

ANTI-SOCIAL BEHAVIOUR POLICY

Policy and Procedure:	Anti-Social Behaviour (ASB)
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1. Policy Statement

Encircle Housing Association (EHA) is committed to preventing and tackling anti-social behaviour and recognises the devastating affect such behaviour can have on the community. If not properly addressed, anti-social behaviour can significantly impact on the quality of life for those affected.

We want our tenants and residents to enjoy where they live, so it is vital that they have the trust and confidence to report incidents of Anti-Social Behaviour, crime and nuisance as soon as possible.

We acknowledge how difficult it can be for people to come forward and take a stand therefore support is available to protect complainants, victims and witnesses.

Our staff will maintain regular contact with all complainants and ensure that they are kept updated with regard to their case. Individual investigations into any allegations will help us to identify what can and cannot be done and set appropriate timescales for agreed actions.

The Encircle Housing Association (EHA) is aware that a high number of vulnerable people live in our communities, therefore we have a responsibility to work with other agencies to help keep them safe from harm.

2. Scope

SUMMARY OF 'STATEMENT OF POLICY AND PROCEDURE'

This document fulfils Encircle Housing Association (EHA) requirement relating to Section 218A of the Housing Act 1996 (as amended by the Anti-Social Behaviour Act 2003), which places an obligation on Housing Providers to prepare and publish policies and procedures in relation to anti-social behaviour.

3. Purpose

The aim of the policy is to prevent and minimise instances of anti-social behaviour and to resolve them as early as possible through timely and appropriate intervention. Encircle Housing Association will always adopt a victim centred approach allowing for the provision of appropriate support (which should include external agencies) especially in the most serious of cases. We recognise the importance of good, effective communication and the provision of regular updates to victims should be emphasised, which could involve providing a clear action plan and single point of contact, where possible.

Policy objectives: -

- Treat people fairly and equally at all times;
- To take action that is proportionate and reasonable to the circumstances; and
- Clarify how anti-social behaviour complaints will be dealt with and responded to.

DEFINITION OF ANTI-SOCIAL BEHAVIOUR
The ASB policy and procedure is designed to deal with ASB that directly affects the housing management functions of EHA.
'Anti-Social behaviour' is a broad term for describing different types of behaviour but for the purpose of this policy we mean behaviour that relates to:

- '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'.

ASB, Crime and Policing Act 2014

The above bullet points set out the legal definitions of ASB. In practice, judgement will be exercised in deciding what amounts to ASB in individual situations.

Different people may become distressed or alarmed by different types of behaviour and activity. We will not always get involved in everything that is reported to us as causing a nuisance or annoyance.

4. Roles and Responsibilities

4.1 Prevention

Prevention is about putting in place measures to create a physical and social environment in which ASB is less likely to arise in the first place. These methods include:

- Clear clauses in the tenancy agreement
- Advice for tenants on their responsibilities and remedies available
- Comprehensive allocation and sustainability policies
- Improving the physical environment
- Diversionary projects.

4.2 Receiving complaints/assessment

All complaints of anti-social behaviour made to EHA are categorised according to the nature and seriousness of the complaint. The categories are defined as follows: -

LEVEL	DESCRIPTION	TIMESCALE FOR RESPONSE	RESPONSIBLE PERSON
1. LOW	Environmental Nuisance i.e. substance misuse, fly-tipping, garden nuisance, parking complaints, pet nuisance.	Acknowledge with response within 7 working days	Housing Officer
2. MEDIUM	Nuisance i.e. noise nuisance, verbal abuse, drug dealing.	Acknowledge with response in 5 working days.	Housing Officer
3. HIGH	Serious ASB i.e. high risk of harm to person or property i.e. threats, of violence, hate	Acknowledge within 2 working days,.	Housing Officer ASB Lead SMT

	crime, domestic abuse, harassment, physical assault.		
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The above is an indication of how the ASB complaint will be investigated and provides details of the levels of escalation.

