

August 2008

Review: August 2009

## ANTI SOCIAL BEHAVIOUR POLICY & PROCEDURE

| <b>CONTENTS</b>  | <b>pages</b> |
|--|--------------|
| <b>1 Policy Statement</b>  | <b>3</b>     |
| <b>2 Introduction and Purposes of this document</b>  | <b>3</b>     |
| <b>3 Key Principles and Commitments</b>  | <b>4</b>     |
| <b>4 Local Partnership working &amp; sharing information</b>   | <b>5</b>     |
| <b>5 Statement of Core Commitment on Anti-Social Behaviour &amp; Standard for Housing Management</b> | <b>6</b>     |
| Accountability, Leadership and Commitment  | <b>6</b>     |
| Empowering and Reassuring Residents  | <b>6</b>     |
| Prevention and Early Intervention  | <b>7</b>     |
| Tailored Services for Residents and Provision of Support for Witnesses                               | <b>8</b>     |
| Support to Tackle the Causes of Anti-Social Behaviour  | <b>9</b>     |
| <b>6 Categories of Anti-Social Behaviour &amp; Prioritisation of Anti-Social Behaviour Casework</b>  | <b>10</b>    |
| Categories – The National Standard   | <b>10</b>    |
| Prioritisation   | <b>11</b>    |
| Levels of Priority   | <b>11</b>    |
| <b>7 ASB Database and Paper Case Files</b>   | <b>14</b>    |
| Purpose of the Database – Storage and security of paper Case Files                                   |              |
| <b>8 Procedure - Case Development and Witness Support</b>  | <b>15</b>    |
| <b>Section A – Receiving and Recording Complaints</b>  |              |
| Receiving and recording complaints   | <b>15</b>    |
| The Case Manager   | <b>16</b>    |
| Using the Case File  | <b>16</b>    |
| Anonymous reports  | <b>16</b>    |
| Contacting the complainant   | <b>16</b>    |
| Interviewing the complainant   | <b>17</b>    |
| Action plan  | <b>18</b>    |
| ASB Incident Diaries   | <b>19</b>    |
| Investigation general  | <b>20</b>    |
| Investigation case priorities (Level 1, 2 & 3)   | <b>20</b>    |
| Supporting the complainant   | <b>21</b>    |
| Making a decision  | <b>23</b>    |
| Options for resolving ASB other than legal action  | <b>23</b>    |
| Acceptable Behaviour Contracts (ABCs)  | <b>24</b>    |
| Interviewing the alleged perpetrator   | <b>25</b>    |
| Willingness of complainants & witnesses to attend court  | <b>26</b>    |
| Use of professional witnesses  | <b>26</b>    |

|  |           |
|--|-----------|
| <b>Section B - Legal Proceedings</b>                                   | <b>26</b> |
| Considering legal proceedings  | 26        |
| Tenancy conditions and legal action – The Tenancy Agreement            | 27        |
| Evidence & statements  | 28        |
| Perpetrators & special needs (Vulnerable perpetrators)                 | 29        |
| Notice of Intention to Seek Possession                                 | 31        |
| <br>   |           |
| <b>Section C - Court Actions Available to SLH</b>                      | <b>31</b> |
| Housing related injunctions in general                                 | 32        |
| Breach-of- tenancy injunctions – Injunctions against tenants           | 32        |
| Anti-social behaviour injunctions (ASBIs) – Injunctions against anyone | 33        |
| Injunctions – Against unlawful use of premises                         | 33        |
| Power of Arrest  | 33        |
| Undertakings   | 33        |
| Demotion Orders  | 34        |
| Possession Orders – Nuisance & annoyance                               | 34        |
| Anti-Social Behaviour Orders (ASBOs)                                   | 35        |
| Parenting Orders   | 36        |
| Extending an Introductory Tenancy                                      | 36        |
| Suspending a Right to Buy Application                                  | 37        |
| <br>   |           |
| <b>Section D - Hate Behaviour</b>                                      | <b>37</b> |
| <br>   |           |
| <b>Section E - Domestic Violence</b>                                   | <b>38</b> |
| <br>   |           |
| <b>Section F - Closing a Case</b>                                      | <b>38</b> |
| <br>   |           |
| <b>Section G - Customer Satisfaction Survey</b>                        | <b>39</b> |

# 1. Policy Statement

SLH believes *tenants have the right to peaceful enjoyment of their homes. We believe everybody has a right to live in their home and enjoy life in their own way, providing they do not upset or annoy people living near them. A good neighbour will not cause a nuisance and will also be tolerant and understanding of the different lifestyles each person chooses.*

Our approach to tackling anti social behaviour is to try to change behaviour using a variety of approaches and interventions. However, we will take a tough stance when perpetrators refuse to mend their ways. We have no hesitation in using all the powers available to us to take action against troublemakers.

## 2. Introduction and purpose of this document

### Introduction

This document sets out the principles upon which South Lakes Housing (SLH) will resolve cases of ASB and nuisance. The document will provide the authoritative position statement for staff and others seeking to understand the organisation's responses to anti-social behaviour. Through its chapter and section headings in the Contents table, it will provide access to the detailed policies which should be the basis for action to protect the residents and communities served by SLH.

This document is intended to be clear and accessible and SLH will be grateful for any comments or assistance, which will improve its usefulness. (A much shorter version of these policies and procedures is available as a leaflet to help people to call on the services of SLH quickly and easily).

This document is one of four linked documents, the other three being:

- A **Case File** which will be used in each case by front-line officers and their supervisors to ensure consistent quality and good practice in individual case management
- A **Diary** which will actively assist complainants in ASB cases to keep clear and relevant information about the anti-social behaviour which they experience and about how it has affected them
- A **Complainant Satisfaction Survey**, which will help us to know whether or not the anti-social behaviour service we provide, meets the needs of our customers.

### The purpose of this document is to provide:

- The vision and framework within which SLH will effectively investigate all cases of ASB or nuisance, support and engage communities and individual witnesses and take appropriate and proportionate action against perpetrators
- Information for residents about what they may expect from SLH and the circumstances in which they should pursue their own action
- The basis for a positive approach to handling cases of anti-social behaviour, by:
  - Encouraging residents to contact the service, and ensuring that confidentiality is observed.
  - Providing clear access routes to the service for residents and a form of diary which will enable them to capture all relevant information to facilitate action by the organisation.

- Arranging for an interpreter or British Sign Language (BSL) signer to be available if required.
- Ensuring that the handling of reports is fair, so that it can be seen to be fair by both complainants and employees.
- Responding within time-scales set for the priority level established for each case, so that the complainant is aware of when they should expect action.
- Establishing and using clear definitions of categories of anti-social behaviour so as to develop and channel appropriate service responses.
- Providing a clear and simple procedure for front line staff.
- Acting competently and confidently, within this procedure, to end the anti-social behaviour complained of.
- Providing a facility for feed-back from residents to enable the organisation to evaluate its casework and improve its service provision.

### **3. Key principles and commitments**

The key principles upon which SLH's policies and practical response to anti-social behaviour are based are set out below:

- Tackling anti-social behaviour is a core housing management function.
- SLH is a key stakeholder in the communities that it serves.
- SLH will work to establish itself as a beacon of good practice among other housing service providers in the region.
- Residents must take responsibility for their actions and those of their children, as well as those who visit their home, and all should behave in a way that does not harass or intimidate others.
- Residents have the right to their chosen lifestyle, without fear or intimidation, including the right of children to play safely, provided that this does not interfere unreasonably with other people's rights to the use and enjoyment of their home and community.
- Witnesses to anti-social behaviour (including SLH staff and providers of other local services) have a responsibility to report it and the right to be protected in doing so.
- SLH has a specific landlord responsibility to ensure that such rights and obligations are met in individual cases, and that perpetrators are held to account for their actions.
- SLH recognises that it needs the support of other agencies, and can itself contribute considerably, working in partnership and using its access to statutory powers, to tackle anti-social behaviour effectively and quickly.
- SLH recognises that Leaseholders in its properties also have rights and responsibilities, to the organisation and to the communities where they live. For this reason, SLH will use its authorities as set out throughout this document to either support or hold to account Leaseholders who suffer or perpetrate anti-social behaviour.

## 4. Local Partnership Working and Sharing Information

In accordance with the Respect Standard for Housing Management and the Audit Commission's KLOE 6 (Tenancy and Estate Management), SLH will work with external agencies to protect residents and to gain access to the full range of tools and powers available to tackle anti-social behaviour. Some of these are:

- Parenting Contracts and Orders and Parenting Courses.
- Anti-Social Behaviour Orders (ASBOs) and Acceptable Behaviour Contracts (ABCs).
- Criminal prosecutions (Police).
- Committal proceedings.
- Crack House Closures (Police).
- Dispersal orders (Police).
- Seizing noise-making equipment (Local Authority – Environmental Health).

Among its partners, SLH will seek to work with Local Authorities, Community Safety Partnerships, the Police, Youth Offending Teams, other local housing service providers, advice agencies and services dedicated to the diversion and rehabilitation of offenders. SLH's stakeholder status will be strengthened through agency contact. Its reputation will be established and maintained through effective casework.

At the local level, Crime and Disorder Reduction Partnerships (CDRP's) or Community Safety Partnerships are required by the Crime & Disorder Act 1998 to take the local lead in tackling anti-social behaviour. CDRPs were established by this statute to assess crime and disorder in their area, and to develop and implement strategies to tackle them. The CDRP brings together Local Authorities, the Police and other agencies to co-ordinate action locally on anti-social behaviour:

- SLH is represented on the South Lakeland CDRP.
- SLH's Director of Operations will be responsible for establishing (with the Local Authority's Community Safety Officer) the partnership working arrangements for the area and the most effective ways for SLH to contribute to and benefit from these arrangements.

SLH will be active in encouraging and joining Safer Estates groups and CDRPs, working towards eradicating anti-social behaviour in communities. SLH will join local information sharing protocols and arrangements to share information on anti-social behaviour casework, including information on individual perpetrators and on broader strategies for locally reducing levels of anti-social behaviour.

In order to combat anti-social behaviour effectively, SLH must be in a position to share relevant information with local agencies. The **Crime and Disorder Act 1998 (section 115)** gives a 'relevant authority' the power to share information for the purposes of preventing crime. The **Housing Act 2004 (section 219)** makes Arms Length Management Organisations (ALMOs) such relevant authorities for this purpose.

## **5. Statement of Core Commitment on Anti-Social Behaviour & the Respect Standard for Housing Management**

### **Accountability, Leadership and Commitment**

SLH aspires to ensure that all its operations and service delivery in tackling anti-social behaviour fully meet the requirements of the Respect Standard for Housing Management and the Audit Commission's Key Lines of Enquiry on Tenancy and Estate Management (KLoE 6).

All parts of SLH will continue to be committed to tackling and preventing anti-social behaviour. This will include its Board and Executive which will charge and resource the organisation to enable it to provide accessible and effective services to tackle anti-social behaviour affecting its residents. The Board and the Executive will also monitor performance on casework and hold officers to account for this performance.

