Police and Housing Associations. Those Housing Associations that are members of the Community Safety Partnership include Clarion Housing, Moat Housing, Hyde Housing, Southern Housing, Sanctuary Housing, Town & Country Housing and West Kent Housing. The main housing provider in Tonbridge & Malling is Clarion Housing.

1.1.6 Within the Community Safety Partnership, only five agencies are designated as 'Responsible Authorities' under the Crime and Disorder Act 1998 (Police, Local

Authority, Fire & Rescue Authority, Probation and Clinical Commissioning Groups). There is no statutory requirement for Housing Associations to work with the Community Safety Partnership to tackle ASB, although the Social Housing Regulator's Neighbourhood and Community Standard requires registered providers to work in partnership with other agencies to prevent and tackle ASB in the neighbourhoods where they own homes, and to publish a policy on how they work with relevant partners to prevent and tackle ASB in areas where they own properties. They should also make it easy for tenants to report anti-social behaviour, take complaints seriously and act professionally.

1.2 Anti-social behaviour reports and actions we can take to stop perpetrators

- 1.2.1 The Borough Council employs an Anti-Social Behaviour Officer, currently Michele Leak. Michele has been in post since February 2022.
- 1.2.2 During the period April 2021 to March 2022 the Borough Council received 111 number of ASB reports. From April 2022 until end of August 2022, the Borough Council received 186 reports. Of these, the majority were related to neighbour disputes. Of the 186 reports this year, 154 have been resolved and 32 remain ongoing or are being monitored (although some of these 32 complaints relate to the same offender/issue).
- 1.2.3 We do not currently record whether those reporting ASB issues to us are housing association tenants, however by checking our database it can be seen that during August 2022 we had 39 incidents of ASB reported to us. Of these, 17 were related to housing associations (Clarion, Hyde and Southern properties).
- 1.2.4 Unfortunately, due to Clarion Housing's systems being affected by a cyber-attack, they are unable to provide data relating to the number of ASB cases they have dealt with. For the period April to August 2022, the Police received 1,616 reports of ASB.
- 1.2.5 There are a number of tools available to us, and to social landlords which we can use to tackle offenders who do not cease their anti-social behaviour. These include:
- Acceptable Behaviour Agreements
 - Referral to Mediation services
 - Community Protection Warnings/Notices
 - Public Space Protection Orders
 - Criminal Behaviour Orders
 - Dispersal Orders
 - Closure Orders

- Civil Injunctions
 - Possession Proceedings
- 1.2.6 Acceptable Behaviour Agreements are voluntary agreements signed by the individual causing anti-social behaviour. They can be issued by the Police, local authority or housing association and can contain prohibitions as well as requirements. As this is a voluntary agreement it is not legally binding although a breach could lead to further actions being taken.
- 1.2.7 In the Borough there are two Mediation Services (West Kent Mediation and Maidstone Mediation) and they can offer mediation between parties who are experiencing anti-social behaviour. This is a voluntary service but does allow both parties to talk to each other about their issues. This can be a useful early intervention tool to prevent issues from escalating further.
- 1.2.8 Local authorities and the police can issue Community Protection Notices to an individual (over 16) or a business to address a wide range of problems such as littering and noise nuisance. A written warning must be issued first (a Community Protection Warning) and if the behaviour continues (and evidence of this can be provided) then a Community Protection Notice is served. Breach of the Community Protection Notice is a criminal offence, and a Fixed Penalty Notice can be issued. The Borough Council has issued 10 Community Protection Warnings so far this year and as a Council we are looking to use these more widely to ensure problems are stopped at an earlier stage. Of the CPW's issued, three were linked to Housing Association properties.
- 1.2.9 Public Space Protection Orders are used by local authorities to prevent behaviour and nuisance that is persistent, unreasonable and/or detrimental. Within the Borough we have a number of restrictions in place to prevent issues such as preventing urination/defecation in a public area, ensuring no unauthorised swimming in Leybourne Lakes and the exclusion of dogs from children's play areas. A breach of a PSPO is a criminal offence and a Fixed Penalty Notice can be issued (to those over the age of 16). This year we have issued 25 Fixed Penalty Notices for breaches of the PSPO. Our PSPO is due for renewal in April 2023 and we are beginning the stages of reviewing these.
- 1.2.10 Criminal Behaviour Orders (CBO) are issued by a criminal court against a person who has been convicted of an offence and is causing anti-social behaviour. They are generally obtained by the Police, although the local authority could apply for one if they wished (although there would be a cost attached to this). Breach of an Order is a criminal offence and could result in up to six months in prison or a fine, or both.
- 1.2.11 Dispersal Orders allow police officers to order a person who is causing harassment, alarm, or distress to leave a specific area for up to 48 hours. Within the Borough the Police have obtained these to disperse nuisance vehicles in Larkfield and groups causing issues in Snodland.