GREEN – The Housing officer (HO) will investigate the complaint and gather evidence by taking witness statements and speaking to any other witnesses. Once these have been obtained the HO will make an informed decision on how to conclude the complaint and agree an action plan with the complainant/perpetrator. The HO will follow the steps confirmed in the action plan until the case is satisfactorily resolved and all parties agree to close the case and case closed letter sent.

AMBER – The Housing Officer (HO) will investigate the complaint and gather evidence by taking witness statements and speaking to any other witnesses. The HO may look to seek advice from the ASB Lead for more complex matters around the investigation and agree action plan with the complainant/perpetrator. The HO will follow the steps confirmed in the action plan until the case is satisfactorily resolved and all parties agree to close the case and case closed letter sent.

RED - The Housing officer (HO) will investigate the complaint and gather evidence by taking witness statements and speaking to any other witnesses. The HO will work closely with the ASB Lead to manage investigation of the case and agree action plan with the complainant/perpetrator. The HO will follow the steps confirmed in the action plan until the case is satisfactorily resolved and all parties agree to close the case and case closed letter sent.

Any criminal behaviour should first be reported to the police, as they are the lead agency on all criminal matters.

Before taking any action, it is important that staff apply this Policy and Procedure in accordance with EHA Mental Capacity Policy and adhere to the guidance set out in the Equality and Human Rights Act 1998.

4.3 Early Intervention – Case Investigation

When a case has been reported we adopt an early intervention approach and respond quickly and strive to resolve problems at the earliest possible stage. We will only take action if EHA is satisfied that the evidence gathered can demonstrate that an individual or individuals have acted in an anti-social manner. Non legal remedies available to use include, but not limited to:

- Warnings for breaches of tenancy – verbal warnings, confirmed in writing.
- Multi-agency working – Case conferencing and holistic joined up working see point 4.5 below.
- Acceptable behaviour contracts (ABC) - An ABC is a non–legally binding written agreement. We will use an ABC to engage an individual, to acknowledge their behaviour and the effect on others, with the aim of them stopping ASB.
- Mediation – we may use external mediation organisations to help resolve disputes between neighbours, with the consent of all parties.
- Restorative Justice

4.4 Enforcement Action

Before taking legal action we must consider if the case is serious enough to warrant legal action, whether residents are prepared to give evidence in court, what action has been gathered by other means, the quality of the evidence and if all alternative dispute resolutions have been considered.

When legal action becomes necessary, we will use the most appropriate tool available to us and we will be guided by our legal representatives. Authority to commission legal representation should be made to Encircles Senior Management Team, in the absence of SMT presence, the ASB Lead is authorised to proceed if the case requires urgent action.

There are a range of legal powers for tackling anti-social behaviour, some of which we can use on our own primarily through the County Court; these can include:

- Section 21 or Section 8 (see guidance appendix 1)
- ASB Injunctions (IPNA see guidance appendix 2)
- Undertakings

Notice of Possession (Section 21):

Where the tenant has an Assured Shorthold Tenancy (AST) the landlord will follow their procedures and issue a "Section 21" Notice. If the tenant does not vacate the property, then the landlord may apply to courts to have the case heard.

Civil Injunctions:

The order which is available in the County Court for adults. To obtain an injunction the court must be provided evidence to satisfy the hearing that the individual has engaged in, or threatens to engage in, conduct capable of causing nuisance and annoyance.

Undertakings:

An undertaking is "a promise given by one party to the Court, frequently of mandatory nature and relating to an obligation to the other party in proceedings." Undertakings are a legally binding promise which carry severe consequences if breached. This is not something that is commonly used by Encircle but it is an option available to us and, cases of this nature will be led by our specialist housing solicitors.

4.5 Partnership Working

The causes and effects of anti-social behaviour are wide and varied and our work would not be as effective in dealing with these issues without input from our partners.

EHA works in partnership with a variety of partners at both strategic and operational/neighbourhood levels to resolve anti-social behaviour – partner agencies include

but are not limited to the Police, Local Authority and Social Services. We will only share information in accordance with regulations governing data protection.

