

Housing & Property Services

# Anti-Social Behaviour (Housing) Policy Statement

2022 (V1)



**North Kesteven**  
DISTRICT COUNCIL

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# 1. Aim

This statement will ensure colleagues, external agencies and Council housing tenants are aware of how the Council's Neighbourhood Services team will investigate and manage complaints of anti-social behaviour (ASB).

It also sets out the enforcement action that may be taken against Council tenants found to be causing anti-social behaviour.

# 2. Scope

This policy applies to all residential tenants of North Kesteven District Council.

# 3. Definitions

Anti-social behaviour can be defined as any behaviour that has caused or is likely to cause nuisance, harassment, alarm or distress to another person or a community.

The Council's Secure, Flexible Secure, Introductory and Non-Secure tenancy agreements state the following in respect of anti-social behaviour and criminal activity -:

- “6.1        *You are responsible for the behaviour of every person (including children) living in or visiting your home. You are responsible for them in your home, on surrounding land, in communal areas (stairs, landings, entrance halls, paving, shared gardens, parking areas) and in the neighbourhood and locality around your home.*
- 6.2        *You, and they, must not cause a nuisance, annoyance or disturbance to any other person in the locality. Examples of nuisance, annoyance or disturbance include (but are not limited to):*
- *Loud noises (at any time of the day or night) this includes, but is not limited to, music, TV and DIY tools;*
  - *Arguing and door slamming;*
  - *Dog barking and fouling;*
  - *Offensive drunkenness;*
  - *Selling drugs or drug abuse;*
  - *Rubbish dumping; and*
  - *Playing ball games inconsiderately close to someone else's home.*
- 6.3        *You, and they, must not harass any other person. Harassment includes any action that causes alarm or distress to another person for whatever reason. This includes that person's race, colour or ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief or other status. Examples of harassment include, but are not limited to:*
- *Offensive behaviour or language;*
  - *Using or threatening to use violence;*
  - *Using abusive or insulting words or behaviour;*
  - *Damaging or threatening to damage other persons' home or possessions;*
  - *Writing threatening, abusive or insulting graffiti;*

- *Doing anything that interferes with the peace, comfort or convenience of other people;*
- *Doing anything which interferes with the lawful duties and actions of Council staff.*

- 6.4 *You, and they, and anyone acting on your, or their behalf, must not subject any Council employees, agents or representatives or the Council to any physical or verbal abuse in the course of carrying out the landlord's responsibilities. This includes acts which are likely to injure, intimidate, cause alarm or distress either in your home, on surrounding land, in communal areas (stairs, landings, entrance halls, paving, shared gardens, parking areas) in the neighbourhood and locality around your home or in any other Council property or Council building. This clause applies to all adults, as well as to children under 18 years.*
- 6.5 *You, and they, must not use your home or any shared area for any illegal or immoral activity. This includes, but is not limited to the following; selling drugs, alcohol or cigarettes, using or permitting the use of Controlled Drugs (as defined by the Misuse of Drugs Act 1971), handling stolen goods, prostitution, running a brothel, illegal betting and illegal gambling.*
- 6.6 *You, and they, must not bring into the property or store in the property any type of firearm or firearm ammunition unless you have a permit and are complying with the terms of that permit. In addition, you, and they, must not use any air rifle, pistol, crossbow or other similar weapon within the property, (including the garden) or in the vicinity of the property.*
- 6.7 *You, and they, must not damage, deface, or put graffiti on Council property. You will have to pay for any repair or replacement. The costs may be charged on top of your rent.*
- 6.8 *You, and they, must not interfere with security and safety equipment in communal blocks – doors must not be jammed open and strangers should not be let in without identification.*
- 6.9 *You must not inflict or threaten violence, including domestic violence, against any other person (they could be living with you or in another Council home). You must not harass or use mental, emotional or sexual abuse to make anyone who lives with you leave the home."*

The Council's Licence for Shared Emergency Housing states that the occupier agrees –

- "3.5 *not to do or permit to be done in the Building anything which is illegal or which may be or become a nuisance (whether actionable or not), annoyance, inconvenience or disturbance to the Council or to other occupiers of the Building or any owner or occupier of neighbouring properties;*
- 3.15 *not to cause or allow invited visitors to the Building to cause a nuisance or disturbance to other occupants, Council staff or neighbours and at all times to allow other occupants quiet enjoyment of their allocated bedrooms;*
- 3.17 *not to commit or allow invited visitors to commit any form of harassment (including but not limited to harassment on the grounds of race, colour, region, sex, sexual orientation, age, or disability) to other occupants of the Building or their invited visitors, or Council staff or neighbours;"*

