

# Anti-Social Behaviour and Nuisance

## Housing management policy 7

Keniston Housing Association

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### **Introduction**

Keniston is committed to supporting those experiencing anti-social behaviour (ASB) and nuisance where either they or the perpetrator is our resident. This policy sets out how we aim to tackle ASB and nuisance in a responsive and proportionate way. This policy also sets out clear definitions of ASB and nuisance, and outlines what measures we can take to:

- Investigate reports of ASB and nuisance, in partnership with other agencies where appropriate.
- Take proportionate action to resolve ASB and nuisance where there is sufficient evidence.
- Support all residents to sustain their tenancies.

This policy applies to all residents, their household members, and their visitors.

This policy should be read in conjunction with the individual tenancy agreement or lease; current ASB guidance; our Harassment and Hate Crime Policy and Procedure and our Managing Unreasonable Behaviour Procedure.

### **Definition of Anti-social behaviour**

ASB is defined by the Anti-Social Behaviour, Crime and Policing Act 2014 as:

*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.*

ASB is defined by the Home Office as:

*Any aggressive, intimidating, or destructive activity that damages or destroys another person's quality of life.*

Nuisance can be difficult to define as it depends on factors such as levels of tolerance, lifestyle, and values. Keniston defines nuisance as:

*Any behaviour which is unreasonable and causes a substantial interference in the use and enjoyment of a person's property or home.*

Where a perpetrator of nuisance fails to make reasonable adjustments to reduce the impact of their actions upon others when requested, Keniston may consider that the nuisance has been elevated to ASB. In some cases, things which may cause a nuisance but are not unreasonable (such as a baby crying) must be tolerated.

Not all reports of behaviour that impacts upon an individual or community can be deemed ASB. It is important to show tolerance and be respectful of differing lifestyles and circumstances.

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Examples of what is and what isn't ASB include (but are not limited to):

<b>Anti-Social Behaviour</b>	<b>Not Anti-Social Behaviour</b>
Abandoned vehicles	Babies crying
Abuse of Keniston staff or contractors	BBQs in own gardens*
Aggressive and threatening language or behaviour	Cats wandering or fouling
Animal nuisance, including dog fouling and continuous barking	Children playing
Ballgames where it is forbidden	Cooking smells
Domestic abuse	Dogs barking occasionally
Hate crime - harassing, victimising, intimidating, or abusing someone because of their age; sex and sexual orientation; disability; race; religions or belief; gender reassignment; pregnancy and maternity; marriage and civil partnership.	Gossiping
Noise nuisance, including loud music and shouting	Minor personal differences such as dirty looks or fallouts between children
Rubbish dumping, litter, vandalism, and graffiti	Musical instruments played during the day
Selling or consumption of illegal drugs	One-off parties providing they don't cause unacceptable disturbance
Sex work	Putting rubbish out on the wrong day
Violence	Sounds of normal day-to-day living such as flushing of toilets; doors closing; washing machines; switches being turned on or off.

\*We do not consider BBQs to be anti-social behaviour. However, BBQs are only permitted in private gardens and must be 3m away from any buildings. BBQs are not permitted on balconies or in communal gardens. We encourage you to notify your neighbours ahead of a BBQ as a courtesy.

We will work to manage expectations regarding behaviour that is not defined as ASB by offering advice and guidance and, where appropriate, will expect residents to resolve the issues themselves.

We will work with police to investigate and resolve anti-social behaviour, but we do not have the same powers of enforcement. There may be occasions where our involvement in a criminal investigation is inappropriate or could be prejudicial, but we will be clear about this with complainants.

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### **Residents' Obligations**

As Landlord, we have a crucial role to play, but we expect our residents to understand their responsibilities and show consideration to their neighbours.

Our tenancy agreements and leases are clear and legally binding documents that set out the behaviour that Keniston expects from its residents. Whether unintentional or deliberate, they must not commit, or allow their family or visitors to commit, acts of ASB towards residents, people in the local area, Keniston staff or contractors.

Any unacceptable behaviour towards Keniston employees or contractors will be dealt with in accordance with the Managing Unreasonable Behaviour Procedure.

Residents should always report ASB to Keniston, safe in the knowledge that we will be as discreet as possible in handling the matter. In some cases, we may not be able to keep the identity of complainants confidential, or the nature of the report may make this information obvious to the perpetrator. In these circumstances we will not proceed with an investigation without the agreement of the complainant.

In some cases, for example those involving incidents of violence, safeguarding, or risk to life, once we are aware of an incident, we must take it forward even without the consent of the person who has brought it to our attention.

Where illegal activity is reported, we will expect complainants to have reported the matter to the Police before contacting Keniston.

Where a resident has concerns for the welfare of a child, vulnerable person, or someone struggling with their mental health, they should report this to the local authority Social Services team before contacting Keniston so as prevent important details being lost in translation via third-party reporting.

Residents should have a degree of tolerance of the different lifestyles of others.

Approaching Keniston before trying to resolve matters between themselves can often make a situation worse. Residents should therefore take responsibility for minor personal disputes with their neighbours and to try to resolve any such problems themselves, where appropriate, in a reasonable manner, for example via a local mediation service.