4.6 Support of Complainants and Witnesses

We will develop an action plan with the complainant, which will identify preferred communication methods, how to best support them and manage their case ensuring we progress all actions until the situation is resolved. The action plan will include agreed contact frequency with victims/witnesses, refer them to specialist agencies where required and work with partners to support them

We want to ensure that complainants and witnesses feel supported when they report anti-social behaviour, and this may include referring them to specialist agencies where required and working with partners to ensure that they have the relevant support.

The level of support given will be tailored to meet the needs of the individual and the circumstances and we will take mental health conditions and other vulnerabilities into consideration when identifying any support required

4.7 Case Closure

We will close an anti-social behaviour case when (this list is not exhaustive):

- We believe we have resolved the problem, or the problem has stopped.
- We have insufficient evidence to proceed.
- We believe the evidence does not warrant action.
- The witness does not respond to us or withdraws their complaint.

The decision to close the case will be made by the allocated Case Officer in partnership with all concerned parties.

4.8 Reporting

The housing team will report ASB Case management performance to: -

- Head of Housing
- Encircle Board of Management

4.9 Resident involvement and consultation

We will consult with the following on the implementation of this policy: -

- Care Providers
- Tenants select group
- Tenant meetings

5.0 Equality

EHA policies, procedures and day to day practices have been established to promote an environment which is free from unlawful and unfair discrimination, while valuing the diversity of all people. Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability and age is not acceptable: EHA will take action to ensure no person using EHA's premises or services receives less favourable treatment or is disadvantaged by requirements or conditions that cannot be justified. EHA will tackle inequality, treat all people with dignity and respect and continue to work to improve services for all service users. EHA will work consciously to eliminate discrimination, harassment, victimisation and to advance equality of opportunity and foster good relations between people with differing characteristics.

6.0 Staff Training and Development

- Staff within the organisation will be briefed on the policy and its application to their work. We will undertake regular housing law update training for frontline staff, and any training needs will be identified and addressed, as part of embedding the policy into current housing practice and procedures. This is in addition to regular supervision (1:2:1) and quarterly performance reviews.

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Appendix 1

Notice of Possession – Section 21 and Section 8 Guidance

You can evict tenants who have an [assured shorthold tenancy](#) using a Section 21 or Section 8 notice, or both.

Use a Section 8 notice if your tenants have broken the terms of the tenancy.

Section 21 notice of seeking possession

You can use a Section 21 notice to evict your tenants either:

- after a fixed term tenancy ends - if there's a written contract
- during a tenancy with no fixed end date - known as a 'periodic' tenancy

You can [get legal advice](#) if you do not know which notice to give.

When you cannot use a Section 21 notice in England

You cannot use a Section 21 notice if any of the following apply:

- it's less than 4 months since the tenancy started, or the fixed term has not ended, unless there's a clause in the contract which allows you to do this
- the property is categorised as a [house in multiple occupation](#) (HMO) and does not have a HMO licence from the council
- the tenancy started after April 2007 and you have not put the tenants' deposit in a [deposit protection scheme](#)
- the tenancy started after October 2015 and you have not used [form 6a](#) or a letter with all the same information on it
- the council has served an improvement notice on the property in the last 6 months
- the council has served a notice in the last 6 months that says it will do emergency works on the property
- you have not repaid any unlawful fees or deposits that you charged the tenant - read the guidance for landlords on the [Tenant Fees Act 2019](#)

You also cannot use a Section 21 notice if you have not given the tenants copies of:

- the property's [Energy Performance Certificate](#)
- the government's ['How to rent' guide](#)
- a current [gas safety certificate](#) for the property, if gas is installed

You must have given your tenants the gas safety certificate and the 'How to rent' guide before they moved in.

You must have given your tenants a copy of the property's Energy Performance Certificate before they rented the property.

When you cannot use a Section 21 notice in Wales

You cannot use a Section 21 notice if any of the following apply:

- it's less than 4 months since the tenancy started, or the fixed term has not ended, unless there's a clause in the contract which allows you to do this
- the property is categorised as a [house in multiple occupation](#) (HMO) and does not have a HMO licence from the council
- the tenancy started after April 2007 and you have not put the tenants' deposit in a [deposit protection scheme](#)
- the tenancy started after November 2016 and you do not have a [landlord licence](#)

Giving tenants a Section 21 notice

In England, [use form 6a](#) if the tenancy was started or renewed after 30 September 2015. You can also write your own Section 21 notice.

