



CAERPHILLY HOMES TASK GROUP - 14TH DECEMBER 2017

SUBJECT: ALLOCATION OF NEW HOMES TO FORMER TENANTS WHO HAVE BEEN EVICTED, TENANCY ENFORCEMENT POWERS AND TENANT OBLIGATIONS

REPORT BY: CORPORATE DIRECTOR - COMMUNITIES

1. PURPOSE OF REPORT

- 1.1 To provide members of the Caerphilly Homes Task Group (CHTG) with information about the allocation of new properties to former tenants who have previously been evicted, the role of the Tenancy Enforcement Section and the obligations of tenants.

2. SUMMARY

- 2.1 At a recent CHTG meeting a report was requested on the allocation of properties to former tenants who have previously been evicted for anti-social behaviour. This report responds to that query by outlining the relevant provisions of the Common Allocation Policy and the rules about treating an applicant as ineligible for an allocation or suspending an application, the powers the Tenancy Enforcement Section have to respond to complaints of anti-social behaviour and also the obligations tenants have to manage their tenancies.

3. LINKS TO STRATEGY

- 3.1 The overarching aims of Caerphilly County Borough Council (CCBC) in relation to anti-social behaviour and crime reduction are detailed in **Caerphilly Delivers – The Single Integrated Plan 2013 - 2017**. They are as follows:

Prosperous Caerphilly

P2 – Improve standards of housing and communities, giving appropriate access to services across the county borough.

Safer Caerphilly

S1 – Reduce incidents of anti-social behaviour and reduce fear of becoming a victim of anti-social behaviour for residents.

S2 – Reduce crime and the fear of crime for the residents of the county borough.

S4 – Ensure people are supported to live in their own homes and communities in safety.

The Council's most recent **Local Housing Strategy “People, Property, and Places”** has the following aims:

Aim 6 - To provide good quality, well managed houses in communities where people want to live, and offer people housing choices, which meet their needs and aspirations.

Aim 11 – To promote sustainable and mixed communities that are located in safe and attractive environments.

- 3.2 The Anti-Social Behaviour Act 2003 and the Code of Guidance provided by Welsh Government to assist social landlords in their development of a policy and procedure, encouraged and emphasised a 3-strand strategy for dealing with nuisance and anti-social behaviour – prevention, support and enforcement. The Caerphilly Homes Statement of Policy

and Procedure for Anti-Social Behaviour is consistent with the overarching corporate aims and reflects the 3 strand strategy, emphasises an incremental approach to investigating and dealing with ASB and reflects good practice in this field.

- 3.3 The Council's Strategic Equalities Plan has the following aim:
Equality Objective 1 – Tackling Identity based hate crime: – To reduce the levels of real or perceived instances of identity based abuse, bullying, harassment and violence, hate crime and hate incidents in the county borough.
- 3.4 This report would link most closely to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:
- *A prosperous Wales**
 - *A resilient Wales**
 - *A more equal Wales**
 - *A Wales of cohesive communities**
 - *A globally responsible Wales**

4. THE REPORT

Relevant Legislation and Guidance

- 4.1 Anyone over the age of 16 years may apply to the Council to be rehoused, regardless of their housing need, subject to them meeting eligibility criteria set out in its policy. Section 166 (3) of the Housing Act 1996 obligates the Council to consider all applications for social housing. It must, however, ascertain whether an applicant is eligible for accommodation or excluded from allocation.
- 4.2 Where it is satisfied that an applicant, or a member of their prospective household, is guilty of unacceptable behaviour serious enough to make them unsuitable to be its tenant, the Council may treat them as ineligible for an allocation of housing. However, the only behaviour which can be regarded as unacceptable is behaviour that would, if they had been a Council tenant, have entitled the Council to a possession order under defined discretionary grounds which include non-payment of rent, breach of tenancy conditions, conduct likely to cause nuisance or annoyance and use of the property for immoral or illegal purposes. The applicant has a right of review of this decision.
- 4.3 A policy of treating all those evicted as unsuitable to be a tenant would be considered a blanket approach and would be unlawful. The following three stage test must be applied to prevent a blanket approach:
- **Whether a possession order would have been granted.** A court must have regard to the interests and circumstances of the tenant and their household, the Council and the wider public. If not satisfied that the court would decide it was reasonable to grant a possession order, the applicant cannot be guilty of unacceptable behaviour.
 - **Whether the behaviour is serious enough to make the person unsuitable to be a tenant.** It is the Welsh Government's view that to do this the Council needs to satisfy itself that if a possession order were granted it would have been an outright order. Where the Council believes that the court would have suspended the order, then such behaviour should not normally be considered serious enough to make the applicant unsuitable to be a tenant.
 - **If satisfied that the applicant is unsuitable to be a tenant by reason of unacceptable behaviour, the Council must have regard to the circumstances at the time the application is considered and must satisfy itself that the applicant is still unsuitable at the time of the application.** Previous unacceptable behaviour or even an outright possession order, may not justify a decision to treat the applicant as ineligible where that behaviour can be shown by the applicant to have improved.