Those reporting ASB to Keniston must be willing to work with us and our partners to resolve disputes/issues, for example by providing witness statements, or attending court. Where complainants are unwilling to do this, we may not be able to take enforcement action against perpetrators. We understand that it can be scary to be seen to take a stand against ASB and we will support those willing to do so.

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### **Our responsibilities**

We will provide clear information to residents about how to report incidents of ASB and make it easy to report incidents.

We will respond to all reports of ASB and contact individuals reporting it in accordance with the initial severity of the case:

- **High risk** – where there has been actual or threatened violence; domestic abuse; the incident is hate-related and based on a protected characteristic; or a serious crime has been committed, we will respond within **1 working day**.
- **Medium risk** – where an incident is affecting the wellbeing of the individual or their household or a non-serious crime has been committed, we will respond within **5 working days**.
- **Lower risk** – any other report of ASB or nuisance, we will respond within **10 working days**.

We aim to deal quickly and effectively with all cases to resolve them at the earliest opportunity and keep complainants advised of progress on their case. All parties in an ASB case will be treated fairly and listened to on an equal basis. We will consider legal action against a tenant or leaseholder if no effort is made to amend behaviour and complaints continue to be received. Any action we take will be proportionate to the issue and its impact upon others.

### **How we manage ASB**

We want it to be easy for residents to report ASB and nuisance, so will accept initial reports in any reasonable way that best suits them.

Anonymous reports of ASB are not easy to act upon as we often require more information than is given. We encourage complainants to approach us openly, safe in the knowledge that we will protect their identity where possible. We will record anonymous reports of ASB and nuisance but can only take action where the information can be substantiated, or additional evidence can be gained.

When we first contact a complainant about a report of ASB, we will complete a risk assessment to establish its seriousness, considering the risk of harm to the victim; their vulnerability; the effect the ASB is having on them and the community; and the frequency of incidents.

We will ask complainants what their expectations are and manage those expectations by being clear at the outset of the powers we have and the likely outcomes that can be achieved. We will be clear where we feel action against a perpetrator is not proportionate to the incident.

Where requested, we keep the identity of the complainant confidential, but will be clear if this is not possible. In some cases, the perpetrator may work out who has made a complaint, but we will not confirm this information unless it is unavoidable, nor without the consent of the complainant. Keniston will consider other methods to gather evidence of ASB where witnesses are reluctant to provide evidence in court proceedings. In some cases, if witnesses are not prepared to provide evidence or attend court, Keniston will not be able to pursue the matter.

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In all cases we will consider the support needs and vulnerability of the complainant and the alleged perpetrator.

We will provide appropriate and sufficient support tailored to victims and witnesses. Reports of ASB will be dealt with promptly, keeping all parties informed and referring to appropriate support partner agencies where necessary.

We will pursue an action plan in agreement with the complainant, but there may be occasions where it is serious enough that we must act against the perpetrator without the agreement of the complainant.

We build in case review dates and keep complainants updated on the progress of their case. We may use professional witnesses in serious cases of ASB affecting members of the community if there is not enough eyewitness evidence or it is too dangerous to involve our own staff.

We will regularly monitor and review each case, ensuring it is recorded. The Operations Director and Housing Management Team Leader will provide appropriate advice and support to Housing Officers, ensuring that they receive appropriate training. Keniston will ensure its staff has the confidence and knowledge to identify and investigate ASB.

If a rented Keniston home has been damaged as a result of crime, harassment, or anti-social behaviour we will ensure it is made safe and secure as a priority. We will consider and advise on additional security measures but cannot consent to anything that would be a health and safety risk, such as bars on windows; security gates on exit doors; or barbed/razor wire.

Where tenants are experiencing harassment, and with sufficient evidence, they may apply to join our internal transfer list. Applicants will be given a high priority, but we are unable to provide emergency alternative accommodation. Tenants requiring emergency rehousing must present themselves as homeless to the local authority, which has a statutory duty to assist them. We will support applicants in this process, but they must take the lead. We will consider reciprocal moves only where there is demonstrable risk to safety, and only then where the other landlord will accept the resulting void in reciprocity.

We do not recommend mutual exchange as a solution to serious ASB as those moving can be easily traced. Tenants considering mutual exchange as a solution to ASB have a moral duty to inform any potential exchange partner of the situation.

Where Keniston is aware of ASB that could affect someone moving into one of our homes, whether as a new letting or mutual exchange, we will disclose this information.

We will report any safeguarding incidents to the relevant Local Authority for investigation and maintain a central log of all referrals and outcomes.

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### **Prevention of ASB**

We will ensure that new and transferring residents are made aware of their obligations and what constitutes ASB during the sign-up. This information will be reiterated at the settling-in visit.

We will carry out regular inspections of our estates to identify and remedy any signs of or opportunities for anti-social behaviour.

We will consider the suitability of applicants for our empty homes to ensure they can sustain a tenancy. Where there has been persistent or serious ASB in a community, we will consider sensitive lets.

