



## **Anti-Social Behaviour Policy**

## Document Control

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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 ASB Policy supports the statutory requirements, priorities outlined in the Barnsley 2030 Plan, with a vision for developing a Healthy, Growing Learning and Sustainable Barnsley.

Barneslai 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, littering, or illegal drug taking. Working with key partners including Barnsley Council and South Yorkshire Police we will work with individuals 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.

## 2. DEFINITION OF ASB AND POWERS AVAILABLE

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:

- noisy and/or abusive behaviour
- vandalism
- graffiti
- intimidation
- public drunkenness
- littering
- fly tipping
- illegal drug use
- excessively barking dogs
- anything relating to Hate Crimes/Incidents

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

For example, this can include:

- 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.

In tackling ASB, the appropriate legislation and regulations must be complied with. In particular working with our partners we have powers under, but not limited to, the following Acts of Parliament:

- 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)

The above Acts 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 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 complainant will be required to provide evidence detailing what they have witnessed and/or experienced and should be willing to do so when making complaints.

### 3. ACCESS TO SERVICE

In most cases of minor nuisance or antisocial behaviour, the first thing you should do is discuss the problem with your neighbour, if you feel able to do so.

If you can't talk to your neighbour about the problem or it's a sensitive problem then you can report ASB by:

- completing [our online form](#); or
- phoning us on 01226 787878.

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

#### **What if I think the nuisance or Anti-Social Behaviour is a crime?**

If you experience a problem that you think is a crime, contact the police as soon as possible and then contact your Housing Management Officer to let us know about the problem. Use the [Your area](#) section of our website to find your local Housing Management Officer.

To contact the South Yorkshire Police for:

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

### 4. 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 with the main ones being 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)

- Other force areas
- 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 Council's
- Voluntary Sector.
- Public Health
- Neighbourhood Watch

All of the above, 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 are able to 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 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.

The Charter for Social Housing Residents (Social Housing White Paper) acknowledges that in some cases not all social housing tenants feel their landlord takes their concerns seriously to tackle the issues they face. In order to ensure there is transparency new national social housing Tenant Satisfaction Measures will be developed and published which will include measures on responsible neighbourhood management, including tackling anti-social behaviour.

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

If you would like a copy of our 'Your Comments Count' policy please contact the Customer Services Team by:

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

Please also refer to Section 6.7 for further details of a Community Trigger where you feel that your enquiry hasn't been dealt with in accordance with our ASB Policy.

## 5. 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 broach the issues with the perpetrator.

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 but within the one month time frame. All requests should be responded to within three months 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 perpetrators.

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 fulfil its obligations under the legislation to the fullest extent; 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.

## **6. WHAT WILL HAPPEN ONCE YOU HAVE REPORTED IT AND WHAT ACTION WILL WE TAKE?**

Following your initial report your Housing Management Officer will contact you within 3 working days and arrange to visit you at home or another suitable place.

Alternatively, if you report a racial incident, if you are at risk of violence, or if there is damage to our property we will contact you within 1 working day.

We will keep you up to date on action being taken. This will be in writing either through a letter or by e-mail a minimum of once a month, whilst the case is being investigated.

We will also confirm either by letter or via e-mail, confirmation that we are closing the case down within 5 working days of this decision being made. We will confirm the reason why this is the case and give detail of any further action you could consider if you are unhappy with this decision.

We are unable take action against someone without evidence. We may give you a special 'incident diary' to record ASB you see or hear. We may need other evidence, like photographs, video or tape recordings. 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.

If the evidence confirms the ASB we will take action. In serious cases – where the perpetrator has put you or another person in danger – we'll go straight to legal action. But in most situations we will take a more step-by- step approach to try to get them to change. The Housing Management Team will contact the perpetrator and interview them. (You can ask us not to do this, but it could then be difficult to take the case further). We will tell them to change their behaviour or risk legal action. This is often enough to resolve most problems.

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 perpetrators 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 no action will be taken and cases 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.

## **6.1 MANAGING CASES AND ASSESSING RISK**

Effective case management underpins the successful resolution of ASB. This starts from when a complaint is received until the matter is resolved. The welfare, safety and well-being of victims, whose complaints 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 suitable 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 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 or where it is in the public interest
- Share information only with other relevant organisations that can help with the problem

## **6.2. 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.

There are three categories given to incoming complaints which are as follows:

**HIGH** – These are the most serious cases of ASB, requiring a timely and proportionate response. Any complaint received and risk assessed at this level will receive a priority response within 3 working days, examples of such issues at this level may include the following:

- Acts of violence
- Serious intimidation/threats of violence
- Criminal behaviour affecting the local community (where it is deemed that a civil power is the most appropriate solution e.g. Injunction)
- Serious misuse of public areas that affects the community
- Cases previously deemed as persistent (falling in the medium risk previously as per below) but have exhausted all prevention interventions and are serious enough to warrant further legal action.

In many of these cases action may be taken by Berneslai Homes pursuing enforcement action working in partnership with other agencies who have access to additional enforcement opportunities. Informal approaches may also be utilised prior to enforcement if it is proportionate and appropriate to the case in hand, dependant on risk.