SLH has a clear vision of its responsibilities and opportunities in work to tackle anti-social behaviour. Through policies set out in this document and through the continuing development and delivery of straightforward and effective procedures, documentation and IT systems. In addition, staff will be clearly directed, trained, encouraged and required to engage with residents, and agencies which provide services to residents, to tackle anti-social behaviour quickly and effectively and to prevent its repetition.

SLH recognises that structures and environments that are well designed and well maintained are less prone to crime and anti-social behaviour. Local factors seen to be contributing to anti-social behaviour will be taken into account in preparing any maintenance and improvement programmes.

SLH will work with South Lakes District Council to ensure that its lettings and transfer policy is robust and effective when considering tenancy applications from any person known to be a perpetrator of anti-social behaviour or criminal activity. In particular where this has adversely affected other people in the quiet enjoyment of their homes. It will exercise this consideration in accordance with its responsibilities in maintaining its housing register, and will meet the requirements of the law.

SLH will provide and maintain a training programme for employees on managing and tackling ASB and nuisance to ensure that they are supported in developing the range of skills and knowledge that they need to manage cases and to stop anti-social behaviour.

Clear records will be maintained of performance on both casework and local strategies so that the organisation's actions can be scrutinised and regular reports on these to the Board will ensure that the organisation and its officers can be held to account.

### **Empowering and reassuring residents**

SLH recognises that its residents are the most valuable partners in its work to tackle anti-social behaviour. The engagement of residents is critical to the success of such action. Residents have the experience which can provide the evidential base for appropriate and proportionate action which meets the needs of the whole community. SLH respects the expectation of the communities it serves that it will use its authorities and status on behalf of residents.

In order to make itself accountable to them, SLH will communicate its policy statement to its residents so that they can judge its performance against its stated objectives.

Most importantly, it will ensure that, when they experience it, residents know that they have access to properly trained staff who will hear and understand the impacts of anti-social

behaviour and how to respond proportionately and quickly to prevent its repetition and to act to protect the complainant.

Before starting any programmed maintenance or estate improvements, SLH will take into consideration the views of residents on factors which might contribute to anti-social behaviour and nuisance and which can be ameliorated through adjustments to schedules of work within available budgets and contractual timescales. Residents' expressed concerns on anti-social behaviour will be a significant driver in the establishment of maintenance and development programmes and all future reports to the Board on such activities will carry a section which details implications for residents' security and well-being.

SLH recognises that its credibility and the confidence of residents in its commitment are intertwined. To develop both it will ensure that, whenever action is taken, local residents are informed of this action. In cases where this action includes securing Court Orders, SLH will publish the details of these orders to the affected communities, enabling them to take back control of their streets and estates in active and meaningful partnership with the organisation and with other support and enforcement agencies. Further, SLH will ensure that a digest of all current cases is included in all its newsletters. Residents in all areas will be shown the working, practical commitment of the organisation to their safety and well being and the part that they can play in stopping anti-social behaviour where they live.

## **Prevention and early intervention**

SLH recognises that the effective exercise of its landlord function provides a substantial opportunity for prevention of anti-social behaviour. Such good housing management includes simple and straightforward practises adopted by SLH.

All new tenancies will be Introductory Tenancies, ensuring that any early problems in a tenancy can be addressed robustly and authoritatively, with the credible sanction of tenancy termination for any tenant who fails to comply with the standard of behaviour expected of SLH's tenants.

All letting interviews will include a clear account of the tenancy agreement provisions on anti-social behaviour and' SLH s commitment to its residents' peaceful and quiet enjoyment of their homes.

Allegations of breach of tenancy will be investigated and evidence of breach acted on quickly.

Interventions will be proportionate to the behaviour complained of and to its effect on witnesses and/or the wider community. They will include early stage warnings and letters where such interventions are appropriate and, in the most serious cases, applications to the Courts without warning to the perpetrators in order to provide urgent and effective protection to witnesses under threat.

SLH will work with partner agencies tasked with the support, diversion and rehabilitation of perpetrators of anti-social behaviour. It will make referrals to such agencies through case referral groups and channels. SLH will expect the intervention of such agencies to have an early effect on the behaviour of their clients. In the absence of improvement in this behaviour, SLH will move forward using proportionately such interventions as are available to it to protect the health and well being of its other residents.

To establish reasonable standards of behaviour for both families and individuals causing harm to the rest of the community, SLH will be an active and facilitating partner with Education, Children's Services and the Youth Offending Service in the use of Parenting Contracts, Parenting Orders and Parenting Courses and Acceptable Behaviour Orders.

SLH will also use the authority of the Courts to establish standards of behaviour in cases where perpetrators do not initially change their behaviour when warned to do so. It will do so

by securing Breach-of-Tenancy Injunctions, Anti-Social Behaviour Injunctions and Anti-Social Behaviour Orders. SLH expects such formal interventions to be effective and that imprisonment for breach of these orders or eviction from its tenancies will rarely be necessary.

SLH will use the opportunities provided by successful legal action to give clear messages to residents that it will not tolerate anti-social behaviour. In doing so it will:

- Seek to build communities' confidence and resolution to act as partners with agencies, acting to stop anti-social behaviour.
- Seek to inform likely perpetrators of anti-social behaviour of the consequences for them of involving themselves in such activity and seek to deter them from engaging in poor and damaging behaviour.

SLH will use occasional development projects and regular programmed maintenance to improve the hard and soft aspects of its estate environments so as to reduce the opportunities for anti-social behaviour and to address the challenges presented by previous design decisions.

## **Tailored services for residents and provision of support for witnesses**

SLH is clear that everybody has the right to quiet enjoyment of their home. By its actions, it will demonstrate that it will not tolerate any anti-social behaviour that affects its residents, their families or visitors or anyone going about their lawful business on its estates.

SLH will work with residents and with other agencies to ensure that its services to tackle anti-social behaviour are relevant and meaningful to residents, meeting their needs in ways that they recognise as being effective.

SLH recognises that, in tackling anti-social behaviour, at the core of its relationship with residents is the issue of trust. SLH will demonstrate its trustworthiness by putting the safety and well being of witnesses and the communities around them at the forefront of its casework.

SLH will act within agreed timescales to contact witnesses, understand the complaint and investigate the allegations. It will agree action plans with witnesses and act with such discretion as is appropriate or is agreed with the witness as being necessary for their safety and well-being.

SLH will exercise judgement as to the facts of each case and the appropriate and proportionate action required to stop the anti-social behaviour.

In all cases SLH will seek to act as quickly as is reasonable possible within the constraints of its resources to end the behaviour which is complained of. It recognises that, for witnesses, worry and apprehension about likely repetition of the behaviour are serious contributing factors, intensifying the experience of anti-social behaviour.

Where it seems likely that mediation will ameliorate the harm experienced by the witness, it will be offered. Where this is unlikely, it will not be offered.

SLH will act with the witness, the Police and other support and enforcement agencies to inform and update, to support and protect witnesses. It will identify key stages of casework which are sensitive and always seek to ensure that the witnesses' safety and well-being are first considerations in deciding any action to move cases forward.

In any circumstance where a witness is assaulted or threatened, SLH will immediately consider securing either an Injunction with a Power Of Arrest or an ASBO, without notice to the perpetrator so as to provide maximum protection for the witness from the Court.

SLH will only consider rehousing witnesses or perpetrators of anti social behaviour as a way of resolving the complaint in the most extraordinary and exceptional circumstances.

SLH will make arrangements as necessary to remove any obstacles, which may prevent any tenant and/or leaseholder accessing this service including; offering translation services, offering same sex interviews etc.

## **Support to tackle the causes of anti-social behaviour**

SLH will work with the relevant agencies to ensure that its staff can identify the appropriate referral agencies for drug or alcohol support and the service contacts for mental health and community care services. It will also work with the local CDRP to support any tenancy support service or family intervention projects established by them. SLH works with a wide range of partners to tackle and prevent anti-social behaviour.

- **South Lakeland Crime & Disorder Reduction Partnership** – This statutory partnership is led by the Police and South Lakeland District Council. As well as SLH, partner agencies include Cumbria Fire & Rescue Service, Cumbria Primary Care Trust, the Youth Offending Service, Connexions, Cumbria Probation Service and Education Welfare. Members develop strategies to tackle crime and disorder within the South Lakeland district. SLH participates in the realisation of these strategies with active contribution to the following delivery teams:
  - ASB Task Group
  - Hallgarth Working Group
  - Criminal Damage Task Group
  - Domestic Violence Task group.
- **Cumbria Constabulary**
  - StreetSafe Operations - These operations are organised by the police. An environmental audit is done before the StreetSafe operation takes place, and environmental maintenance tasks identified for individual partner organisations. The operation itself consists of officers from partner agencies walking the designated area and calling at residents doors to complete a short questionnaire to identify residents' concerns. Finally, any follow up action required is taken by the appropriate agency.
  - Multi Agency ASB Case Conferences - These are held once a month and SLH refers cases where it requires the engagement of a partner service.
- **UPACT (Ulverston Partnership Action Community Team) meetings in Ulverston**  
Police led multi agency group who meet quarterly to discuss and agree action to tackle and prevent anti-social behaviour. UPACT involves Head Teachers from local schools, Young Cumbria, SLH and local Councillors.
- **Cumbria Fire & Rescue Service** - Regular quarterly liaison meetings to identify and agree action on anti-social behaviour affecting both services.

- **Hallgarth Young Peoples' Organisation (HYPO)**  
This group promotes youth activities which will positively engage young people and act as diversions from potential anti-social behaviour. The partners include Cumbria County Council, Young Cumbria, the police, registered social landlords, South Lakeland District Council, and community volunteers.
- **Resolve Mediation Services**  
In appropriate cases SLH will suggest that tenants try mediation as a first step in resolving low level complaints of neighbour nuisance and anti-social behaviour, including; noise, children's behaviour, issues with pets and garden/land disputes. Senior Housing Officers refer cases to Resolve Mediation Service, based in Cumbria, for 'community mediation' designed for disputes between neighbours and for community groups.
- **Child Protection Meetings** - These are called as and when required to discuss individual families where children may be at risk and to allocate tasks to relevant agencies. Such matters will be taken into consideration in the development of casework strategies in cases of anti-social behaviour with a view to creating packages of intervention which will reduce the possibility of offending behaviour.
- **Vulnerable Adult Protection Meetings** - These are called as and when required to discuss individuals and vulnerable adults with Cumbria County Council Adult Social Care. As in the case of children at risk, such matters will be taken into consideration in the development of casework strategies in cases of anti-social behaviour with a view to creating packages of intervention which will reduce the possibility of offending behaviour.

## **6. Categories of Anti-Social Behaviour & Prioritisation of Anti-Social Behaviour Casework**

SLH is committed to appropriate and proportionate action in all reported cases of anti-social behaviour. It recognises that, on some few serious occasions, communities need to see that they are protected urgently through the fast use of legal action, but that in most cases early and authoritative interventions by way of explanation and warning will be enough to stop the offending behaviour. In order to better monitor and improve its own performance SLH has reviewed its way of recording and establishing priority for individual cases reported to it by residents. In doing so it will bring itself into line with the Respect Standard for Housing Management and provide staff with a clear set of rules on how they should approach casework.