- 4.4 Where the Council is satisfied that an applicant is unsuitable to be a tenant, they are not necessarily required to decide that he or she is ineligible for an allocation, they may instead proceed with the application and decide to give the applicant no priority. After a period of ineligibility has elapsed, they may re-apply and their circumstances must be reviewed.
- 4.5 It is the Welsh Government's view (expressed in detail within its statutory guidance "Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness 2015") that barriers to social housing should be minimised and that in developing policies on unacceptable behaviour Local Authorities should consider their role as social landlords and brokers of social housing. They consider that social housing is subsidised stock and that it is incumbent on councils to allocate tenancies primarily to meet housing need and keep restricted access measures to a minimum to ensure their statutory responsibilities are being met.
- 4.6 For former tenants with compound issues of high arrears and serious anti-social behaviour, the three stage test is applied by the Council at the point of application and, where circumstances and evidence warrant it, the applicant is classed as 'ineligible for an offer of accommodation'. However, it is not unusual to have insufficient evidence to be satisfied that an applicant is unsuitable to be a tenant as the burden of proof is high. The Council has, therefore, adopted additional criteria that allow for applicants or members of their prospective household to be registered on the Common Housing Register but suspended until such time as they have addressed current or past behavioural issues.

Homeless Applicants

- 4.7 The Council has a legal duty to help secure accommodation for people if they become homeless and are eligible for assistance. Assessments and decisions are carried out under Part 2 of the Housing (Wales) Act 2014. It is, however, possible for the Council to determine an applicant is unintentionally homeless and in priority need but guilty of unacceptable behaviour serious enough to make them unsuitable to be a social housing tenant. The Council can decide to treat them as ineligible for an allocation, or suspend their application until such time that a sustained demonstrable change in behaviour has taken place, such that the suspension can be lifted. The applicant can request a review of this decision.
- 4.8 The Council does, however, still have a statutory duty to secure them accommodation. This need not be in its own stock as the Council now has discretion to accommodate them in the private rented sector or by some other means.

Common Allocations Policy

- 4.9 The Common Allocations Policy was developed by the Council in partnership with six housing associations to ensure that all applicants applying for social housing in the County Borough are provided with a single route of access and assessed using a single policy. It was introduced on 5th December 2016 along with the Common Housing Register. In addition to the three stage test of unacceptable behaviour, the policy allows for eligible applicants or members of their prospective household to be registered on the Common Housing Register but suspended until such time as they have addressed current or past behavioural issues.
- 4.10 Where it is determined that the applicant or a member of the applicant's household has failed to maintain their current or any previous social rented or private sector rented property within the terms of their tenancy agreement they are informed of the action(s) that they will need to demonstrate before the suspension will be lifted. Any action is required to be reasonable and proportionate, and to take into account the protected characteristics of the individual.

The Role of the Tenancy Enforcement Section

- 4.11 The over-riding aim of the Caerphilly Homes' anti-social behaviour policy and procedure is to provide a framework to ensure that it responds to all incidents of anti-social behaviour in a manner, which is consistent and appropriate. The policy and procedure seeks to support the wider aims and objectives of related strategies and plans in order to create safe and cohesive communities and improve the quality of life for Council tenants, leaseholders, and residents within the County Borough. The policy endeavours to complement and support the efforts of the Safer Caerphilly Community Safety Partnership and other local agencies through effective partnership working in order to provide a collaborative response to anti-social behaviour. *The reviewed and updated Anti-Social Behaviour Policy and Procedure is attached at Appendix 1.*
- 4.12 The Tenancy Enforcement Section (TES) aims to effectively tackle anti-social behaviour and enable Council tenants, leaseholders and others to have quiet enjoyment of their homes and live in communities that are safe and cohesive. All complaints of anti-social behaviour made by or about a tenant or leaseholder are referred to the TES. Complaints of a general nature and the less serious incidents of anti-social behaviour are referred on to the Area and Neighbourhood Housing Offices for investigation. The TES investigates all complaints of noise nuisance and the more serious/persistent incidents of anti-social behaviour.
- 4.13 The most common referrals to TES are for verbal abuse/ intimidation/ harassment and noise nuisance. The chart below provides details of the five most frequent complaint reasons for each recorded period, although up to three reasons can be recorded on the referral form. The table also details the total number of referrals received, for the last 5 years:

Case Type	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017 to 31.10.17
Noise	205	213	252	288	244	142
Verbal/ Harassment/ Intimidation	213	170	213	223	188	155
Drugs, Substance Abuse	80	75	88	69	71	47
Vandalism, Property Damage	38	30	36	16	24	11
Alcohol Related	26	26	33	21	12	6
Total Cases	636	602	723	642	628	416

- 4.14 Upon receipt of a referral it is assessed and graded. In order to determine whether actions constitute anti-social behaviour consideration is given to a number of factors, including the frequency and severity of the incidents, the length of time the incidents have been occurring, the effect of the incidents on the victim and the intentions of the perpetrator.
- 4.15 TES seeks to provide a complainant or victim centred approach and endeavours to provide a consistent, reactive and responsive service. All complaints are treated seriously and dealt with fairly without prejudice or preference. All responses to incidents of anti-social behaviour are considered to be proportionate, measured and reasonable and the TES are fully committed to tackling both the causes and the effects in an effective and structured manner.
- 4.16 TES does not just enforce the conditions of tenancy through legal action. In accordance with requirements of Welsh Government guidance and the Caerphilly Homes policy of prevention, support and enforcement, TES provides support and assistance to perpetrators in complaint

cases. The team works with some of the most vulnerable and at risk members of society and recognises that we don't have to just stop the nuisance behaviour but also reduce and/or stop the actual cause of the nuisance behaviour in order to break the cycle. Perpetrators can be victims themselves and need support and assistance. The TES spend a lot of time discussing issues with the perpetrator to try and determine why they are behaving in an anti-social manner. This usually produces details of a raft of issues/ problems. The Officer assesses the information and makes appropriate referrals to different organisations/ agencies to try to assist them to resolve the issues and thus improve their behaviour. *A full list of the Prevention, Support and Enforcement actions available to the Tenancy Enforcement Section are contained in Sections 6, 7 and 8 of the Policy and Procedure attached at Appendix 1.*

4.17 On occasion support and assistance will not prevent anti-social behaviour and legal action is required to be taken to enforce the conditions of tenancy. Over the past 5 years the following legal actions have been taken by TES:

Action	2013-2014	2014-2015	2015-2016	2016-2017	2017 to 31.10.17
Notice Of Seeking Possession	17	21	18	9	11
Undertakings	1	1	0	1	0
Injunctions – with/without power of arrest	0	5	2	5	3
Closure Order	0	1	0	0	1
Suspended Possession Order	3	3	5	3	2
Outright Possession Order	9	6	5	0	1

4.18 The timeframe for the court dealing with a claim for possession can vary and the length of time will largely depend on whether a tenant is defending the proceedings. Where circumstances warrant it, the TES can serve an initial Notice of Seeking Possession and immediately commence possession proceeding without having to wait the usual 28 day period. The first hearing at court occurs generally around 28 days after the claim for possession is filed at court. If the matter is not defended it is usual for the TES to obtain the order that it seeks at the first hearing. If the tenant defends the matter, which is their right, then the court sets out a timetable for actions required before a final contested trial takes place. This timetable (which can on occasion cover an extended period of 6-8 months before the final trial) does not factor in any adjournments requested by either party, which can delay the process further. The TES and the Legal Section do everything they can to ensure that the process is carried out as quickly as possible within the Rules to minimise the timeframe and the distress delays can cause. At times the court will experience delays due to its fluctuating workload and inconsistent standards of administration which will cause delays beyond the control of the TES/Council

4.19 An option open to TES to minimise the distress delays can cause is to consider filing, prior to or at the same time as the claim for possession, an application for a Civil Injunction (which were formerly called an Anti-Social Behaviour Injunction or ABSI). The court can generally look at these applications quicker and the tenant would be obliged to comply with the terms of the Civil Injunction whilst possession proceedings are progressed.

- 4.20 Cases are determined on the evidential level of balance of probability. However there are other factors that a District Judge will need to consider in making their judgment. This will include whether the action is proportionate to the behaviour complained of, if it reasonable to grant an order, the likelihood of the behaviour reoccurring and the impact of the behaviour on others.
- 4.21 A further fast developing area for defendant housing lawyers is whether or not the legal proceedings brought are unlawful on account of being discriminatory to a tenant or occupier who has a protected characteristic under the Equality Act 2010. The Council in many cases would have the burden of proof to show that the action taken is not unlawful and no lesser option was available to it other than the steps taken. This area of law touches on all legal proceedings Housing may take against tenants and or occupiers.