**MEDIUM**– This includes the persistent cases of less serious allegations of ASB which do not require an urgent response. This may be the case where the evidence is not forthcoming or is from many sources and requires substantiating and investigating in order to pursue formal action and you will be contacted within 5 working days. Examples of issues that could fall within this category generally relate to being unreasonable enough to cause pro-longed disturbances. Some examples of such issues may include the following:

- Excessive noise, especially late at night from loud music or DIY.
- Rowdy or aggressive behaviour
- Intimidation, harassment or verbal abuse
- Hate crime not requiring legal action
- ASB from visitors to premises.
- Regular and persistent ASB from known offenders.

In many of these cases action may be taken by Berneslai Homes pursuing early interventions, support and information actions such as Acceptable Behaviour Contracts. However, if the behaviour continues then it may result in formal action being pursued.

**LOW** – This includes those cases involving low level incidents of anti-social behaviour and you will be contacted within 10 working days. This would include complaints where there are not witnesses or lines of investigation, examples of incidents could be:

- • Damage to property or communal areas
- • Nuisance caused by ball games
- • Isolated incidents
- • Intolerance of lifestyles.

### **6.3 INVESTIGATION**

For these cases advice and information will be provided relative to each case on how best to deal with it. Contact will be made with complainants in accordance with the priority stated above of receipt of the incident by the relevant officer within the Housing Management Team. This will either be the officer already investigating the case or the officer allocated if it is a new case. The Housing Management Officer (HMO) will make reasonable attempts to contact the complainant at least 3 times by visiting, and by telephone. If these attempts are unsuccessful, a letter will be sent to encourage contact. If the complainant does not contact the HMO within 10 working days of that letter being sent then the case will be closed. Prior to the case being closed this will be discussed with the Housing Management Team Leader to ensure that there are no other viable options available to consider taking into account any vulnerabilities.

Berneslai Homes, working with the Council uses discretion and professional judgement in deciding whether complaints 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 is 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 a number of 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 effectiveness of various enforcement options
- • The availability of other appropriate courses of action

There are a number of ways in which Berneslai Homes working with the Council and the SNS will gather evidence to support a complaint, some examples are given below:

- • Interviewing complainants

- • Incident diaries
- • Overt Surveillance for example CCTV
- • Obtaining information from other agencies
- • The utilisation of professional witnesses.
- • Interviewing perpetrators, this could be under caution
- • The reviewing of sound monitoring equipment.

During the investigation the investigating officer will come to one of three conclusions and act accordingly:

1. There is no evidence of anti-social behaviour and no further lines of enquiry. The complainant will be advised, information and support offered, and the case closed.
2. The behaviour is not considered to be anti-social or appropriate for further enforcement action. Information, support and early interventions if appropriate will be offered and the case closed.
3. There is evidence of anti-social behaviour and the case will be progressed for support, early intervention or legal action if appropriate.

If initial enquiries produce no further evidence to support the complaint, the complainant (and alleged perpetrator if appropriate), will be advised in writing that no further action will be taken at that stage and that the case will be closed. This will be within 5 working days of this decision being taken. The complainant should record any further incidents in a diary and when there is sufficient evidence that anti-social behaviour is in occurrence a further case may be opened and linked to any previous information.

If investigations continue, regular contact (as a minimum every three weeks) with the complainant, will be maintained by the Housing Management Team to ensure updates are provided regarding progress and actions. Berneslai Homes will confirm updates in writing or via e-mail a minimum of every month.

## **6.4 ACTION BERNESLAI HOMES MAY TAKE**

### **6.4.1 Early Intervention**

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

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

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 perpetrators 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 no action will be taken and cases closed.

If there is some evidence available to show that complaints are justified, or if the allegations are admitted by the perpetrator then early interventions may be considered to deter continued patterns of behaviour.

#### ***6.4.2 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 in order 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

#### ***6.4.3 Diversionary 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

#### ***6.4.4 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.

#### ***6.4.5 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.

#### ***6.4.6 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.

#### **6.4.7 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.

#### **6.4.8 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.

#### **6.4.9 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:

#### **6.4.10 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.

#### **6.4.11 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.

#### **6.4.12 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, working with the Council or the Police acting on the Council's behalf, highlighting the behaviour that needs to stop or positive action to be taken, in order to prevent a Community Protection Notice being served.

#### **6.4.13 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, such as:

#### **6.4.14 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.

#### **6.4.15 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.

#### **6.4.16 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.

#### **6.4.17 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.

#### **6.4.18 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.

#### **6.4.19 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.

#### **6.4.20 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.

### **6.5 Case resolution and closure**

A case will be closed when:

- It has been assessed and the relevant information has been shared or signposted to appropriate support services.
- 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
- An investigation has been undertaken but does not meet the threshold for enforcement action and support and early intervention have been offered.
- It has been successfully resolved through mediation, warnings or formal action
- The complainant has not been in contact for 4 weeks or more.

Before closing a case, the complainant(s) will be contacted giving the reasons for the decision. The perpetrator(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.

## **6.6 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. Any monies will be re-used by the primary service responsible for the investigation.

## **6.7 Community trigger**

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 complainant within a six month period of anti-social behaviour and the complainant does not feel that they have been dealt satisfactorily they can apply for a community trigger 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 focusing on the behaviour, but 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. 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 Star Survey;
- Satisfaction Surveys on ASB Cases when closed;
- Rates of ASB per 1,000 properties;

The results of the above will be published on our website and shared with customers through our local engagement frameworks for example Local Offers that are updated every 6 months.

## 8. FOR FURTHER INFORMATION

For further information 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)