Victims of crime must report the matter to the Police themselves. We can support tenants in this process but cannot do it on their behalf. Whilst it is important for Keniston to be aware of any illegal activity, we may not be able to act upon information until the Police have concluded their investigations, as this could be prejudicial to the proceedings.

### **Dealing with perpetrators**

Our response to proven allegations of ASB will be proportionate. We will use legal action against perpetrators when appropriate. Eviction is usually a last resort after other attempts at resolution have failed, but we may consider this action earlier in the process if the behaviour is severe enough to warrant it.

Early intervention can be effective and, in many incidences, ASB can be stopped when challenged early enough. Wherever possible we will use non-legal intervention measures. These can include mediation; verbal and written warnings; acceptable behaviour agreements; parenting agreements; good neighbour agreements; and family intervention projects. Often these measures will be undertaken in partnership with agencies such as the local authority, health services, or the Police.

Where the case is serious and/or criminal; other intervention has failed to stop or prevent persistent ASB; and it is proportionate to do so, we will pursue legal action. This can include civil injunctions; criminal behaviour orders; and possession action.

### **Recharges**

Residents must not leave rubbish or personal belongings in any communal area. If we must remove such items and we are able to identify the person to whom they belong, we will recharge that person the reasonable associated costs. The costs will be calculated based on the hourly rate of the officer(s) who must remove the items (including any travel time to site), the cost of their travel to site, and any disposal costs. Where we employ a third party to remove items, the full cost of this will be recharged to the person identified. Where we must rectify vandalism, such as graffiti removal or repairs to damaged property, the full cost of this will be charged to those identified as having caused the vandalism where evidence permits. We remind tenants that they are ultimately responsible for the actions of their household and visitors.

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### **Partnership working**

We work with partners to promote social, environmental, and economic wellbeing on our estates. We work in partnership with appropriate departments in local authorities; the Police; and other organisations in the areas where we have homes to prevent and tackle ASB. In this way we benefit from sharing expertise and resources. The sharing of information is vital to tackle ASB and essential to ensure the requirements of the Anti-social Behaviour Act 2014 are fully met.

### **Closing an ASB case**

We will close an ASB case when an investigation has concluded, appropriate action has been taken, and no further incidents have occurred during an appropriate monitoring period; we have insufficient evidence to take the matter further, or our investigations find that the incident did not occur; the complainant does not wish us to investigate and it is not reasonable for us to do so without their consent.

We aim to discuss the case with complainants before closure to ensure that the matter is resolved, or that no further action is possible. Where we are unable to reach the complainant, we will give a further 5 working days for them to contact us before closure.

### **A person-centred approach**

We understand that not everyone is affected by nuisance or anti-social behaviour in the same way, so will ensure that our approach to investigating nuisance and ASB is tailored to the needs of the person making the report. Some people may not be disturbed by things that others find to be intolerable, such as music from a neighbouring home, for example. To ensure that all reports of nuisance and anti-social behaviour are responded to appropriately, we will consider the way in which someone is affected by what they are reporting when deciding on a course of action. We will have consideration for the differences in peoples' needs and ensure that the concerns of vulnerable people are not dismissed when addressing nuisance and ASB. Factors which may affect the way in which someone is able to cope with nuisance or ASB include, but are not limited to, mental and physical health; past trauma; and lifestyle or cultural differences. We will use a risk assessment, which considers vulnerability and the impact of what is being reported, to help us establish the severity of the nuisance or ASB and decide how best to address it. Whilst we will never be dismissive of concerns raised to us, there are instances where it may be unreasonable for us to act against something someone finds intolerable, but we consider to be reasonable, such as normal household noise, or where we have no authority to do so. In these cases, we will support the person affected by the behaviour by suggesting reasonable coping mechanisms or making referrals to external agencies such as Social Services; mental health support; GP practices; the Police; or a multi-agency risk assessment conference (MARAC).

### **Legislative, regulatory and policy framework**

This policy and associated procedure comply with the Regulator of Social Housing's Neighbourhood and Community Standard for ASB.

There is a range of legislation relating to the prevention and resolution of ASB. Key legislation includes:

- Housing Acts 1985; 1988, 1996
- Crime and Disorder Act 1998

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- Anti-Social Behaviour Act 2003
  - Anti-social Behaviour, Crime and Policing Act 2014
  - Human Rights Act 1998
  - General Data Protection Regulation (GDPR) and Data Protection Act 2018

### **Recording, monitoring and sharing information**

Keniston records and reviews all ASB cases. Personal or sensitive data will be processed in line with the Data Protection Act 2018 (as amended). We will share information with agencies such as the local authority; Police; and health services only with the consent of the Subject or where we are legally permitted.

### **Equality and Diversity**

Keniston will treat everyone with fairness and respect. We recognise that we have a legal duty to advance equality of opportunity and prevent discrimination on the grounds of age; sex and sexual orientation; disability; race; religions or belief; gender reassignment; pregnancy and maternity; marriage and civil partnership.

This policy was agreed by **Management Team on 06 November 2023 and Resident Panel March 2024.**

**Next review date: March 2027.**