### **Categories -The National Standard**

Communities and Local Government has developed some best practice on performance measures for organisations to help them develop and improve their anti-social behaviour services. This includes the establishment and use of specific categories of anti-social behaviour to identify and record the incidence of various types of behaviour which are reported by communities as causing nuisance, annoyance, alarm or distress to residents. These are:

- A. Noise.
- B. Verbal abuse/harassment / intimidation / threatening behaviour.
- C. Hate related behaviour (bases on Race, sexual orientation, gender, disability, religion, age etc).

- D. Vandalism and damage to property.
- E. Nuisance caused by the inappropriate keeping of pets and animals.
- F. Nuisance from vehicles.
- G. Drug dealing, Drugs/substance misuse related.
- H. Alcohol related.
- I. Domestic abuse (including physical violence).
- J. Physical violence other than domestic abuse.
- K. Littering / dumping rubbish / fly tipping.
- L. Garden nuisance.
- M. Misuse of communal areas / public space / loitering.
- N. Prostitution / sexual acts / kerb crawling.
- O. Criminal behaviour and crime (other than those set out above).

This categorisation is a part of the Government's development of the **Respect Standard for Housing Management**. The adoption of this way of identifying and recording of anti-social behaviour will assist SLH to meet this standard and to analyse and compare their experience of anti-social behaviour in particular or different areas or against the experience of other organisations, locally and nationally.

### **Prioritisation**

SLH distinguishes between categorisation of types of anti-social behaviour and the priority given to complainants according to the seriousness of the behaviour complained of and its effect on the complainant.

For example: The category of nuisance complained of may be noise nuisance. Early reports of noise nuisance disturbing a single neighbour should be investigated seriously and appropriately. Proportionate action should be taken to challenge any neighbour who is behaving thoughtlessly. On the other hand, someone who has been regularly playing very loud music directly into a communal space into the middle of the night (to the disturbance of residents and of their children's sleep) should be the subject of a proportionately firmer and faster response from SLH - a response which guarantees to the harmed community that there will not be a recurrence of such behaviour. The priority given to action and the action itself will be appropriate and proportionate to the case.

It is both sensible and professional to make such distinctions. These require the exercise of judgement and sometimes the advice and assistance of line managers, which should always be sought if the front line officer is unsure how to proceed in the particular case.

### **Levels of priority – Speed and content of responses to ASB**

SLH has established 3 clear levels of priority. The priority level which is assigned to a case will indicate:

- The speed of action.
- The kind of action.

- The reasonable expectations which the complainant might have for action to stop the anti-social behaviour.

For each priority level there is a required timescale and some guidance regarding the appropriate action, as follows:

1. **Priority Level One** This is likely to be assigned to action to deal with serious criminal activity which is creating fear, alarm and anxiety in the community to one or more people (those affected may be residents or visitors or people providing services to the area). Such activity will include assaults, dealing in or reckless and dangerous public use of Class A drugs and drugs paraphernalia, sexual offences, racist and other hate crime (including graffiti), violence to person or property (including domestic violence).

Action will include an attempt to speak to complainants on the day of the complaint to establish facts. If this is not possible an appointment will be offered to enable an interview to be completed within 24 hours of the complaint being made. In circumstance where the front-line officer considers that there is a risk of repetition which leaves the complainant at risk of serious harm, consideration will be given to urgent applications to the Court without notice to the perpetrator for appropriate orders to restrain their behaviour. In such circumstances the complainant's situation will be referred to the local Police by the Officer managing the case and consideration will be given to providing out of hours support to the complainant. Such urgent action will be immediately followed through with a fuller investigation of the complaint including the interviewing of the alleged perpetrator and other residents.

2. **Priority Level Two** This is likely to be assigned to action to stop frequent or persistent anti-social behaviour which is causing nuisance, annoyance or distress to one or more people in the area (to residents, visitors or service providers). Such activity will include bullying, aggressive, rude and offensive behaviour and language, non-dangerous damage to property, obstructive and threatening gatherings, noise- nuisance affecting immediate neighbours, inappropriate use of public spaces including stairwells, gardens, parking areas and forecourts, fly-tipping, the abandonment or constant repairing of vehicles, graffiti which is not hate-based.

Action will include the offer of an appointment to enable an interview with the complainant to be completed within 3 working days of the complaint being made. The interviewing officer will exercise judgement, and (if necessary) seek their Supervisor's advice, as to whether the case merits a higher level of priority for action because of particular circumstances which come to light during the interview. Otherwise, should the case retain Priority Level Two, the Officer managing the case will investigate the allegations. Their investigation will include interviewing the alleged perpetrator, getting their response to the allegations and exercising a judgement as to whether the complaint is valid. Should this be the case they will warn the perpetrator that they must not repeat the behaviour and that they will be held to account for any damage already caused. If the perpetrator recognises the harm and apologises for the behaviour then mediation and/or reparation may be appropriate. If they do not, and then repeat the behaviour, then legal action may be required to stop further repetition or to recover costs for damage.

This priority is also likely to be assigned to cases where the behaviour complained of is apparently petty and trivial. These are often particularly difficult cases to deal with and can take time, which seems disproportionate to the harm being caused. However, proper investigation and record keeping is a sensible response as a means to identifying appropriate action. Also important is the understanding of the impact of persistence in the case of low levels of anti-social behaviour and the potential consequences of deterioration in the relationship between neighbours. In such cases an unequivocal account of the perpetrator's responsibility under any tenancy or

leasehold agreement should be given to them and an attempt made to resolve the case through active mediation and reconciliation.

3. **Priority Level 3.** South Lakes Housing will operate a 'proactive' estate management service to all its properties. Housing Officers will maintain a high profile on the areas that they manage by carrying out routine tenancy visits, estate inspections, accompanied viewings, settling in visits, 9 month introductory tenancy visits and biennial visits to all tenants. Each Officer will play an active role in monitoring the overall appearance of their estates. Any complaints reported to the Housing Officer should be investigated within 10 working days.

Areas for particular attention include:

- a. **Individual tenants' gardens** (looking at condition, maintenance, unauthorised structures, boundaries, fences and hedging etc.).
- b. Communal entrances and hallways.
- c. Garages, parking spaces and associated areas.
- d. Open spaces – communal gardens, green areas, verges etc.
- e. Excessive and persistent car repairs being carried out.
- f. Street lighting, sign posts and street furniture.
- g. Abandoned vehicles.

Any problems that occur will be acted upon by the Housing Officer concerned, either through direct action or by referral to another section or an outside agency.

The appearance of graffiti on any SLH building, boundary wall, garage or structure will be reported for immediate removal. SLH believes that the swift removal of graffiti not only maintains a pleasant environment for local residents, but also prevents further graffiti from appearing on the estate.

Similarly, unauthorised dumping of rubbish in communal areas or open spaces will be reported for immediate removal.

In all cases, every effort will be made to identify the culprit so that the appropriate action can be taken to prevent further occurrences.

Housing Officers will work in partnership with other agencies to ensure prompt action is taken wherever problems occur. For example, where abandoned vehicles appear on one of our estates so that the vehicle can be removed as soon as possible.

### **Time Scales for Action on Tenancy breaches**

Following a substantiated complaint, tenants who are breaching their Condition of Tenancy will be given a set time scale in which to conform to them.

South Lakes Housing will issue a first written warning requesting the tenant to cease causing the nuisance, and advising them (if appropriate) that they are in breach of their Conditions of Tenancy.

A follow up visit by the Housing Officer will then be carried out to check if the tenant is complying with their Conditions of Tenancy. The following are examples of the type of

circumstances where there is a warning will be issued and the time scales in which the tenant is expected to comply.

**14 days to comply:**

- a. Remove garden rubbish or scrap accumulation.
- b. Untidy gardens/overgrown hedges.
- c. Apply for permission for unauthorised alterations.
- d. Remove illegally parked cars.
- e. Remove motor bikes & other obstructions from communal areas.

SLH will continue to monitor any nuisance after a warning letter has been issued and will continue contacting the complainant (if any). Where a warning has failed to prevent further nuisance or where the tenant is still breaking their Conditions of Tenancy a second warning letter will be issued threatening legal action, which could include an Injunction, serving of a NoSP's, or a request for a demoted tenancy.

SLH will continue to liaise with the complainant and monitor the situation if the problem persists, and there the tenant is still breaking their conditions of tenancy, the appropriate legal action will be commenced.

Throughout the process a case file will be opened for all complaints and updated regularly. This is for monitoring purposes. In addition complaints must be discussed at 1:1 meetings with the line manager.

## **7. ASB Database and Paper Case Files**

The ASB Database currently being used by SLH is under review. As part of this review, a recommendation will be made to develop a database that will, for all cases:

- Record the initial report
- Accept, by input, the priority to be given to the case
- Provide a case management tool by way of prompts for any required action not met within agreed timescales
- Complement the use of the individual ASB Case File to manage cases
- Store a variety of inputted data records for all cases including
- Dates of key actions
- Categories of anti-social behaviour
- Location of anti-social behaviour
- Names and addresses of complainants and witnesses
- Names and addresses of perpetrators
- Facilitate analysis and recovery of data and report writing.

The paper Case File is a key document which will often carry sensitive and confidential information, sometimes provided by other agencies. All parties have a right to expect that SLH will treat such information with the highest levels of care and respect.

Accordingly all Case files and associated materials should, when not actively being worked on, should be locked away in a secure, dedicated filing cabinet. In effect staff should operate a clear desk policy with such paperwork.

## **8. Procedure**

### **Section A - Receiving and recording complaints**

A report may be received from a variety of sources, including:

- A resident.
- A member of the residents family.
- A person who is not resident on a SLH estate.
- Another organisation, such as the Police or South Lakes district Council.
- A Board Member or a locally elected representative such as a Councillor or Member of Parliament.

A report may be received in a variety of ways, including:

- In person.
- By telephone.
- By e-mail.
- From a third party; this may be relevant for a complainant who might have difficulty in contacting South Lakes Housing in the normal way.
- By letter, from the resident or on their behalf (from a Solicitor, for example).
- Anonymously.

A variety of employees may receive reports of ASB incidents, but the main ones are:

- A Senior Housing Officer.
- A Housing Officer.

All of these employees have access to the ASB database, and will receive training on SLH's policy and procedure. It is the responsibility of the officer receiving details of the incident to ensure that the ASB database records details of the incident. All reports of anti-social behaviour should be recorded on the ASB database and a priority level assigned in accordance with the apparent seriousness of the complaint. If the officer taking the report is unsure as to the appropriate priority they should speak to their supervisor and enter the priority as directed by them.

## **The Case Manager**

For the purpose of this document, the case manager is the person who has the main and continuing responsibility for supporting the complainant, who will be responsible for taking action to stop the anti-social behaviour and who will have ownership in terms of the development of the case and the management of any orders secured in the Court to protect members of the community.

## **The ASB Case File - Using the Case File**

In every case an ASB Case File will be opened and completed at appropriate stages as the case progresses, by the designated case manager who, in most cases will be the front-line Housing Officer for the area where the complainant lives.