Obligations of Tenants

- 4.22 All tenants have a secure tenancy agreement which they sign when accepting the offer of a tenancy. This document lists their rights and responsibilities in the form of terms and conditions of the tenancy and failure to adhere to these may constitute a breach of their tenancy agreement.
- 4.23 Obligations within the tenancy agreement include a number relating to use of the property including:
- Occupation of the property as only or principal home for residential purposes and responsibility for the behaviour of any person residing in or visiting the property.
 - Not using the property for a trade or business or other non-residential purpose without firstly obtaining the Council's written consent.
 - Not doing anything, or permitting anyone residing in or visiting to do anything, that causes or is likely to cause a nuisance, annoyance or disturbance to any person engaging in a lawful activity in the locality. Examples of include but are not restricted to loud music, arguing and door slamming, dog barking, offensive drunkenness and rubbish dumping.
 - Not using the property or the common parts or the locality for illegal or immoral purposes and not permitting any person residing in or visiting the property to use it or its locality for illegal or immoral purposes. Examples include, but are not restricted to: the cultivation or production, possession or supply of a controlled drug, the storage or sale of stolen goods, prostitution and other sexual offences.
 - Not deliberately damaging the property or the common parts nor permitting any person residing in or visiting the property to do so deliberately.
 - Not harassing, nor inviting or inciting any other person to harass any person residing, visiting or otherwise engaging in a lawful activity in the locality, nor permit any other person residing in or visiting the property to do so. Examples of harassment include but are not restricted to: Intimidation on the grounds of a protected characteristic, violence or threats of violence, abusive or insulting words or behaviour, damage or threats of damage to property, writing threatening, abusive or insulting graffiti.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 **Long Term** – supports the sustainability of cohesive communities for tenants and residents; providing a fair and transparent service for tenancy sustainment.
Prevention – supports tenants and assists in the prevention of eviction and homelessness. It supports the well-being of tenants and residents.
Integration – improved standards of housing and stable community environments.
Collaboration – joined up working arrangements within the organisation and with outside agencies to support tenancy sustainment.
Involvement – Engages tenants, residents and support agencies in relation to sustainment of tenancies.

6. EQUALITIES IMPLICATIONS

- 6.1 This report is for information purposes only. There are, therefore, no equalities implications arising from the report.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications arising from this information report.

8. PERSONNEL IMPLICATION

- 8.1 There are no personnel implications arising from this information report.

9. CONSULTATIONS

- 9.1 There are no consultation responses that have not been reflected in this report.

10. RECOMMENDATIONS

- 10.1 It is recommended that Members note the contents of the report.

11. REASON FOR RECOMMENDATIONS

- 11.1 The purpose of the report is for information only.

12. STATUTORY POWER

Housing Act 1996.
Anti-Social Behaviour Act 1996.
Housing (Wales) Act 2014.

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Appendices:
Appendix 1 – Anti-Social Behaviour Policy and Procedure



Caerphilly Homes

Statement of Policy and Procedure for Anti-Social Behaviour

STATEMENT OF POLICY & PROCEDURE FOR ANTI-SOCIAL BEHAVIOUR

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PART 1 - STATEMENT OF POLICY

1. Introduction

The Housing Act 1996, as amended by the Anti-Social Behaviour Act 2003, places a duty upon the Council as a social landlord to prepare, publish and keep under review policies and procedures on anti-social/ nuisance behaviour. In addition, a summary document must also be produced and made available to the public on request. For the purposes of this document when the term Council is used, it is used to describe Caerphilly County Borough Council (CCBC) in its role as a social landlord. CCBC is used to describe the whole of the Council.

This specific document consists of two parts, Part One being the Statement of Policy and Part Two the Statement of Procedures. This document aims to give a clear picture of what the Council's responsibilities are as a social landlord, what its approach is and how it intends to work in partnership in order to tackle anti-social/ nuisance behaviour effectively. The Council has a duty to enforce its conditions of tenancy; leasehold agreement or restrictive covenants, but it also has a duty to protect its tenants, leaseholders and, in some instances, private residents. Therefore, this policy applies to all Council tenants and leaseholders; residents of the County Borough whose behaviour affects the Council's role as landlord and it can be used to protect staff and agents that carry out the functions of the Council. For the purpose of this document it is assumed that the Policy and Procedure applies to all these persons unless specifically stated otherwise.

In formulating this document the Council has consulted with a number of its stakeholders, in order to ensure the views and the agreed approach to be taken is consistent with and supports the Single Integrated Plan, Caerphilly Delivers, and in particular contributes to the Safer Caerphilly theme.

The Council have adopted a victim centred approach when dealing with complaints of anti-social/ nuisance behaviour and will take action quickly and decisively where possible and will be professional and objective in their investigations.

This document will be made available to members of the public and any other interested party either via the CCBC web site - www.caerphilly.gov.uk and at all of the Council's Housing Offices.

This Policy and Procedure is bilingual and will be provided in any other language or format on request.