Part 1 of Schedule 2 of the Housing Act gives the Council grounds for possession in relation to criminal activity and anti-social behaviour –

Ground 1

*Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.*

## Ground 2

*The tenant or a person living or visiting the dwelling house –*

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality,*
- (aa) has been guilty of conduct causing or likely to cause a nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions,*  
*or*
- (b) has been convicted of –*
  - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or*
  - (ii) an indictable offence committed in, or in the locality of, the dwelling house.*

## Ground 2ZA

*The tenant or an adult residing in the dwelling-house has been convicted of an indictable offence which took place during, and at the scene of, a riot in the United Kingdom.*

*“adult” means a person aged 18 or over;*

*“indictable offence” does not include an offence that is triable only summarily by virtue of section 22 of the Magistrates’ Courts Act 1980 (either way offences where value involved is small);*

*“riot” is to be construed in accordance with section 1 of the Public Order Act 1986.*

*This Ground applies only in relation to dwelling-houses in England.*

## Ground 2A

*The dwelling-house was occupied (whether alone or with others) by [F7a married couple, a couple who are civil partners of each other] F8... [F9or a couple living together as if they were [F10a married couple or] civil partners] and—*

- (a) one or both of the partners is a tenant of the dwelling-house,*
- (b) one partner has left because of violence or threats of violence by the other towards—*
  - (i) that partner, or*
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and*
- (c) the court is satisfied that the partner who has left is unlikely to return.*

**Schedule 84a of the Housing Act 1985 gives the Council Absolute Grounds for Possession –**

*(1)If the court is satisfied that any of the following conditions is met, it must make an order for the possession of a dwelling-house let under a secure tenancy.*

*This is subject to subsection (2) (and to any available defence based on the tenant's Convention rights, within the meaning of the Human Rights Act 1998).*

*(2)Subsection (1) applies only where the landlord has complied with any obligations it has under section 85ZA (review of decision to seek possession).*

*(3)Condition 1 is that—*

- (a)the tenant, or a person residing in or visiting the dwelling-house, has been convicted of a serious offence,*  
*and*

*(b) the serious offence—*

*(i) was committed (wholly or partly) in, or in the locality of, the dwelling-house,*

*(ii) was committed elsewhere against a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or*

*(iii) was committed elsewhere against the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and directly or indirectly related to or affected those functions.*

*(4) Condition 2 is that a court has found in relevant proceedings that the tenant, or a person residing in or visiting the dwelling-house, has breached a provision of an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014, other than a provision requiring a person to participate in a particular activity, and—*

*(a) the breach occurred in, or in the locality of, the dwelling-house, or*

*(b) the breach occurred elsewhere and the provision breached was a provision intended to prevent—*

*(i) conduct that is capable of causing nuisance or annoyance to a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or*

*(ii) conduct that is capable of causing nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions.*

*(5) Condition 3 is that the tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under section 30 of the Anti-social Behaviour, Crime and Policing Act 2014 consisting of a breach of a provision of a criminal behaviour order prohibiting a person from doing anything described in the order, and the offence involved—*

*(a) a breach that occurred in, or in the locality of, the dwelling-house, or*

*(b) a breach that occurred elsewhere of a provision intended to prevent—*

*(i) behaviour that causes or is likely to cause harassment, alarm or distress to a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or*

*(ii) behaviour that causes or is likely to cause harassment, alarm or distress to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions.*

*(6) Condition 4 is that—*

*(a) the dwelling-house is or has been subject to a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014, and*

*(b) access to the dwelling-house has been prohibited (under the closure order or under a closure notice issued under section 76 of that Act) for a continuous period of more than 48 hours.*

*(7) Condition 5 is that—*

*(a) the tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under—*

*(i) section 80(4) of the Environmental Protection Act 1990 (breach of abatement notice in relation to statutory nuisance), or*

*(ii) section 82(8) of that Act (breach of court order to abate statutory nuisance etc. ), and*

*(b) the nuisance concerned was noise emitted from the dwelling-house which was a statutory nuisance for the purposes of Part 3 of that Act by virtue of section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance).*