This Case file will be the key working paper document for the case and should be kept secured at all times it is not being worked on. It is a preformatted printed document which sets out the key questions which need to have been answered should South Lakes Housing need to consider legal action and which will guide the case manager efficiently through the essentials of the procedure to achieve this information and to conduct an effective investigation into the complaint.

The Case File is used to:

- Record the facts of the case – names and addresses of complainants, witnesses, perpetrators.
- Set out the initial complaint.
- Record the commitments made by both the case manager and the complainant in the Action Plan section of the file.

## **Anonymous report**

A report should not be ignored simply because it is anonymous. Information secured from such sources may provide triggers to further investigation or material for community impact statements in circumstances where residents could credibly be considered as being likely to be too frightened to identify themselves.

If it is possible to check and professionally witness the ASB – unauthorised car repairs and graffiti, for example – the case manager should tell the perpetrator, if known, that they witnessed the ASB themselves. If the allegation is not easily substantiated, the case manager should discuss a course of action with their line manager.

Discretion and great care should be exercised before discussing anonymous allegations with neighbours or residents nearby, as it might result in misunderstandings and problems for the person against whom the allegation has been made, particularly if the allegation turns out to be untrue.

Even if no action is taken, the anonymous report should be recorded on the ASB database against the alleged perpetrator's address, in case any further linked reports are received.

## **Contacting the complainant**

On receiving a complaint of anti-social behaviour, the case manager should:

- Review the priority established by the entry onto the Database.
- Respond within the timescales required to meet with the complainant.
- Open and begin completion of a Case File.

- Secure and enter onto the Case File the required details of the complainant, the nature of the complaint and any available detail concerning the perpetrator.
- In all cases explain the importance of capturing information as the basis for dealing effectively with anti-social behaviour.
- Explain the use of the Diary and talk through with the complainant the importance of getting all the detail requested into the Diary as quickly as possible after any incident.
- In particular, stress the importance of recording in the Diary the impact, individually and cumulatively, of the incidents of anti-social behaviour on the complainant's well-being and/or health.
- In cases where the behaviour described appears dangerous, take a statement from the complainant which describes this behaviour and ask the complainant's permission to approach the police. If they refuse permission, in such circumstances, discuss the situation urgently with the line manager. In some circumstances it will be better to risk the organisation's relationship with the complainant rather than risk their safety.
- In such extreme cases, discuss the complaint with the line-manager and establish whether it is appropriate for South lakes Housing to seek an urgent order of the Court to protect the complainant – the Court may grant this without naming the complainant.
- In all cases agree with the complainant a case review date as part of an Action Plan for management of the case.

It is important that, following an allegation of anti-social behaviour, there is continuity in communication with the complainant. Some sensitive details of the specific action might not be communicated so as to comply with data protection requirements (for example where the Case Manager has been made aware in confidence of some health issue relating to the perpetrator which is confidentially provided by health services). However, regular contact with and reassurance of the complainant that action is ongoing is a requirement of this procedure.

The complainant and witness must be kept informed if a case appears to be progressing to legal proceedings. Their engagement with any action is critical to its success and every effort should be made to support them as witnesses.

### **Interviewing the complainant**

Skilful interviewing will help the Case Manager to obtain an accurate picture of an incident and, if immediately necessary to construct a statement of what has already happened. In essence, there are 6 main questions to be considered:

- **What is the problem?** Is the problem that has been reported the main problem?
- **Who is affected and how?** Are there more people affected than the complainant? The greater the number of witnesses, the greater will be the amount of supporting evidence. The impact on complainants and witnesses may be critical to any decision of a Court.
- **Where does it occur?** Accurate details are vital in evidence, and may lead to other potential witnesses.
- **When does it occur?** Again, accurate details are vital in evidence.

- **Why does it occur?** This may be just the complainant's opinion, but will help in deciding if ASB is harassment.
- **What does the complainant expect?** This allows an initial assessment of whether the complainant's expectations are reasonable and realistic.

The Case Manager should be wary of making promises that are impossible to fulfil; they should:

- Be flexible and generous in trying to get the complainant's point of view.
- Not take sides without considering the facts carefully as this might make matters worse if they (the case manager) have a change of opinion later.
- Assess what action might be appropriate.

The following points should also be considered, no matter where the interview is conducted:

- **Suitability of location:** the interview location should be comfortable and safe for the complainant. The case manager needs to bear in mind that the complainant may or may not be more comfortable to be interviewed in their home. The nature of the case may mean that a home visit is inconvenient or inappropriate. If in doubt, the case manager should ask the complainant where they would prefer to be interviewed.
- **Family or friend:** the complainant may feel more comfortable if they're accompanied by a family member or a friend.
- **Presence of another South Lakes Housing employee:** the case manager should consider whether it would be appropriate for them to be accompanied by a colleague, for the case manager's comfort, or for that of the complainant. The case may be so serious as to require the presence of a colleague at the interview.
- **Presence of a representative from an external agency:** in the case of Priority 1 cases, it may be advisable or appropriate, if the complainant agrees, for a representative from an external agency, such as police or Victim Support, to be present at the interview.
- **Listening:** a vital feature of the interview is that the interviewing officer **listens** to the complainant. If necessary, they should prompt the complainant for the necessary information and clarification.
- **Records:** the case manager should accurately record the information given—and use the Case File.
- **Discretion:** the case manager should at all times have regard to the sensitivity of some of the information which might be provided during an interview and be careful not to share this information inappropriately (particularly with a perpetrator at a warning interview).

## Action plan

An action plan is a critical part of SLH's casework on anti-social behaviour. During the initial interview with the complainant, it is important to develop an action plan or, at subsequent meetings to amend an existing action plan so as to reflect changing circumstances, and it is important to ensure that the action plan is agreed and understood by the complainant.

The action plan lets the complainant know what action the case manager will take. It is equally important for the complainant to agree what action they themselves will take – to keep a diary, to themselves speak to the perpetrator, to seek assistance from any other relevant service, not under any circumstances to retaliate etc. The case manager should seek to establish that the complainant is aware of, and agrees with, the action, which the case manager will take. In some cases, it may be possible to draw up a definite action plan; in others, however, further investigation might be all that is agreed. Even if that should be the case, the action plan should reflect it, and should give a timescale for the completion of those enquiries and reporting to the complainant on the progress made.

The Database should record the developed action plan. If action has been taken on a case, the notes, including interview notes, should be recorded in the Case File, as should the action plan which should be signed by the complainant.

If the case manager cannot agree with the complainant on the content of the action plan and timescales, the case manager should discuss the case with their line manager.

### **Altering the action plan**

In some cases, it may be necessary to alter the action plan from time to time. It is important that this be recorded, and the complainant be advised and given the opportunity to agree to it; in this way the complainant is aware of the change and there is supporting documentary evidence. The timescales for the changed actions should be reasonable, and should reflect the gravity of the incident.

### **Action plan: example**

This indicates how an action plan might appear:

Mr A complained about the loud music played by Mr & Mrs Z's son while Mr & Mrs Z were away and their son alone in their property.

The Case Manager will check with other neighbours to find out if they also have been disturbed.

The Case Manager will interview Mr & Mrs Z to discuss the matter; the interview will take place in the next 7 days.

The Case Manager will check also with the Police, who were called to the property that weekend.

Following the interview, the Case Manager will provide Mr A with an update on the action taken.

Meanwhile, Mr A will keep a diary of the times and dates of any repetition of the nuisance and any effect on himself or members of his household.

### **ASB Incident Diaries**

The case manager should, from the start, encourage the complainant to keep a record of the incidents of anti-social behaviour that affect them, and any supporting witness to keep a record of the incidents of anti-social behaviour that they have witnessed. This record should, whenever possible, be kept in the SLH ASB Incident Diary which should be given to the complainant at the first interview when the Case File is started and the action plan agreed with the complainant. The Diary is a critically important document. It should not be forwarded by post but handed to the complainant at the first interview when the case manager should stress the seriousness of keeping a record of incidents. The case manager should check the early entries in any diary to ensure that the information being kept is both relevant and precise and in particular reflects any impact on their well being. At the interview where the diary is handed over, the case manager should make an early future appointment to do this.

### **Investigation: general**

The case manager may not always be the officer who recorded the initial details of the ASB incident. Accordingly, it is important that the ASB database contain as much information as possible. If the record on the ASB database was not made by the case manager, it is the responsibility of the officer who recorded the initial details of the complaint of anti-social behaviour to ensure that the case manager is aware of the incident, the record on the database and the priority level established for the case.

The seriousness of the incident will determine the priority given to the case and therefore the timescales involved in responding.

SLH will investigate every report of an incident of ASB or nuisance:

- The investigation will be conducted by the case manager who will, in most cases, be the front-line Housing Officer.
- In the first place, this officer will assume that the report is justifiable but will be clear for themselves and with the complainant that they must conduct an investigation before taking any action appropriate to stop the behaviour.
- A report may be received verbally or in writing from the principal complainant, or from a person acting on their behalf.
- The case manager will explain SLH's policy on anti-social behaviour and, initially, will take a brief verbal statement which will be recorded promptly on the ASB database under the relevant category (or categories) with any amendment to the initial prioritisation should this be appropriate.
- Only in cases where the complainant is at serious risk, and only with the authorisation of the Housing Manager, will any action be taken before the alleged perpetrator has been interviewed.
- Where the case involves criminal damage, the case manager should secure from the complainant a Police Crime Reference Number to support, where appropriate an insurance claim by SLH.

In some cases, the case manager may consider making a visit outside office hours - to hear loud music, for example. They must always agree such a visit with their line manager for reasons of health and safety. Visiting outside office hours may provide vital supporting evidence. In some cases, it may be appropriate to seek the presence/assistance of the Local Authority's Environmental Protection Team and/or the Police.

Investigation should start at the earliest possible time after receipt of the report, and should be conducted with all reasonable speed, using the prioritisation timescales as maximum time limits for investigation in all but the most complex cases, before a decision is made or recommendation is given on the action to take:

### **Investigation: Level 1 Priority**

The case manager will:

- Establish whether there is any danger to the complainant and, therefore, whether any urgent legal action is required before the alleged perpetrator is notified of the investigation.
- Otherwise visit or interview the complainant within 1 working day.

- The case manager will attempt to seek corroborating information from neighbours and/or witnesses, and about/from the perpetrator.
- The complainant should be advised to report the incident to the Police immediately if any party suspects that there has been criminal behaviour or activity.
- In the absence of any requirement for immediate protection of the complainant an action plan should be prepared with the complainant within 3 working days of the initial visit or interview and the case manager will seek to identify and interview all interested parties.
- The complainant should be told clearly that, unless there is any reason not to do so, the perpetrator must be interviewed and must also be told that a complaint has been made so that they (the perpetrator) can give their own account of events as part of a reasonable investigative process.