If you have any queries regarding this document, or wish to make comments or suggestions for future reviews of the document you can do so by contacting the Tenancy Enforcement Manager on telephone number (01495) 235448; via email at: tenacyenforcement@caerphilly.gov.uk or by writing to the Caerphilly County Borough Council, Public Sector Housing, PO Box 129, Hengoed CF82 9BQ.

2 Statement of policy

Whilst the Anti-Social Behaviour, Crime and Policing Act 2014 gives extended powers to tackle anti-social behaviour, there are a number of other, wider obligations placed on CCBC by other existing legislation:

- Social Services and Well-being (Wales) Act 2014, Children Acts 1989 and 2004
- Crime and Disorder Act 1998
- Data Protection Act 1998
- Equality Act 2010
- Freedom of Information Act 2000
- Housing (Wales) Act 2014
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000 / Protection of Freedoms Act 2012
- Serious Crime Act 2015
- Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015
- Well-being of Future Generations Act (Wales) 2015.

CCBC therefore needs to ensure that any policy or procedure it has in place is consistent and compatible with the obligations and requirements placed on it by this legislation. The above list is by no means exhaustive and is intended only to give an indication of the range of legislation governing the way that CCBC carries out its duties.

There are also a number of local strategies and policies that link with this document, which this policy needs to be compatible with. These include:

- Caerphilly Council Single Integrated Plan
- Safer Caerphilly Community Safety Partnership Plan
- Strategic Equality Plan 2016 - 2020
- Housing Service Plan
- All Wales Child Protection Procedures
- Public Sector Housing Policies and Procedures

The over-riding aim of the Council's anti-social behaviour policy and procedure is to provide a framework to ensure that it responds to all incidents of anti-social/nuisance behaviour in a way, which is consistent and appropriate. The policy and procedure seeks to support the wider aims and objectives of these related strategies and plans in order for residents to have quiet enjoyment of their homes, create safe and cohesive communities and improve the quality of life for Council tenants, leaseholders and residents within the County Borough. The policy endeavours to complement and support the efforts of the Safer Caerphilly Community Safety Partnership and other local agencies through effective partnership working in order to provide a collaborative response to anti-social/nuisance behaviour.

Complaints of anti-social/ nuisance behaviour will be referred to the Tenancy Enforcement Section (TES). Complaints about estate management aspects of a tenancy will be referred on to the Area and Neighbourhood Housing Offices for investigation. See examples within Section 4 below. The TES will investigate complaints of anti-social/ nuisance behaviour. Complaints that are incorrectly directed to the TES will be redirected accordingly.

The Council, in producing this document, has taken into account its responsibilities under the Equality Act 2010, to eliminate all forms of discrimination by promoting good relations and mutual respect within and between our communities, residents, elected members, job applicants and workforce. We will also work to ensure equal access for everyone to our services, irrespective of

ethnic origin, sex, age, marital status, sexual orientation, disability, gender reassignment, religious beliefs or non-belief, use of Welsh language, BSL and other languages, nationality, responsibility for any dependents or any other reason which cannot be shown to be justified. This aspect of the policy and procedure document has clear links with and will complement the guidance offered in the CCBC's Strategic Equality Plan 2016-2020.

3 Definition of anti-social/ nuisance behaviour

Two definitions will be used to define anti-social/ nuisance behaviour. Both are contained within the Anti-Social Behaviour, Crime & Policing Act 2014 – Part 1. This is to ensure that we encompass anti-social/ nuisance behaviour in a housing and non-housing context.

- 'Where conduct is capable of causing nuisance or annoyance to a person in relation to that persons occupation of residential premises or the conduct is capable of causing housing related nuisance or annoyance to any person'
Housing related means directly or indirectly relating to CCBC's housing management function
- 'Conduct that has caused or is likely to cause harassment, alarm, or distress to any person where the anti-social behaviour has occurred in a public place'

4. Categories of anti-social/ nuisance behaviour

The following are categories and definitions of anti-social and nuisance behaviour. Whilst the list is not exhaustive it can be used for guidance.

Noise

Can include noise from loud music/ tv's, regular parties, cars revving, shouting, arguing, doors slamming, dogs barking etc.

This does not include normal household noise such as toilets flushing, babies crying or one off incidents.

Harassment, intimidation and threatening behaviour

Can include making threats, menacing gestures, bullying and pestering people – can include when language or behaviour is deliberately used to intimidate a person.

Verbal and written abuse

Use of foul and abusive language, written abuse.

Substance misuse - drugs and alcohol - supply, cultivation, use or misuse

Can include taking substances, selling/supplying illegal drugs/prescription drugs, presence of users or dealers, cultivation, drug paraphernalia etc.

Vandalism/ property damage

Can include criminal damage, vandalism, arson, damage to buildings etc.

Physical Violence (other than domestic abuse)

Physical abuse, grievous bodily harm, assault etc.