*(8) Condition 1, 2, 3, 4 or 5 is not met if—*

*(a) there is an appeal against the conviction, finding or order concerned which has not been finally determined, abandoned or withdrawn, or*

*(b) the final determination of the appeal results in the conviction, finding or order being overturned.*

*(9) In this section—*

*“relevant proceedings” means proceedings for contempt of court or proceedings under Schedule 2 to the Anti-social Behaviour, Crime and Policing Act 2014;*

*“serious offence” means an offence which—*

*(a) was committed on or after the day on which subsection (3) comes into force,*

*(b) is specified, or falls within a description specified, in Schedule 2A at the time the offence was committed and at the time the court is considering the matter, and*

*(c) is not an offence that is triable only summarily by virtue of section 22 of the Magistrates’ Courts Act 1980 (either-way offences where value involved is small).*

## 4. Specific Policy Areas

### 4.1. Joint Working

- 4.1.1 Where reported, the Police will investigate and enforce against anti-social behaviour where it is established a crime has been committed. In all other circumstances investigation and enforcement is the responsibility of the Local Authority, either within the Community Safety, Environmental Protection or Neighbourhood Services teams.
- 4.1.2 Neighbourhood Services will lead on investigation of all initial reports of anti-social behaviour, and take appropriate enforcement under the relevant tenancy legislation, where it is between two NKDC tenants and/or is not impacting on the wider community. Neighbourhood Services may seek the support of the Community Safety team if it is felt enforcement under anti-social behaviour legislation is required.
- 4.1.3 Where anti-social behaviour is impacting on the wider community or an alleged perpetrator is not a Council tenant, Neighbourhood Services will make a referral to the Community Safety team and work jointly with them.
- 4.1.4 Where the anti-social behaviour includes noise nuisance, Neighbourhood Services will make a referral to the Environmental Protection team and work jointly with them.
- 4.1.5 Where the anti-social behaviour relates to the smell of drugs, Neighbourhood Services will make a referral to the Community Safety team for the Council’s Odour Process to be followed.
- 4.1.6 All teams will complete initial information gathering for any report made to them prior to referring to another team.
- 4.1.7 Referrals between all teams should be made using the approved [referral form](#).
- 4.1.8 Any planned enforcement action taken by the Community Safety or Environmental Protection teams against a Council tenant will first be discussed with Neighbourhood Services so a joint approach can be agreed.



## **4.2. Investigation**

- 4.2.1 Neighbourhood Services will attempt to communicate with all complainants, witnesses and alleged perpetrators\* before taking any enforcement action. All initial communication should take place within 10 working days of a complaint being received.
- 4.2.2 Complainants and witnesses will be expected to make formal statements and be made aware that these statements may be read in Court should enforcement action be taken.
- 4.2.3 Where appropriate, alleged perpetrators\* will be telephoned or receive written contact that a complaint has been made against them within five working days of a complaint being received.
- 4.2.4 When concluded, all involved parties will receive written communication that an investigation has come to an end; detailing the outcome of the investigate and giving the reasons for that outcome.

## **4.3. Mediation**

- 4.3.1 In situations of receiving counter complaints, without any evidence of anti-social behaviour from either party but instead where the neighbour relationship has broken down, mediation shall be offered.
- 4.3.2 Where mediation is offered but refused by at least one party, the case shall be closed.

## **4.4. Support**

- 4.4.1 Where felt necessary, a complainant or an alleged perpetrator will be offered support from a Tenancy Sustainment Officer.
- 4.4.2 When a Tenancy Sustainment Officer is working with a complainant, their objective will be to identify relevant long-term support from an external agency who will be able to act as an advocate for the complainant.
- 4.4.3 When a Tenancy Sustainment Officer is working with an alleged perpetrator, their objective will be to support the alleged perpetrator to stop behaving in a way which causes nuisance, harassment, alarm or distress to others.
- 4.4.4 It may be appropriate on occasions to refer to external support services opposed in the Council's in-house Tenancy Sustainment Officers