### **Investigation: Level 2 Priority**

The Case Manager will:

- Visit or interview the complainant within 3 working days.
- Attempt to seek corroborating information from neighbours and/or witnesses, and about/from the alleged perpetrator.
- The complainant should be advised to report the incident to the Police immediately if any party suspects that there has been criminal behaviour or activity.
- An action plan should be prepared with the complainant within 5 working days of the initial visit or interview.
- The case manager will seek to identify and interview all interested parties in the case.

### **Investigation: Level 3 Priority**

The Case Manager will:

- Visit or interview the complainant within 10 working days.
- Seek information from neighbours and/or witnesses, and about/from the perpetrator
- The complainant should be advised to report the incident to the Police immediately if any party suspects that there has been criminal behaviour or activity
- An action plan should be prepared with the complainant within 5 working days of the initial visit or interview

### **Supporting the Complainant**

Generally, the complainant and/or witness should not be asked at the outset whether they would be prepared to attend court for legal proceedings. In the majority of cases, the matter will be resolved without the need to resort to such measures.

SLH should not take total responsibility away from the complainant. Even though SLH may help the complainant by taking on a case, the complainant should remain closely involved with and as far as possible have an active role in any action plan, which is agreed. SLH is seeking to act in partnership with its residents so that, far from being victims, they are empowered to take back control of their own lives and to be free to enjoy their homes and environment.

The complainant should be encouraged to participate fully – by keeping diaries, collecting evidence and providing supporting witnesses, for example – as well as, where appropriate, contacting the Police.

In legal proceedings, it is important that the complainant provides evidence that the perpetrator is still a problem if this is actually so when any case comes before the Court. Once again, the case manager should stress the importance of keeping the diary even after proceedings have been issued and orders obtained.

The case manager should approach the complainant in a supportive way, and should make it clear to them that the investigation assumes that the report is justified. However, they must be told clearly:

- That the perpetrator must be given an opportunity to give his/her account of the incident at the appropriate time.
- At this time appropriate discretion will be exercised to protect the complainant and such discretion may limit the range of action available to .SLH.

Where necessary, SLH must take quick, responsive action in an incident of harassment or victimisation, violence or threat of violence or to deal with incidents of hate behaviour, to protect the complainant from repetition of the behaviour. The case manager should assess whether:

- Urgent legal action is required without notice to the perpetrator.
- The complainant may need help from other family members or Victim Support, and in such cases the case manager should offer to help with contacting them
- There are any physical measures that may be taken in the property to support the complainant whilst the investigation is ongoing. In serious cases of anti-social behaviour or harassment, it may be necessary for other agencies such as the Police to consider fitting a panic alarm, or a fire proof letter box. More basic assistance, such as the fitting of a window lock or undertaking a fence repair more quickly, may be more appropriate for SLH itself.

### **Keeping in contact with the complainant and witnesses**

The case manager should keep in regular contact with the complainant and witnesses. If it is left to complainants and witnesses to sustain contact, they may start to feel, and act, as if they are complaining about SLH service rather than about the behaviour of the perpetrator.

The case manager should:

- Enable the complainant and witness to understand that they are at the centre of the case, not to feel as if they are being 'used' or abandoned.
- Keep in regular contact with them, even daily or weekly, perhaps, **but**
- Stress the need for them to contact SLH immediately if there is a serious incident.

### **Keeping the complainant and witness informed**

Knowledge will make the complainant and witness stronger, but uncertainty and ignorance will erode their confidence and weaken SLH chances of success on their behalf.

The case manager should ensure that the complainant and witness are given:

- All of the required information, in writing wherever possible.
- A detailed timetable when legal action is contemplated and started.
- Details of any changes, new evidence, Court decisions, etc, as soon as s/he knows of them.

Before a court hearing, the case manager should:

- Where appropriate, arrange where to meet the complainant and witness to take them to court, and where to take them afterwards; transport arrangements should consider the wishes of the complainant and witness.
- Let them know how long the hearing is likely to last.
- Explain the layout and procedures of the court.
- Give a copy of the judgement or injunction to them after the court has made its decision and explain its meaning to them.

### **Making a decision**

In some cases, it is easy to make decisions on action, and conclude an investigation. If this is the case, action should be taken and recorded on the database and files as appropriate, and the case monitored for the success of the action. Other cases may be more complex, and the following points should be considered to help inform the investigation and decision:

- The existence of previous history, by checking the ASB database, files, and by asking other employees.
- The use of a professional witness.
- The use of covert CCTV and other methods of surveillance by arrangement with the Police.
- Evidence from other agencies, such as the Police and/or South Lakes District Council's Environmental Protection Group.
- No amount of investigation has helped to prove the allegation.
- Whether the report was malicious.
- That the witness is afraid to come forward.

Action should be taken only where there is proof, or where it is reasonable to believe that an incident of ASB occurred. In some cases that result in legal proceedings, the burden of proof may be with SLH accordingly, such action will require accurate and detailed evidence.

Difficult cases should be discussed with the Housing Manager, for support and advice in the determining of a case. When necessary, a Solicitor will represent SLH in cases that are put before the court. It is therefore important to ensure that the evidence collated is detailed and formatted in the appropriate way. This will help to control legal costs, increase speed of process and therefore be best value to SLH.

Where it is decided that a case is not provable, it may still be necessary to support the complainant. It may be necessary to agree a final action plan that indicates a set period for keeping and reviewing diary entries.

### **Options for resolving ASB other than Legal Action**

SLH must demonstrate by its actions that it will not tolerate ASB, and must make its position absolutely clear to its residents and to any person who seeks a SLH tenancy. The response from SLH to complaints of anti-social behaviour will range from advice or warning, through mediation, conciliation and support for the complainant's own action, to legal action by SLH on behalf of the complainant and the wider community.

It is important for staff to recognise that most reports of ASB are resolved quickly and with the minimum of action; and early stage intervention and sound advice to residents result in a saving of time and money later:

- **Diversionsary activities:** in relation to youth issues and other issues, the best solution to anti-social behaviour may be to make referrals to agencies that deflect people into activities that are positive, rather than negative.
- **Environmental improvement:** some anti-social behaviour may be caused or encouraged by poor or inadequate design. Environmental improvements that are implemented following consultation with the community may help in designing-out crime and anti-social behaviour.
- **Malicious report:** where a report is proved to be malicious, the complainant should be warned that such complaints may result in action being taken by SLH against them. In such circumstances, it is very important to update the ASB database from the alleged perpetrator's perspective.
- **No action:** it may be that no action from SLH is required. The complainant may actually request that no action be taken by SLH. In such a case, the line manager should be informed, and the entry should remain on the ASB database to assist with consideration for action should further complaints be made or issues arise in the future
- **Mediation:** mediation is often a useful course of action in neighbour disputes, but requires the commitment of all parties to work. Mediation may be facilitated, and the costs met, by SLH.
- **Rehousing:** in a very small number of cases involving serious organised criminal activity where the complainant's safety is clearly compromised by life-threatening activity, the rehousing of the complainant may be the only solution. It should be seen as an urgent and immediate necessity, needs to be used cautiously and in accordance with the current Allocations Policy, and requires the Housing Manager's approval beforehand.

### **Acceptable Behaviour Contracts (ABCs)**

In certain circumstances, SLH will consider the use of an ABC. An ABC is designed to identify aspects of behaviour that are not acceptable, and requires the commitment of the offender not to re-offend. It gives the perpetrator a warning that is more official in impact than a letter, and will require attendance at a formal interview for the signing of the specially written contract.

ABCs are not only for use in cases involving children. If they are to be used for children it is most effective when other agencies, such as the Police, Youth Offending Service, schools etc are involved. Therefore, in such cases:

- The ABC should be prepared in consultation with other agencies.
- An interview should be arranged for the signing of the ABC, with the young person's parent(s) and representatives from other agencies in attendance.

An ABC may be effective in ending some forms of anti-social behaviour. It may also be useful as an evidential document in legal proceedings when it has failed to stop the behaviour.

It is important, however, to recognise that an ABC is not a cheap alternative to legal action but a serious attempt to actively engage the perpetrator in an understanding that they cannot

repeat their harmful behaviour with impunity. The implication of this is that a breach of the terms of an ABC will almost certainly result in further action and this is likely to be legal action.

### **Interviewing the alleged perpetrator - Points for consideration**

When arranging to interview the perpetrator, it should be borne in mind that:

- The tenancy history should be checked beforehand.
- They may be upset or angry about the accusation.
- They may be aggressive, so two officers may need to attend, and the interview may need to be undertaken at the office.
- Only matters that were agreed with the complainant should be discussed with them.
- The accusation may be false and/or malicious.
- Accurate notes of the interview should be made; they may have to be used in legal proceedings.
- If further investigation is required, a timetable should be agreed for its conclusion, for making a decision, and for implementing the appropriate action.

### **Invitation to interview**

An interview with the perpetrator may be arranged verbally or in writing. SLH may, in some circumstance, wish to be able to prove that the perpetrator has received the invitation letter and if this is the case the case manager should deliver it personally and actually hand it to the perpetrator and keep a note on file that they have done this. Normally, the perpetrator should be told the reason for the interview, but there might be situations in which the interview should be undertaken quickly by a 'cold-call' visit.

### **The warning interview**

A perpetrator of anti-social behaviour might be a tenant, a leaseholder, another resident or a visitor to or member of their household. The perpetrator might also not have any association with any of these but be causing harm to them. In all these cases, SLH can act to protect those affected by the anti-social behaviour.

The following procedure should be followed in interviewing an alleged perpetrator. (Also, in the case of a juvenile perpetrator, the case manager should consider the urgent involvement in the interview of parents or the responsible adults, Police, YOT, Parenting Officers or Education specialists with active knowledge of the case.)

- The case manager should give the alleged perpetrator, in straightforward language, a full account of the law which will be used against them if evidence of anti-social behaviour is established, and the implications for them – orders which can be made – consequences for breach of orders (imprisonment, loss of home etc).
- The case manager should tell them the allegations. The account of these (and consequently the range of SLH's available responses) may be limited by the case manager's need and determination to protect vulnerable complainants. The case manager must protect their witnesses and may therefore have to generalise and anonymise the allegations.
- The case manager must ask for the alleged perpetrator's response and keep notes of this – the response may provide evidence of their active aggression or of, for instance, racist or homophobic attitudes – it may alternately give the case manager reason to believe that they are unlikely to be involved in the type of behaviour

complained of – in any case, the case manager’s record of this response is very important and should be made during and immediately after the warning interview.

- At this point the case manager must exercise a judgement as to whether the allegations are credible. If the case manager believes this to be the case they should proceed as follows:
- **THE WARNING** – The case manager should tell the perpetrator that the complained of behaviour is unacceptable, will not be tolerated and is being considered as the basis for legal action against them. The case manager should explain that it is entirely in their interests not to engage in such behaviour in the future. The case manager should be clear that this is **not** a “final” warning which effectively dismisses or “forgives” all previous anti-social behaviour – the perpetrator must understand that, if they have already crossed a line of reasonable behaviour. SLH may use evidence of this misbehaviour alone or in addition to future behaviour to take legal action against them. The case manager should advise the perpetrator strongly to seek his or her own independent legal advice and representation.