Domestic Abuse

Can include complaints made by the person directly affected, a member of the household or a neighbour caused distress or disturbance by incidents.

Hate related incidents

Based on colour, ethnic origin, sex, age, marital status, sexual orientation, disability, gender reassignment, religious beliefs or non-belief, language or nationality.

Hate Crime - a criminal offence which is perceived, by the victim or any other person to be motivated by a hostility or prejudice based on a person's actual or perceived disability, race, religion and belief, sexual orientation and transgender.

Hate Incident – incidents based upon prejudice but non-crime related.

Examples of issues that will **not** be investigated by Tenancy Enforcement are:

- Nuisance caused running a business e.g. buying/ selling cars
- Litter/rubbish/fly tipping
- Pets or animal nuisance (apart from noise related nuisance) e.g. breeding, smells and animal fouling
- Gardens e.g. untidy gardens, rubbish, bonfires
- Misuse of communal areas or public spaces e.g. children's games/playing games, unauthorised parking on grass verges
- Boundary disputes e.g. dispute over height or position of boundary
- Parking disputes

The above type of complaints will be referred to the relevant Housing office as they are estate management issues. This list is not exhaustive.

In order for the Council to determine whether actions constitute anti-social/ nuisance behaviour it will take into consideration a number of factors, including the frequency and severity of the incidents, the length of time the incidents have been occurring, the effect of the incidents on the victim and the intentions of the perpetrator.

Not all acts of anti-social/ nuisance behaviour are considered criminal; however, even where a crime has not been committed the Council will take each report seriously and will work with other agencies where necessary to tackle such issues.

The Council, when looking at the behaviour of individuals in relation to anti-social/nuisance behaviour, will also look at the impact on other family members within the household where the parents of children are the perpetrators of anti-social behaviour.

Anti-social/nuisance behaviour, whilst well documented, can and does have a devastating effect on the community in general. However, the Council is mindful that children of anti-social parents may also be the victims of anti-social behaviour, directly or indirectly and potentially at risk of abuse and/or neglect.

5 General policy statement

The Council takes all reports, complaints and allegations of anti-social/ nuisance behaviour seriously and is fully committed to tackling both the causes and the effects in an effective and structured manner.

The Strategic Aims below are taken from the Local Housing Strategy 2008-2013.

Strategic Aim 6: Housing Management

“Our aim is to provide good quality, well managed homes in communities where people want to live, and offer people housing choices which meet their needs and aspirations.”

Strategic Aim 11: Community Regeneration

“To promote sustainable and mixed communities that are located in safe attractive environments.”

5.1 Tenant’s responsibilities/ expectations

Existing tenants, leaseholders and former tenants with restrictive covenants have a responsibility to make sure that they, their family and any visitors show consideration to their neighbours and abide by the terms of their tenancy or leasehold agreement. Certain types of behaviour may be perceived by some elements of society to be anti-social/ nuisance, while others may consider it to be normal or acceptable, like the playing of football by young children in the street. In these circumstances the most appropriate approach may well be to find some form of compromise that satisfies all parties. In this type of case, residents will be encouraged to resolve any disputes themselves or to make use of support services such as mediation.

All responses to incidents of anti-social/ nuisance behaviour will be proportionate, measured and reasonable.

The Council will seek to provide a complainant or victim centred approach and will endeavour to provide a consistent, reactive and responsive service. All complaints of anti-social/ nuisance behaviour will be treated seriously and will be dealt with fairly and without prejudice or preference. However without the full cooperation of a complainant it is very difficult for any action to be taken. Complainants/Victims should be assessed using an impact assessment matrix. *See Appendix 1.* The assessment will help to ascertain what support and protection may be required in any given situation. We will work in conjunction with other agencies to provide the necessary support and protection.

Officers are aware of and respect cultural requirements and when necessary and with prior notice, will arrange suitable meeting times and venues, and appropriate translation or interpretation services.

When dealing with juveniles or persons who are vulnerable, whether due to learning difficulties, mental illness or in some other way, due regard will be taken of their vulnerability, to ensure these persons are treated fairly.

In all cases the Council will adopt a strategy involving a combination of prevention, support and enforcement.

6 Prevention

Preventative measures are seen by the Council as an important aspect of reducing anti-social/ nuisance behaviour and are considered to be a proactive approach to dealing with these issues. The Council will investigate fully any complaints made and use various investigative methods to substantiate and resolve issues. In addition to the normal investigative process the following

paragraphs outline some of the initiatives which are currently in operation throughout the County Borough.

6.1 Mediation

The Council will consider the use of independent mediators when dealing with neighbour complaints and issues of anti-social/nuisance behaviour. Minor disputes and misunderstandings can often be resolved through simple debate and discussion rather than allowing the situation or misunderstanding to escalate. This service would be offered if the Council felt it was appropriate.