In Wales, you must explain in writing that you are serving an eviction notice under Section 21 of the Housing Act 1998.

How much notice you need to give

Usually, a Section 21 notice must give your tenants at least 2 months' notice to leave your property. Because of coronavirus (COVID-19) you must now give them a longer notice period.

If you gave your tenant notice between 26 March 2020 and 28 August 2020, the notice period must have been at least 3 months.

If you gave your tenant notice on or after 29 August 2020, the notice period must be at least 6 months.

In Wales, the notice period must be at least 6 months if you gave your tenant notice on or after 24 July.

In England, you may need to give a longer notice period if you have a 'contractual' periodic tenancy. This is a fixed term tenancy that has ended, but included a clause to continue as a periodic tenancy. The amount of notice must be the same as the rental period, if this is more than 2 months. For example, if your tenant pays rent every 3 months, you must give 3 months' notice.

In Wales, if it's a periodic tenancy, you must let your tenants stay for the notice period and any additional time covered by their final rent payment.

After you give notice

Keep proof that you gave notice to your tenants - either:

- fill in the [certification of service form \(N215\)](#)
- write "served by [your name] on [the date]" on the notice

If your tenants do not leave by the specified date, you can use your completed N215 or notice to [apply for an accelerated possession order](#).

Section 8 notice of seeking possession

To give your tenants notice using a Section 8, you must fill in a '[Notice seeking possession of a property let on an assured tenancy or an assured agricultural occupancy](#)'. Specify on the notice which terms of the tenancy they've broken.

You can [apply to the court for a possession order](#) if your tenants do not leave by the specified date.

You can [get legal advice](#) on how to fill in a Section 8 with the correct notice periods and how to give it to your tenants.

How much notice you need to give

If you gave your tenant notice before 26 March 2020, you would have needed to give them up to 2 months to leave, depending on the reason for eviction.

Because of coronavirus, in most cases you must now give them a longer notice period.

If you gave your tenant notice between 26 March 2020 and 28 August 2020, the notice period must have been at least 3 months.

If you gave your tenant notice on or after 29 August 2020, the notice period must be at least 6 months. It can be shorter in some cases, for example if you evict them for antisocial behaviour. Find more information in the '[Technical guidance on eviction notices](#)'.

In Wales, if you gave notice on or after 24 July, the notice period must be at least 6 months. If you want to evict your tenants because of antisocial behaviour, the notice period is still 3 months or more.

Appendix 2

Injunction Guidance

Power to grant injunctions

An injunction to prevent nuisance or annoyance (IPNA) is also known a Part 1 injunction. With effect from 23 March 2015, a county court may grant an IPNA against any person aged 10 or over if it is satisfied, on the balance of probabilities (ie the civil standard of proof), that:[\[1\]](#)

- a person has engaged, or threatens to engage, in antisocial behaviour, and
- it is just and convenient to grant the injunction for the purpose of preventing that person from engaging in antisocial behaviour.

Antisocial behaviour is defined as conduct:[\[2\]](#)

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

Applications against adults are made in the county court or High Court. Applications against those under 18 years old are made in the youth court.

The Home Office has issued [statutory guidance](#) on the use of IPNAs.[\[3\]](#)

The IPNA replaces a number of other antisocial behaviour injunctions and orders. See 'Transitional Provisions' below.

Types of IPNA

There are housing and non-housing related IPNAs.

Housing-related IPNAs

Housing-related IPNAs can be granted where there is conduct capable of causing nuisance or annoyance to: [\[4\]](#)

- a person in relation to that person's occupation of residential premises (regardless of tenure), or
- any person that directly or indirectly relates to the housing management functions of a local authority or other social landlord.

Non-housing IPNAs

Non-housing related IPNAs are primarily designed to tackle antisocial behaviour in public places, such as A&E waiting rooms or bus stations. A non-housing related IPNA can be granted where the behaviour does not affect:

- the housing management functions of a social landlord, or

- people in their homes.