The case manager should confirm the detail of each of the above five stages in a letter to the perpetrator to be sent immediately after the interview. The case manager should also consider whether or not they need to serve these letters by use of a process server so that they have evidence of service for any future legal process.

In the case of juveniles, the case manager should ensure that a copy of the letter is forwarded separately to the appropriate adult. The case manager should also consider whether personal service of the letters is necessary to provide future proof of receipt.

### **Willingness of complainants and witnesses to attend court**

Generally, the complainant and/or witness should **not** be asked at the outset of an investigation whether they would be prepared to attend court should legal proceedings take place as, in many cases, the matter will be resolved without the need to resort to such measures.

In considering whether to resort to legal proceedings, SLH must bear in mind the complainant’s/witness’s developed capacity to act in such circumstances:

SLH has a specific responsibility to work to develop this capacity by building the complainant’s/witness’s understanding and sense of control, confidence and strength of purpose.

### **Use of professional witnesses**

SLH may consider employing a professional witness where there is evidence of the likelihood that intimidation of a complainant and/or witness could occur. It is however important to remember that there are many service providers exercising a professional presence in and around SLH stock and these can all act as professional witnesses, providing to the Court their professional rather than their home addresses. Moreover, witnesses such as Police Officers carry great weight before the Court and should be engaged and encouraged to support legal action being taken by SLH on behalf of vulnerable witnesses and communities.

## **Section B – Legal Proceedings**

### **Considering legal proceedings**

When considering legal proceedings, the Housing Manager should review the evidence to determine whether a case can be proved at a court hearing and, if appropriate, instruct a Solicitor. Urgent legal proceedings are appropriate in circumstances where the anti-social behaviour include violence, threats of violence (including domestic violence) or hate

behaviour. More generally, legal proceedings will be appropriate when perpetrators have refused to change their behaviour when warned to do so and continue to cause harm within the community.

## **Tenancy conditions and legal action – The Tenancy Agreement**

Some (though not all) legal action available to SLH depends substantially on its contract with the tenant, the Tenancy Agreement. The relevant clauses of SLH's Tenancy agreement are given below:

**2.0** *"We believe every tenant has the right to peaceful enjoyment of their homes. We believe everybody has a right to live in their home and enjoy life in their own way, providing they do not upset or annoy people living near them. A good neighbour will not cause a nuisance and will also be tolerant and understanding of the different lifestyles each person chooses".*

**You are responsible for** the behaviour of every person (including children) living in or visiting your home. You are responsible in your home, on surrounding land, in communal areas (stairs, lifts, landings, entrance halls, paving, shared gardens, parking areas) and in the locality around your home.

If you (or anyone living with you or visiting your home) break any of the following conditions of tenancy we may seek to repossess your home by obtaining a Court Order or we may take any other action or legal action we think appropriate.

### **2.6 Nuisance**

**You** (or anyone living with you, or visiting your home) **must not** cause a nuisance annoyance or disturbance to any other person. Examples of nuisance annoyance or disturbance include:

- Loud music; arguing and door slamming; dog barking and fouling; offensive drunkenness; selling drugs or drug abuse; rubbish dumping; playing ball games close to someone else's home

### **2.7 Harassment / Hate-related incidents**

**You** (or anyone living with you, or visiting your home) **must not** harass, intimidate, threaten or verbally abuse any other person.

Examples of harassment include: racist behaviour or language; using or threatening to use violence; using abusive or insulting words or behaviour; damaging or threatening to damage another person's home or possessions; writing threatening, abusive or insulting graffiti or literature; doing anything that interferes with the peace, comfort or convenience of others.

**You** (or anyone living with you, or visiting your home) **must not** take part in hate-related incidents of any kind (e.g. related to race, sexual orientation, gender, disability, religion, age, etc).

### **2.8 Domestic Violence**

**You must not** inflict domestic violence, threaten violence or use mental, emotional or sexual abuse against your partner, ex-partner or another member of your family or household.

### **2.9 Abuse of SLH or Council Employees**

**You** (or anyone living with you, or visiting your home) **must not** subject SLH or Council employees, agents, contractors or Councillors in the course of their duty to any physical or verbal abuse.

Physical abuse includes any actual or threatened assault, attack, violent act, or aggression.

Verbal abuse includes any unreasonable and/or unlawful verbal attack which is intended or likely to alarm, distress or intimidate.

**You** (or anyone living with you, or visiting your home) **must not** use your home or any communal area or any part of the neighbourhood for illegal or immoral purposes. This includes, but is not limited to, the following: dealing in controlled drugs; running a brothel; dealing in stolen goods; storage of unlicensed firearms; illegal betting and illegal gambling.

## **2.11 False Complaints**

**You** (or anyone living with you, or visiting your home) **must not** make false or malicious complaints about the behaviour of any other person.

### **Evidence and statements**

SLH recognises that legal action is a significant commitment, which requires appropriate preparation to ensure that the action in Court is successful, witness confidence, and well being is secured and costs are not wasted.

Any warning letters or letters confirming warning interviews concerning allegations of anti-social behaviour are themselves critically important evidence of the organisation's consideration of and action in a case and must be carefully filed and kept and produced as evidence in Court when necessary. Also, critical as potential evidence are any letters from specialist agencies or individuals such as doctors, which provide expert opinion or advice.

It is also important to be clear that the evidence prepared is relevant and clearly expressed. Behaviour, which is relevant for particular applications, is described below:

For the purposes of applications for injunctions, demotion or possession the evidence should always describe **behaviour which is capable of causing nuisance or annoyance**.

For the purposes of applications for ASBOs the evidence should describe **behaviour, which is likely to cause harassment, alarm or distress**.

In all cases, detailed evidence should be provided which shows the impact of the behaviour on complainants and witnesses.

In all cases, the effect on SLH's housing management function must also be evidenced by way of a statement from the case manager about the number of complaints. This statement can also be the vehicle for the account on reported distress where witnesses are too frightened to come forward or there are simply too many witnesses to reasonably bring before the Court.

Statements representing the personal evidence of witnesses should follow as closely as possible the language of the witness. They can be produced from interviews and from the text of Diaries kept by the witness. They should also reproduce as closely as possible the actual words of any offensive language which is being complained of and give precise dates times, and descriptions of the incidents which form the narrative of the statement. This narrative should be in chronological order. It does not have to contain every incident but it does have to give an authoritative and credible picture of the actions of the perpetrator and the harm caused to the witness (and, as appropriate, to their household and/or their visitors).

SLH recognises that in putting cases before the Courts it is seeking always to provide the best evidence possible. In all cases the best evidence will be evidence given in person by the witness who has been harmed by the behaviour evidenced to the Court. Therefore, SLH will do everything possible to empower, encourage and support witnesses to come before the Courts with their evidence. SLH will also support witnesses during the course of trials and after orders are made, by working with the Police and other agencies to manage the behaviour of the perpetrator using these orders as tools to protect witnesses and the wider community from repetition of the anti-social behaviour.

A part of SLH's commitment to developing the confidence of future witnesses will be the publicity to its residents of the success achieved for witnesses and communities' in particular cases, both locally and nationally. The key messages of this publicity will be that residents have taken back control of their lives by working in partnership with SLH and being prepared to act as witnesses for their community.

### **Perpetrators and special needs (vulnerable perpetrators)**

Any perpetrator who faces proceedings (for example, to end his or her tenancy) is likely to find the legal processes intimidating. Accordingly, it is essential that the investigating officer make appropriate arrangements in the case of a perpetrator with identified special needs. The investigating officer must be aware, for instance, of the potential for a vulnerable tenant to be less able to comply with the tenancy agreement, and to be more at risk of discrimination by other tenants.

A straightforward example is one in which the perpetrator does not have English as a first language. In such circumstances SLH will ensure that an appropriate translation service is available should the perpetrator be unable to understand the process or documentation.

In particular it is important for to identify early on in case investigations any issues around mental health or disability and to establish whether any anti-social behaviour is the direct consequence of such a disability.

Where the perpetrator of anti-social behaviour may suffer from a disability (within the meaning of the Disability Discrimination Act 1995) the Senior Housing Officer will undertake a DDA evaluation to consider the following key issues:

- Whether the perpetrator suffers from a disability.
- Whether the disability (if any) causes the behaviour i.e. whether the behaviour is symptomatic of the disability.
- Whether proceedings can be justified, even if the behaviour complained of is symptomatic of the disability, in the interests of or to protect from harm the tenant or perpetrator or other.
- The Senior Housing Officer must make notes of the considerations taken into account, evidence sought (e.g. evidence from neighbours that they are suffering from stress, are under GP care, or themselves suffer from a disability that is exacerbated by the behaviour of the perpetrator), and decisions made.

Special arrangements should be made for the serving of any notice of intended legal action on a vulnerable perpetrator. Information should be given in as easily-understood a format as possible, and should be plain and simple.

A method of communication should be used that will enable them to understand the conditions of the Tenancy Agreement, any complaints made about their behaviour, any action being considered and the support services that may be available for them from the Local Authority and other agencies.

The case manager may need to liaise with helpers and/or carers or, where there is no care liaison, with the relevant care agency. They should liaise with social care agencies as a matter of course in the case of a tenant::

- Who was in contact, at the start of their tenancy, with the Social Services Department.
- Who gives rise subsequently to concern.

- To whom the Local Authority has a duty of care under the terms of: The **Children Act 1989** <http://www.opsi.gov.uk/acts/acts1989a.htm>
- The case manager should liaise on a formalised basis with the social care agency, or any other appropriate agency, and should ensure that the tenant is clear about their role in resolving the problem.

It is essential that the case manager recognises the potential for reports against a resident whose behaviour may be different through no fault of their own, and that they ensure, as far as practicable, that the tenant is not subjected to discriminatory reports. They should:

- Handle any report with sympathy, and encourage an understanding attitude from neighbours.
- Consider serving notice of intention to seek possession only after the report has been investigated and eviction is deemed appropriate.
- Ensure that they have reasonably attempted to assist the vulnerable tenant, and that there is evidence to prove this.

All this must be taken seriously in consideration of the perpetrator's vulnerability.

But the needs of complainants and other members of the community must also be actively considered when they themselves are experiencing damage and harm as a result of the perpetrator's behaviour. It is very important in such cases to keep in balance, at the forefront of your considerations, the experience of witnesses who can themselves be made vulnerable by anti-social behaviour. This may be made worse if they have a worry that neither they nor the perpetrator (or indeed anyone) has any control of the behaviour, which is distressing them. SLH recognises that in all such cases it has a responsibility to the wider community, which is experiencing, harm.

This is not an issue of supporting one rather than the other but of taking the needs of both the perpetrator and the community seriously and acting on both at the same time to end the harm as quickly as possible.

In cases where the mental health of the perpetrator is in question, SLH will make an early, urgent and formal approach to local Mental Health Services. This will set out the behaviour and the potential consequences for the perpetrator of the continuance of this behaviour.

It is not necessarily the case that because the perpetrator suffers from mental ill health that they cannot manage or change their behaviour. However their capacity to do this will determine what action is available to SLH. As in all ASB cases, South Lakes Housing will aim to change the behaviour of the perpetrator as a better alternative to eviction.