6.2 Community Safety Wardens

CCBC employ a number of Community Safety Wardens who work throughout the County Borough offering a visible, uniformed presence and assistance aimed at reducing and deterring anti-social/ nuisance behaviour. Wardens will patrol and visit areas of concern, as identified, reporting and monitoring issues for further attention and action.

6.3 Closed Circuit Television (CCTV)

CCBC, in its attempt to improve community safety, has located in excess of 140 CCTV cameras throughout the County Borough. These camera units, which are complemented with a mobile camera van, relay information directly to the control centre where trained and experienced staff can and will, when required, call on the assistance of other agencies to deal with issues of concern. The use of CCTV and other methods of monitoring will always comply with RIPA regulations and take full account of the guidance contained within the Data Protection Act 1998 and the Human Rights Act 1998.

Tenancy Enforcement also manages the use of 3 mobile CCTV cameras which can be sited in areas where there is anti-social/ nuisance behaviour. The CCTV cameras will usually only be in place for a maximum of 12 months and will then be moved to another area of concern. The cameras are linked to the CCTV control room. The guidance issued by the Information Commissioner must be complied with in relation to the siting of any of these cameras.

6.4 Secure by design

The Council, in striving to improve community safety, is seeking more innovative and complementary designs when looking at defensible space and environmental changes. We will endeavour to continue to make changes to the design of our existing estates in order to reduce anti- social/ nuisance behaviour and improve the quality of life of our tenants.

6.5 Acceptable Behaviour Contracts – see also 8.3

CCBC sees the use of acceptable behaviour contracts as a more collaborative approach when dealing with anti-social/ nuisance behaviour. Council officers and representatives from other agencies will negotiate and agree set terms and conditions with alleged offenders and, where appropriate, their legal representatives and guardians, in order to reduce anti-social/ nuisance behaviour. An acceptable behaviour contract is a voluntary agreement between the offender, CCBC and the Police.

Acceptable behaviour contracts are not only seen as a preventative mechanism for reducing anti-social/ nuisance behaviour but also an informative process and a

way of offering support and assistance to the alleged offender and their family when the need is identified.

Individuals identified as having support needs will be offered support packages based on the circumstances and their perceived needs. This can include the use of Mentors and support networks.

6.6 Diversionary projects/support

CCBC is fully committed to offering young people activities, diversions and educational platforms to help them feel part of their community. As part of the life long learning policy we will endeavour to tackle anti-social/ nuisance behaviour and street crime by offering alternative activities that promote community ownership, education and a sense of belonging.

A range of projects are offered within the County Borough, with the focus on youth engagement and family engagement.

7 Support

The Council, as part of its tenancy management procedure, provides support to new tenants by operating a structured post-allocation home visit scheme. These visits will be carried out after one month and are intended to assist new tenants with administrative and tenancy issues.

In addition, the Council, through its Area and Neighbourhood Housing Offices offers an accessible support network for its tenants to assist them in maintaining and sustaining their tenancies. This support will be offered initially by Housing staff but can be extended to more specialised staff from within CCBC and its partner agencies should the situation merit it.

7.1 Supporting complainants of anti-social behaviour

The majority of complaints of incidents of anti-social/ nuisance behaviour are reported directly to the Area and Neighbourhood Housing Offices. Other referrals come via many different avenues including the Police, Community Safety Section, Environmental Health and other Council departments.

All officers should be aware of the following agencies that can support the complainant/victim and/or investigate a complaint of nuisance and/or anti-social behaviour:

- Heddlu Gwent Police
- Connect Gwent
- Equality and Human Rights Commission
- Social Services
- Floating Support – CCBC and partner agencies
- Education Welfare
- Safer Caerphilly Community Safety Partnership
- Gwent Police Witness Support Unit
- The Witness Service
- Other voluntary agencies including the Citizens Advice Bureau, Llamau Women's Services Caerphilly, the Law Society, the Lesbian Gay Bisexual and Transgender Excellence Centre Wales, Caerphilly Access Group, Stonewall Cymru, Mencap Cymru, BAWSO.

All complaints are treated confidentially. The Council provides support for all complainants of nuisance and anti-social behaviour that it is investigating. It will make referrals to appropriate support agencies on a case by case basis. All support offered is subject to the availability of the resource/service being offered.

A complainant/victim impact assessment matrix will be completed for the majority of complainants/victims to help us to assess their support needs. The Council can and will make referrals to other agencies to help support the complainant/victim. It can provide target hardening items such as door and window alarms, personal attack alarms, sensor alarms etc. to help a complainant feel safe in their home. For those persons who agree to be witnesses and provide formal statements and attend court on behalf of the Council, Tenancy Enforcement has a comprehensive package of support as detailed below.