Who can apply for an IPNA

Only the following bodies can apply for a housing-related IPNA:[\[5\]](#)

- local authority
- private registered provider of social housing (PRPSH)
- charitable housing trust
- housing action trust
- police.

The above bodies and Transport for London, NHS Protect and the Environment Agency can apply for a non-housing related IPNA.

A local authority or the police can apply for a housing-related IPNA against a person in any tenure, including privately rented accommodation and owner-occupied housing. A PRPSH, charitable housing trust or housing action trust can only apply for a housing-related IPNA where the antisocial behaviour relates to its housing management functions.[\[6\]](#)

An application for a housing-related IPNA can be made in relation to a person living in or visiting residential premises.

Terms of an IPNA

Prohibitions and positive requirements

An IPNA must include a:[\[7\]](#)

- prohibition, requiring a person to stop doing something (for example playing music in the home after 8pm at night), and/or
- a positive requirement aimed at getting a person to deal with the underlying cause of her/his antisocial behaviour (for example attending mediation classes with neighbours or an alcohol misuse course).

The prohibitions or positive requirements must be reasonable and, so far as practicable, must not:[\[8\]](#)

- interfere with a person's time at work or school (or other educational establishment)
- conflict with requirements of any other court orders in force against that person.

Exclusion from the home

An IPNA can exclude an adult from her/his home where the court thinks that:[\[9\]](#)

- the person has engaged in violence, or threatened violence, against another person, or
- there is a significant risk of harm to another person.

Harm includes serious ill-treatment or abuse, whether physical or not.[\[10\]](#) As such it could include emotional or psychological harm, such as harassment or racial abuse.

The power to exclude from the home does not apply to people aged under 18 years old.

Statutory guidance advises that the court will pay special attention to proportionality in light of the Article 8 of the European Convention on Human Rights, and as such applications for exclusion should only be made in extreme cases.[\[11\]](#)

Time-limits

For adults, any prohibition or requirement in the IPNA can be for a fixed period or 'until further order'. In the case of under 18 year olds the maximum period is 12 months.[\[12\]](#)

Interim injunctions and 'without notice' applications

An interim IPNA can be granted pending a final hearing in order to prevent further antisocial behaviour during proceedings. In exceptional or urgent cases, for example where it is necessary to stop serious harm to victims, an interim injunction can be applied for 'without notice' to the alleged perpetrator.

An interim injunction made following a 'without notice' application can only include prohibitions, and not positive requirements.[\[13\]](#)

Power of arrest

The court can attach a power of arrest to any prohibition or requirement in the IPNA where:[\[14\]](#)

- the antisocial behaviour, consists of violence, or the threat of violence, against other persons, or
- there is a significant risk of harm to other persons.

A power of arrest cannot be attached to a requirement that the perpetrator participates in a particular activity.

A police officer can arrest the perpetrator without warrant if s/he has 'reasonable cause' to believe that a breach of the IPNA has occurred. The police must then present the perpetrator to court within 24 hours of their arrest (except on Sundays, Christmas Day or Good Friday). [\[15\]](#)

Where a power of arrest has not been attached to the IPNA, the applicant can apply to the court that granted the injunction (or to a Justice of the Peace where the perpetrator is under 18) for an arrest warrant if it believes that the perpetrator has breached a term of the injunction.[\[16\]](#)

Hearsay evidence

Hearsay evidence and evidence from professional witnesses is permitted in all proceedings relating to IPNAs. Statutory guidance advises that this allows for protecting the identities of those who are unable to give evidence due to fear or intimidation.[\[17\]](#)

Variation and discharge of injunctions

The applicant or the perpetrator can apply to the court to vary or discharge the IPNA. The powers of the court to vary the injunction include to:[\[18\]](#)

- remove or add a prohibition or requirement
- reduce or extend the period for which a prohibition or requirement has effect
- attach a power of arrest.