If persuasion does not achieve such a change, SLH will actively consider legal action to protect the complainant and/or the wider community.

Injunctive action will only be suitable if the Court is satisfied that the perpetrator has the capacity to:

- Understand that their behaviour is harmful.
- Understand the terms of any order made.
- Be able to comply with such terms.

If the perpetrator doesn't have this capacity and the behaviour is damaging to the health or well being of others, SLH will consider possession action with a view to evicting the perpetrator in order to meet its responsibilities to these others.

The Disability Discrimination Act makes it unlawful to evict a disabled person. Eviction can however lawfully be justified if there is evidence that the behaviour is damaging to the health, well being or safety of another. It is therefore desirable in such cases to secure medical evidence from a medical practitioner on behalf of the complainant or witnesses who are suffering in this way. The securing of this detail should, in these cases, be part of the action plan agreed with the complainant.

### **Notice of intention to seek possession**

Notice of intention to seek possession should only ever be served in cases where the breach is serious, or where previous warnings about anti-social behaviour have not been heeded and where SLH is serious about its intention to seek the eviction of the tenant. A notice should not be used as a warning in anti-social behaviour cases. It is likely to identify to the perpetrator the source of the complaint and could make the situation worse for the complainant rather than better.

In almost every case where a notice is appropriate the safety and/or well-being of complainants and witnesses also requires the use of an injunction to stop repetition of the behaviour in the period before the possession hearing is brought to Court.

## **Section C - Court Actions Available to SLH**

The legal actions available directly to SLH in the Courts are:

- Breach-of-Tenancy Injunctions.
- Anti-Social Behaviour Injunctions.
- Committal to prison for breach of either of these.
- Demotion Orders.
- Possession orders.
- Anti-Social Behaviour Orders.
- Parenting Orders.
- Extension of Introductory Tenancies.
- Suspension of Right to Buy Applications.

In all circumstances where SLH is seeking legal action in the Court to tackle anti-social behaviour it must demonstrate that the complained of behaviour is linked to its function of housing management. The test for this is light and the receipt of complaints which take up a local officer's time and therefore impact on the organisation's ability to deliver its other core services would in itself be sufficient to meet this test.

Often the anti-social behaviour is very simply related to the housing management function. This is because either the complainant or the perpetrator live in accommodation which is rented or leased from the social landlord who wishes to take action to protect complainants, witnesses, the wider community or its own staff, contractors or property. The commitment of SLH to take appropriate, proportionate and necessary action for such reasons is set out repeatedly in this document. As a significant stakeholder in the communities it serves, SLH will use legal action to hold to account those living in and around its housing stock, regardless of their tenure. It will also use its powers to deal with those who are not residents

in these areas but act there in ways that are capable of causing nuisance or annoyance or likely to cause harassment alarm or distress to residents, visitors or staff.

### **Housing Related Injunctions in General**

These are civil orders made by a judge in a Civil Court. They set a standard of behaviour for the perpetrator which is authoritative and intelligible not only to the perpetrator, but also to the complainant, witnesses, staff, Police and the wider community. The injunction acts to change behaviour rather than to punish the perpetrator. It has the advantage of working effectively in many cases without displacing either the perpetrator or the complainant. It is effective to protect the community without moving the problem on to somewhere else.

Injunctions are made on the civil standard of evidence, the "Balance of Probabilities". Injunctions can be secured on a single statement, on hearsay evidence alone and can radically shift the balance of power in a street or neighbourhood from bullies back to the rest of the community.

Injunctions can be secured far more quickly than evictions. In serious circumstances (violence, threat of violence or hate behaviour) they can be secured within hours of a complaint being received. In such circumstances, they are available without notice to the perpetrator and the judge can attach to them a separate but related Court order which gives the police an immediate power of arrest should the perpetrator breach the injunction.

Breach of a civil injunction is a Contempt of Court and is punishable by imprisonment. The evidence required to achieve this is the criminal standard, "Beyond Reasonable Doubt".

### **Breach-of-Tenancy Injunctions – Injunctions against tenants**

#### **Section 13, 153D, Anti-Social Behaviour Act 2003 (amends section 153, Housing Act 1996)**

This provides the ground for SLH to apply to the County Court for an injunction on the grounds that the tenant:

- a. Is engaging or threatening to engage in conduct that is capable of causing a nuisance or annoyance to any person; or
- b. Is allowing, inciting or encouraging any other person to engage or threaten to engage in such conduct.

The Court, if it is satisfied that:

- a. the conduct includes the use or threat of violence; or
  - b. that there is a significant risk of harm to any person,
- may include in the order a term to stop the perpetrator from entering or being in:
- a. any premises specified in the injunction;
  - b. any area specified in the injunction.

The Court may grant a term of the injunction to exclude a person from their normal place of residence.

If the Court thinks it just and convenient it may grant or vary the order without notice to the perpetrator.

The order is only effective against people over the age of 18 but it can hold tenants responsible for the behaviour of their children, and others living in or visiting their home.

**Anti-Social Behaviour Injunctions (ASBIs) – Injunctions against anyone  
Section 13, 153A, Anti-Social Behaviour Act 2003 (amends section 152,  
Housing Act, 1996)**

This provides the ground for SLH to apply to the County Court for an injunction against anyone whose conduct:

- a. Is capable of causing a nuisance or annoyance to any person, and
- b. Which directly or indirectly relates to or affects the housing management function of the landlord.

The conduct must be capable of causing nuisance or annoyance to:

- a. A resident in the landlord's stock.
- b. A resident in other housing stock in the neighbourhood.
- c. A person engaged in lawful activity in the neighbourhood.
- d. A person employed in connection with the exercise of the landlord's function.

It doesn't matter where this conduct takes place. So, for instance, should a Housing Officer be shopping in a town centre and run into a resident against whom they are taking action for arrears who then threatens them, this section of the law can be used to protect that officer.

**Injunctions – Against unlawful use of premises  
Section 13, 153B, Anti-Social Behaviour Act 2003 (amends section 153,  
Housing Act 1996)**

This injunction can be used by SLH to prevent unlawful use of premises which it owns or manages. This would include the use of premises for the sale of drugs, the storage of stolen goods or for prostitution.

**Injunctions – Exclusion order and power of arrest  
Section 13, 153C, Anti-Social Behaviour At 2003**

For ASBIs or injunctions against unlawful use of premises, if the Court thinks the conduct consists of or includes the use or threat of violence; or there is a significant risk of harm to a person mentioned in an ASBI the Court can:

- a. Exclude the perpetrator from any premises specified in the order;
- b. Exclude the perpetrator from any area specified in the order;
- c. Attach a power of arrest to any provision of the order.

**Power of arrest**

If a power of arrest is in place when an injunction is breached the Police can arrest the perpetrator immediately and do not have to secure a warrant to arrest. They must then bring the perpetrator before a judge within 24 hours, excluding Christmas Day, Good Friday or any Sunday. If the Court needs time to consider evidence it has the power to remand the perpetrator meanwhile. Evidence for committal to prison must meet the criminal standard.

**Undertakings**

The perpetrator or their legal advisor will often ask to give an undertaking as an alternative to being made the subject of an injunction. This is still an order of the Court but:

- There are no findings of fact, which could be used in further proceedings because no evidence will have been tested before the Court.
- You cannot, even if you believe your witnesses need such protection, seek to attach a power of arrest.

Breach of undertaking is a Contempt of Court and can result in committal to prison. Evidence used to prove a breach can be used as findings of fact for future proceedings.

### **Demotion Orders - Reducing security of tenure of a secure tenancy Section 14, Anti-Social Behaviour Act 2003 (amends section 82, Housing Act 1985)**

This provides the ground for SLH to apply to the County Court for a Demotion Order.

- a. The secure tenancy is terminated with effect from the date specified in the order
- b. If the tenant remains in occupation after this date a demoted tenancy is created with effect from this date.
- c. Any arrears of rent due at the termination of the secure tenancy become payable under the demoted tenancy.

To make the order the Court must be satisfied it is reasonable to make the order and that the tenant or a person residing in or visiting the house has engaged or threatened to behave in anti-social behaviour as described above for section 153A or 153B (anti-social behaviour or unlawful use of premises).

If after the making of the order the perpetrator continues to behave in the same way, SLH can issue a Notice to Terminate the tenancy. SLH must give the tenant an opportunity to ask for a review of the decision to terminate the tenancy, listen to the tenant's arguments and inform them of the outcome of this consideration. If SLH has decided to proceed to evict the tenant it must make an application for possession to the Court to bring the demoted tenancy to an end. The Court must make the possession order unless the correct procedure has not been followed. The Court specifies the date on which the tenant is to give up possession.

### **Possession Orders – Nuisance and annoyance Section 144, Housing Act 1996**

This provides the ground for SLH to apply to the County Court for possession on the grounds of anti-social behaviour. The Court must be satisfied that:

The tenant or a person residing in or visiting the 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 lawful activity in the locality; 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 arrestable offence committed in, or in the locality of the dwelling-house.

The judge must be satisfied that it is reasonable to make the order but, in arriving at the judgement of reasonableness must take into consideration the requirements of **section 16, Anti-Social Behaviour Act 2003** as follows:

The Court must consider in particular –

- a. The effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;
- b. Any continuing effect the nuisance or annoyance is likely to have on such persons;
- c. The effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated.

SLH can assist the Court in arriving at a view that it is reasonable to make the order by providing evidence of warnings and earlier interventions, which have been unheeded by the perpetrator.

The Court can give a Possession Order with immediate effect or can give a Postponed Possession Order with conditions that eviction cannot take place within the postponement period unless there is further anti-social behaviour.

It is important to remember that the Possession Order offers no protection to the community once the eviction takes place. Active consideration should therefore be given to ensuring that injunctive action, either housing injunctions or ASBO's, are secured to give continuing protection to the community during any possession proceedings or following eviction and that these orders restrain the behaviour of each of the perpetrators causing the nuisance.

### **Anti-Social Behaviour Orders (ASBOs)**

#### **Section 1, Crime and Disorder Act 1998 (amended by section 61, Police Reform Act, 2002)**

This provides for SLH to apply to the Magistrates' Court for ASBO's where the behaviour relates to SLH's stock and the perpetrator has behaved in a manner which is likely to cause harassment, alarm or distress to anyone not of the same household. As well as being sure of the evidence which demonstrates that this behaviour has taken place, the Court must be satisfied that the order is necessary.

The standard of proof required by the Court that the anti-social behaviour has taken place is the criminal standard of proof, beyond reasonable doubt.

The order is, nevertheless, a civil order. The proceedings are civil proceedings and this means that Hearsay Evidence (such as that given by a Housing Officer or Police Officer on behalf of fearful witnesses) is admissible and can itself fully meet the requirements of the Court for evidence. However, SLH recognises that best evidence will always be evidence in person which can be tested by the Court and will always encourage and assist complainants themselves and their witnesses to bring this evidence before the Court.