## 4.5. Enforcement Action

### 4.5.1. Tenancy Enforcement

- 4.5.1.1 Where evidence suggests that it is at least probable a tenant has breached their tenancy by way of anti-social behaviour, enforcement action shall be taken.
- 4.5.1.2 Enforcement action can be in the form of a verbal warning, written warning, Notice of Seeking Demotion (NSD) and/or Notice of Seeking Possession (NSP).
- 4.5.1.3 It is endeavoured that enforcement action taken against the tenancy will be in line with other agencies' enforcement action where tenancy breaches have occurred and the conditions in this document have been met (see Appendix 1).
- 4.5.1.4 Housing Officers will decide which enforcement action is appropriate; however, verbal warnings will not be given where a written warning has been served in the previous 12 months; a written warning will not be given where a NSD or NSP (for ASB) remains active; and a NSD or NSP will not be served while there is an enforceable Court Order (for ASB) in place.
- 4.5.1.5 The final decision of a NSD or NSP being served will be made by the Neighbourhood Services Manager by way of a case review being presented to them by the Housing Officer.
- 4.5.1.6 When deciding to authorise the serving of a NSD or NSP the following will be taken into account –
- (i) The individual circumstances of the tenant(s) and their household;
  - (ii) The extent of the behaviour; and
  - (iii) The circumstances and safety of the victim(s) and other within the vicinity.
- 4.5.1.7 An application to Court for possession (Eviction) or demotion will only be made when it is felt there is no other option available to resolve the behaviour or the behaviour is so bad that it warrants immediate action; this includes breaches which have absolute grounds for possession.
- 4.5.1.8 The decision to make an application to Court for possession will be made by the Housing Services Manager on recommendation from the Neighbourhood Services Manager, except for cases where there is an absolute ground for possession; the decision will then be made by the Neighbourhood Services Manager to allow for the Housing Services Manager to consider any appeal.
- 4.5.1.9 When deciding to authorise an application to Court for possession the following will be taken into account –
- (i) The individual circumstances of the perpetrator(s) and their household;

- (ii) The extent of their behaviour; and
- (iii) The circumstances and safety of the victim(s) and others within the vicinity

4.5.1.10 To repossess a property and terminate a tenancy for reasons of bad behaviour is the decision of the Court and will only take place when a Court Order has been made.

## **4.5.2. Non-Tenancy Enforcement**

4.5.2.1 In some circumstances it may be more appropriate for non-tenancy enforcement action to be taken against a perpetrator.

4.5.2.2 Before any non-tenancy enforcement action is considered, consideration will be given to any mitigating factors, such as

- (i) where the tenant of the property is vulnerable;
- (ii) where there are children under the age of 16 in the household;
- (iii) where the behaviour is low level but consistent;
- (iv) where the perpetrator is a household member or visitor and the tenant is working with us to help stop the behaviour; and
- (v) cases of domestic abuse as a way to protect the victim.

However, the priority will be to ensure the behaviour ceases.

## **4.5.3. Closure Notice / Order**

4.5.3.1 The Council may decide to issue a Closure Notice and seek a Closure Order on a property as a way to prevent further anti-social behaviour from occurring and/or protect a tenant/household.

4.5.3.2 The award of a Closure Order gives the Council absolute grounds for possession of a property.

4.5.3.3 The decision to proceed with possession action following the obtainment of a Closure Order will follow the same process as set out in paragraph 4.5.1.9.

*\* In cases where the alleged perpetrator is the visitor or household member of a Council property, the tenant(s) will be treated as the perpetrator.*

## 5. Monitoring & Review

This policy will be reviewed in response to changes in legislation or statutory instruments by the Neighbourhood Services Manager or Housing Services Manager.

In the absence of any legislative changes to trigger a review, this policy will be reviewed every three years to ensure it remains organisationally accurate.

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# Appendix 1

Enforcement by Other Teams	Tenancy Enforcement
Community Protection Notice Warning / Noise Warning Letters	1 <sup>st</sup> Written Warning
Community Protection Notice / Noise Abatement Notice	2 <sup>nd</sup> Written Warning
Fixed Penalty Notice for breach of Community Protection Notice	3 <sup>rd</sup> Written Warning
Conviction for Breach of Community Protection Notice / Receipt of Criminal Behaviour Order / Closure Order / Breach of Noise Abatement Notice	Notice of Seeking Possession / Notice of Seeking Demotion
Further convictions for Breach of Community Protection Notice / Conviction for Breach of Criminal Behaviour Order / Continued Breach of Noise Abatement Notice / Permitting others to breach Closure Order	Application to Court for Possession



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