Waiving a breach of an injunction

An applicant may waive the breach of an injunction. However, there will be circumstances where the court is not willing to accept that the consent of a person for whose benefit an injunction is obtained is sufficient to waive a breach. This is most likely where there is a public interest in maintaining that order, for example where an antisocial injunction had been put in place to restrict the areas a perpetrator can access.[\[19\]](#)

Penalties for breach of IPNA

The maximum penalty for adults who breach a provision set out in an IPNA is up to two years imprisonment and/or an unlimited fine. Under 18-year olds can be penalised by a supervision order, or for 14 to 17 year olds in the most serious cases, by a detention order of a maximum of three months.[\[20\]](#)

Although the breach of an IPNA is a civil contempt of court, the criminal standard of proof, ie beyond reasonable doubt, is applied in proceedings in the county court or youth court.

In addition, where a court has found there has been a breach of an IPNA, this could lead to eviction of a secure or assured tenant under the mandatory ground for antisocial behaviour.[\[21\]](#) The ground for possession will only apply when the breach occurred:

- in the locality, or
- elsewhere if the IPNA was granted in order to prevent harassment, alarm or distress to:
 - a person who lives, or has a right to occupy accommodation, in the locality
 - the landlord or someone employed (whether or not by the landlord) in connection with the landlord's housing management functions.

Further, the ground for possession will not apply if the breach of the IPNA only relates to a failure to participate in a particular activity.

For more information see the pages [Mandatory ASB ground: Secure tenancies](#) and [Mandatory grounds: Assured tenancies](#)

Anti-social Behaviour, Crime and Policing Act 2014; Anti-social Behaviour, Crime and Policing Act 2014 (Commencement No.8, Saving and Transitional Provisions) Order 2015 SI 2015/373; .

[\[2\]](#) s.2(1) Anti-social Behaviour, Crime and Policing Act 2014.

[3] s.19 Anti-social Behaviour, Crime and Policing Act 2014; ch2.2 Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers, Home Office, July 2014.[s.2(1) Anti-social Behaviour, Crime and Policing Act 2014.]

[4] s.2(1)(a)-(b) and s.2(3) Anti-social Behaviour, Crime and Policing Act 2014.

[5] s.2(2) Anti-social Behaviour, Crime and Policing Act 2014.

[6] s.5(3) Anti-social Behaviour, Crime and Policing Act 2014.

[7] s.1(4) Anti-social Behaviour, Crime and Policing Act 2014.

[8] s.1(5) Anti-social Behaviour, Crime and Policing Act 2014.

[9] s.13(1) Anti-social Behaviour, Crime and Policing Act 2014.

[10] s.20(1) Anti-social Behaviour, Crime and Policing Act 2014.

[11] p24 Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers , Home Office, July 2014.

[12] s.1(6) Anti-social Behaviour, Crime and Policing Act 2014.

[13] s.7 Anti-social Behaviour, Crime and Policing Act 2014.

[14] s.4 Anti-social Behaviour, Crime and Policing Act 2014.

[15] s.9 Anti-social Behaviour, Crime and Policing Act 2014. .

[16] s.10 Anti-social Behaviour, Crime and Policing Act 2014.

[17] s.10 Anti-social Behaviour, Crime and Policing Act 2014; p26 Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers, Home Office, July 2014.

[18] s.8 Anti-social Behaviour, Crime and Policing Act 2014.

[19] Accent Foundation Ltd v Lee [2007] EWCA Civ 665.

[20] p26 Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers , Home Office, July 2014.

[21] s.84A Housing Act 1985; ground 7A, Sch.2 Housing Act 1988

[22] s.21 Anti-social Behaviour, Crime and Policing Act 2014.

[23] under s.153A Housing Act 1996.

[24] under s.153B Housing Act 1996.

[25] under s.153D Housing Act 1996.

[26] under s.1 Crime and Disorder Act 1998.

[27] s.21 Anti-social Behaviour, Crime and Policing Act 2014.

[28] Amicus Horizon Ltd v Thorley [2012] EWCA Civ 817; Doey v Islington LBC [2012] EWCA Civ 1825.

[29] under s.1C Crime and Disorder Act 1998.