The ASBO is a civil order in most ways similar to the injunctions available to social landlords to tackle anti-social behaviour. The differences are:

- That the order is not tenure specific and the terms can be made to apply to the perpetrator if they leave SLH housing stock to live in the Private sector.
- The order can be made to tackle the anti-social behaviour of anyone over the age of 10 – the Court should actively consider the making of a Parenting Order when making an ASBO for anyone under the age of 16.
- The order lasts for a minimum of two years.
- Breach of the order is a criminal offence punishable by up to 5 years in prison.

The similarities to injunctions are:

- They prohibit repetition of harmful behaviour.
- They can be secured as interim orders at the first time of application to the Court.
- They can be secured without notice to the perpetrator in circumstance where the behaviour includes actual violence or threat of violence or hate behaviour such as racist behaviour.

The application must be made within 6 months of at least one of the incidents evidenced to the Court. It may be made on the basis of one incident if that incident was sufficiently serious. Earlier incidents may be used as background information to support the case and show a pattern of behaviour.

Orders issued to young people should be reviewed each year, to help ensure that they are receiving the support they need in order to prevent breach. The review should be administrative rather than judicial, and should be undertaken by the Team that made the initial application. Where practicable, the Youth Offending Service should provide SLH with an assessment of the young person. Depending upon progress towards improved behaviour, possible outcomes will include an application to discharge the Order or a strengthening of the prohibitions. Applications to vary or discharge the Order will have to be made to the Court in the usual way. The overriding considerations remain the safety and needs of the community, and the review would have to incorporate the community's views on the Order's effectiveness.

## **Parenting Orders**

### **Section 24, Police and Justice Act, 2006**

This makes provision for SLH to apply to Court for a Parenting Order.

Generally a Parenting Contract should be agreed and tried before such an application is considered. This will be used by SLH at the direction of the Regional Manager who will decide which cases are suitable for such a case strategy. The Police and Justice Act requires that the child whose parents are under consideration must have engaged or be likely to engage in anti-social behaviour which directly or indirectly relates to the landlord's housing management function. The Parenting Contract is a document, which sets out the requirements on the parent, which may include a counselling, or guidance programme. The purpose of the contract is to stop the young person from engaging in anti-social behaviour. Both a parent and a representative of the landlord sign it.

Local Authorities ALMOs and RSLs may apply for a Parenting Order if the young person under consideration has engaged or is likely to engage in anti-social behaviour which directly or indirectly affects the housing management function of the landlord. The application is made to the Magistrates' Court (unless it is joined with other associated proceedings in the County Court). The court must both be satisfied that the young person has engaged in anti-social behaviour and that it's desirable in the interest of stopping the behaviour for the order to be made.

A Parenting Order lasts for no more than 12 months. The parent must comply with its terms throughout this period. During the same period they may or may not be required to attend counselling or guidance for a period of no more than 3 months.

SLH cannot make such an application without first consulting the Local Authority where the young person lives.

For each order made there must be a named Responsible Officer (either an officer of the RSL or someone who has agreed to be nominated By the RSL as the Responsible Officer).

If the parent fails to comply with the terms of the order they will be warned; if they continue in this way they will be met with by the Responsible Officer and warned again; and, finally, if they persist in non-compliance they may be fined up to £1,000.

## **Extending an Introductory Tenancy**

**Section 179 of the Housing Act 2004** amended the Housing Act 1996 and gives SLH the flexibility to extend Introductory Tenancies:

- where there are continuing doubts about the conduct of a tenant; or
- in cases of anti-social behaviour.

Provisions to extend will only apply to new Introductory Tenancies granted after 6 June 2005. A tenant is entitled to ask for a review of the decision to extend an Introductory Tenancy. **The Introductory Tenancies (Review of Decisions to Extend a Trial Period)**

**England Regulations 2006** commenced on 3 May 2006 and stipulates the form of review a tenant is entitled to where a Landlord makes a decision to extend the period of their Introductory Tenancy.

### **Suspending a Right to Buy Application**

**Section 192 of the Housing Act 2004**, enables SLH to seek an order from the Court, suspending a Right to Buy application for a specified period in respect of the tenancy, on the grounds of anti-social behaviour. The Court may only grant such an order if it is satisfied that the tenant or a person residing in or visiting the property has engaged or threatened to engage in anti-social behaviour (which includes using the premises for unlawful purposes), and that it is reasonable to make the Order.

This measure will stop anti-social tenants escaping the consequences of their actions by buying their home before South Lakes Housing can take effective action against them.

## **Section D - Hate Behaviour**

SLH recognises that hate behaviour is a particularly pernicious type of anti-social behaviour. It is an insulting and degrading offence against the whole community and not just the individuals who are its intended targets.

Such individuals will typically be identified by the perpetrator as being different from the perpetrator's perceived norm and will include people from black and ethnic minority groups (including asylum seekers and other members of immigrant communities), members of the community who are elderly, members of religious communities, disabled people and members of the gay, lesbian, transsexual and transgender communities.

The behaviour is directed against individuals and against groups. The perpetrators may attack person or property or both. The perpetrators may act alone or in groups.

All reported cases of hate-behaviour will be given a Level 1 Priority (page 9, above), and recorded on the Database as Category C – Hate-related behaviour (page 8, above). In addition, **all reports of hate crime must be reported to the Police** PC 656 Chris Isherwood, Barrow Police Office T: 01229 848910 M: 07980 74 74 76 or email [chris.isherwood@cumbria.pnn.police.uk](mailto:chris.isherwood@cumbria.pnn.police.uk).

SLH is determined to ensure that its response to this type of behaviour is swift, effective and recognised by staff as mainstream. It is for this reason that SLH does not have a separate procedure to deal with such behaviour but will insist on the careful and robust use of this, document which sets out the principles and procedures of the organisation on its action to stop harm to individuals and communities.

Wherever necessary, SLH, on the basis of clear evidence which meets the relevant tests of the Courts, will take appropriate and proportionate legal action to prohibit the repetition of hate behaviour in and around the area which the organisation manages. This will include in particular the use of injunctions, without notice if the situation requires it, and of ASBO's which have been identified explicitly by the Government as an appropriate tool for tackling and managing perpetrators of hate behaviour.

SLH will work with complainants, witnesses, community groups and other agencies, in particular the Police, to ensure that its response remains relevant and effective in this important area of its work on anti-social behaviour.

Communities and Local Government has published a Code of Practice for Social Landlords to use as a tool to tackle Racial Harassment. This document can be accessed and downloaded by visiting the Communities and Local Government website at: [www.communities.gov.uk](http://www.communities.gov.uk) and typing in the search box, "tackling racial harassment code of practice".

## Section E - Domestic Violence

SLH recognises that attacks on individuals in their own homes by members of their own family will be destructive and deeply detrimental to their personal security and physical and mental well being. People in this situation are made significantly more vulnerable by such circumstances as their isolation at the point of attack from any immediate source of help, the harm to other members of the household who witness the attack, the emotional and financial ties to the home and goods and the security which these should represent and, most importantly, the fear of repetition.

SLH recognises that those who suffer domestic abuse and violence are sometimes in a complex relationship with the perpetrator. It will attempt to reflect this recognition in its response to complainants. SLH will not, however, tolerate domestic violence in and around the area, which the organisation manages, and will in all cases take clear and unequivocal action against perpetrators.

This action is likely to mean injunctive action which excludes the perpetrator from the property in order to protect the rest of the household and, indeed, to protect SLH's own interests in the property.

SLH also recognises that domestic violence in one household may generate alarm and distress for those hearing it or observing it from outside (usually neighbours and sometimes children) and in such circumstances will take action to protect these individuals from repetition of this experience. This action may, once again, include the use of exclusion of the perpetrator from the property or the wider, general area, and, if wider terms are necessary to protect the larger community, the use of an ASBO will be actively considered.

All reported cases of domestic violence will be given a Level 1 Priority (page 9, above), and recorded on the Database as Category I – Domestic violence (page 8, above). In addition, **all reports of domestic violence must be reported to the Independent Domestic Violence Advisor (IDVA) Carol Anderson**, via Victim Support Tel: 01229 839989 or email [Barrow.Volunteer@victimsupport.org.uk](mailto:Barrow.Volunteer@victimsupport.org.uk) who will carry out a risk assessment and contact other agencies as required.

SLH is determined to ensure that its response to this type of behaviour is swift, effective and recognised by its staff and partner agencies as mainstream action. It is for this reason that SLH (as with hate behaviour, see page 35, above) will not create a separate procedure to deal with such behaviour. Instead SLH will insist on the careful and robust use of this document which sets out the principles and procedures of the organisation with regard to its action to stop harm to individuals, households and communities.

## Section F - Closing a Case

When a report is received, SLH must investigate, monitor and progress it to a conclusion.

A case should be closed when:

- It has been resolved successfully without using legal proceedings.
- It has been resolved successfully because of the threat of legal proceedings.
- It has been resolved successfully using legal action.
- This legal action (Injunction, demotion etc) has been managed in the community to change the behaviour of the perpetrator.

- There is no further action that can be taken because it is deemed that the behaviour complained of is not anti-social.

A clear conclusion and closure of each case is important for the investigating officer, the complainant and the perpetrator. At the same time all should be aware that the securing of a Court order is often the start of a stronger engagement with the community and the perpetrator and not the closure of the case. Witnesses and the community must experience the continuing commitment of SLH's staff to their safety and well-being through the management of orders in partnership with the community, the Police and with other relevant local service providers

SLH's aim in tackling anti-social behaviour is in part to ensure that the complainant is satisfied with the outcome, but some cases may have to be closed even though the complainant is not satisfied: for example, if:

- The reported behaviour cannot be reasonably described as a nuisance.
- There is no evidence.
- The complainant or perpetrator will not try other approaches, such as mediation, where there is not enough evidence to justify any more formal action.
- The report is obviously mischievous.

When closing a case, it should be borne in mind that what may constitute an insufficient basis for action now may well provide vital evidence or verification in the future. Therefore, closed Case Files should always be kept securely.

It is appropriate to close a case where there has been no contact from the complainant for 8 weeks (40 working days), unless legal proceedings have been started or the case is being monitored for evidence of a breach of the tenancy agreement.

Before a case is closed, the investigating officer should write to the complainant to explain the reasons for doing so and secure their response.

If the complainant agrees that the case be closed, they should be asked to confirm this.

If the complainant does not agree that the case be closed, but is still keeping Diary records of anti-social behaviour or breach of the Tenancy Agreement, the case manager should check to confirm that the Diary information is relevant, take appropriate action and the case should remain open for another 8 weeks (40 working days), after which period the case manager should contact the complainant again.

## **Section G - Customer Satisfaction Survey**

Communities and Local Government, as part of its development of the Respect Standard for Housing Management, has developed a questionnaire to be used in individual cases to check with complainants in cases of anti-social behaviour whether they are satisfied with the service they have received from a Social Landlord.

The survey explores the complainant's experiences when contacting the landlord, how their complaint was dealt with and, more generally, their attitudes to the landlord's services for tackling anti-social behaviour.

The Survey has been incorporated into SLH's procedure for tackling anti-social behaviour and must be forwarded to complainants within a fortnight of a case being closed. The results should be recorded on the Database and the paper version filed with the Case File.