- 1.2.12 Closure Orders are a court order which closes down properties that are causing serious nuisance, disorder, or criminal behaviour. This means there is a temporary ban on occupying the property. These can be obtained by the local authority or police (although tend to be obtained by the Police). Housing Associations cannot apply for these themselves but could ask the police or local authority to apply for one on their behalf and pay the costs for these. The Police have previously applied for a Closure Order on a property in Snodland.
- 1.2.13 Civil Injunctions can be obtained through the courts by the police, local authority or housing associations to stop people (aged over 10) from engaging in acts of anti-social behaviour in a specific location. If this is breached, the offender could be issued with an unlimited fine or up to two years in prison. A breach is not a criminal offence.
- 1.2.14 In serious cases, landlords may be able to evict the perpetrator of anti-social behaviour through the courts by applying for possession of a property. Landlords are expected to take this action as a last resort only, where all other reasonable steps to stop the behaviour have failed. Due to the Covid Pandemic there is also a backlog in the courts which means that there is a delay to any court cases.
- 1.2.15 Victims of persistent anti-social behaviour, who do not think they have had a satisfactory response to their reports of ASB, have the right to ask for a multi-agency review of their case. Certain thresholds must be met for cases to qualify for ASB case reviews, which are also known as the Community Trigger. During an ASB case review, agencies will consider the action taken so far and will come together to try to find a solution. Agencies taking part include local authorities, the police, NHS Clinical Commissioning Groups and registered providers of social housing.

1.3 How we work with Housing Associations in the borough

- 1.3.1 The main housing provider for the borough is Clarion Housing. Clarion Housing employ Tenancy Specialist officers who are responsible for dealing with ASB cases. They can allocate work to Neighbourhood Response Officers (NROs) who will visit victims and offenders and then feed back to the Tenancy Specialist Officers. There are three Tenancy Specialist Officers who cover Tonbridge & Malling, although they cover a wider geographical area (e.g. the South of England) and are not just specific to our borough. The NRO's also cover other issues and are not specifically tackling anti-social behaviour. Other Housing Associations have similar roles, although their structure will vary. The Borough Council has one ASB Officer to cover the whole of the borough. At present, she has 66 cases open.
- 1.3.2 A key to resolving anti-social behaviour issues is information sharing and we hold a weekly community safety meeting where representatives from all agencies can attend to share information about ongoing cases. The Borough Council's ASB Officer has identified the need to share more detailed information about cases and

will be looking to set up regular meetings with Clarion (and other housing associations as appropriate) where she can share information about cases and agree actions required.

- 1.3.3 Clarion Housing have recently been affected by a cyber-attack which has had a major impact on the services they have been able to provide. This has led to some difficulties with the sharing of information, but it is hoped that as the systems come back online that this issue will be resolved.
- 1.3.4 The number of ASB reports does seem to be increasing (it is unclear on the reasons for this). This does put pressure on limited staff resources and means that a threshold must be applied to ensure that we are dealing with the most serious/persistent cases. Most Housing Associations will not conduct a full investigation into every report of ASB as often noise or other ASB if it is a one-off event as they would expect the resident to try and resolve the problem themselves first by speaking to their neighbour.
- 1.3.5 Whilst we (the Borough Council) do not currently have a threshold for reports of ASB, we do encourage residents to complete diary sheets to log the issues that they are experiencing and to show the persistent nature of any complaint. We will also pass on some complaints to other departments within the Council as relevant (e.g. if someone is reporting a noise issue then this will be passed to the Environmental Protection team to investigate).

1.4 Do we need to improve our work with Housing Associations?

- 1.4.1 Work to tackle anti-social behaviour in Tonbridge & Malling is effective and we do link in well with housing associations to address issues. However, there is always room for improvement so that our residents receive the best service available.
- 1.4.2 Sharing information about cases is key and the ASB Officer will be looking to set up regular meetings with the housing associations in order to achieve this. This will help to ensure that the housing associations can be reactive to issues and that we can work together to look at the most appropriate actions to take.
- 1.4.3 We will work with the housing associations (and with the Police) to identify at an early stage whether any of the more formal actions need to be taken (e.g., issuing a Community Protection Notice).
- 1.4.4 At present, housing associations are not designated by the Borough Council as being authorised to issue Community Protection Notices and this may be something that the Council wished to consider. We are lawfully able to designate housing providers to issue Community Protection Notices and Fixed Penalty Notices under the provisions of the 2014 Act.
- 1.4.5 The Council could also, in a last resort, look to issue housing associations with Community Protection Notices if they fail to address issues on their land (although we would want to work with them first to avoid this).

1.5 Legal Implications

- 1.5.1 There are a number of Acts in place which require the Council to help victims of anti-social behaviour including the Anti-social Behaviour, Crime and Policing Act 2014.

1.6 Financial and Value for Money Considerations

- 1.6.1 The Borough Council employs an Anti-Social Behaviour Officer.

1.7 Risk Assessment

- 1.7.1 Risk Assessments are carried out on a case-by-case basis.

1.8 Equality Impact Assessment

- 1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Policy Considerations

- 1.9.1 Crime & Disorder Reduction

1.10 Recommendations

- 1.10.1 That the Anti-Social Behaviour Officer to set up regular meetings with housing associations to discuss cases and agree actions.
- 1.10.2 Further consideration be given as to whether or not housing associations should be authorised to issue Community Protection Notices.

Background papers:

Nil

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