7.2 Witness Support Scheme

The Council understands how difficult it can be to agree to attend court and give evidence as a person who has experienced and witnessed anti-social behaviour. There are many different things that need to be considered before agreeing to become a witness. To assist residents through this process the Council has set up a witness support scheme through the Tenancy Enforcement Section.

If a person agrees to provide a formal statement, attend court and give evidence as a witness in a case that the Council is bringing against another person, the Council can:

- Provide target hardening items;
- Arrange a visit to the court before the hearing to familiarise witnesses with the court setting;
- Provide a dispersed alarm unit in a witnesses home so that they can summon help quickly in an emergency (a landline is required for this);
- Reimburse witnesses any costs incurred (up to a set value) by attending court – e.g. loss of earnings, travel expenses, food and drink etc.
- Arrange to collect witnesses from home and take them to court;
- Have a Tenancy Enforcement Officer/ Victim Support representative at Court with witnesses to provide information, support and encouragement during the court hearing.

The Council is continually trying to improve the service it offers to complainants/victims and witnesses. It seeks to enhance the existing service and provide best practice recommendations whenever possible to provide a structured process of support for complainants.

7.3 Support for perpetrators of anti-social/ nuisance behaviour

The Council recognises that it has a community responsibility not only to prevent and reduce anti-social/nuisance behaviour but also to offer support and assistance to those individuals involved in the committing of such behaviour. The provision of appropriate support can address unacceptable behaviour by tackling the underlying causes and unmet support needs. Eviction of anti-social/nuisance tenants often results in the displacement rather than the cessation of the behaviour. The Council is mindful of the need to adequately assess all the factors surrounding the complaint and to ensure that support or assistance is identified and offered where necessary.

All support offered is subject to the availability of the resource/service being offered and is assessed on a case by case basis. The consent of the perpetrator is required before a support referral can be made.

This support for perpetrators is provided by external agencies and at the time of publication is as follows:

Valleys Inclusion Project

This is a project run by Shelter Cymru. It provides support to perpetrators of nuisance and anti-social behaviour who are at risk of homelessness. The project offers support to the perpetrator(s) and any other members of the household who are affected by the behaviour. The project has a dedicated young person's worker to focus on support for children who are causing a nuisance with inappropriate behaviour either in the home or in the wider community. The Project focuses on changing habits and behaviour to remedy the underlying cause(s) of the nuisance behaviour in the long term. There is no time limit on how long the project will work with a family but on average it is about 12 months. Referrals are made via Supporting People.

Youth Inclusion Support Panel

The Youth Inclusion Support Panel (YISP) is part of the Youth Offending Service. It offers support to young people aged 8-15 years who have been referred because of their anti-social/nuisance behaviour. The main focus is on children aged between 8–13 years, however, if a child has a criminal conviction they are excluded from receiving support. The YISP provides a support worker who works with the family as a whole and the young person. However, there are other support mechanisms that YISP provides to offer the young person an alternative incentive to improve their behaviour in the long term. The YISP can support a family for up to 6 months.

Social Services

Adult Services provide a wide range of specialist services to members of the community aged eighteen years and over who experience difficulties on a day-to-day basis due to problems ranging from physical or sensory disability to drug and alcohol addiction.

Children's Services provides a range of services for children, young people, and their families. The goal is to help children and young people grow up safely and securely, to enable them to lead happy and fulfilled lives, and to help them to achieve their full potential.

Floating Support Service

Floating Support is a flexible support service that helps tenants to manage their affairs and live as independently as possible. It is available to council tenants and members of their household over 55 years of age. The support provided and frequency of visits will be based on individual support plans.

The Council is mindful of the need to adequately assess the factors surrounding the complaint and to ensure that support and/or assistance is offered. Where the alleged offender or their dependants appears to be vulnerable or in need of support, housing staff should ensure the relevant departments or agencies are notified and support offered subject to availability.

Providing support for a perpetrator of nuisance or anti-social behaviour does not prevent enforcement action being taken for breach of tenancy. The purpose of the support is to remedy the long term issues causing the anti-social/ nuisance behaviour. Sometimes support and enforcement need to go hand in hand to be most effective. However, if a person fails to work with, or stops engaging with, the support agency to improve their behaviour then this can be used as evidence of their unwillingness to improve their behaviour in any future enforcement action. There may also be cases where enforcement action is taken before support is offered.

8 Enforcement

In addition to supporting new tenants, the Council has given a clear message to its existing tenants and leaseholders, through its tenancy and leasehold agreements, that it will not tolerate any behaviour which is deemed to be anti-social or likely to cause a nuisance or annoyance to other tenants, residents, their lawful visitors or staff carrying out their duties. This also applies to residents who behave in an unacceptable manner towards Council tenants, leaseholders or staff carrying out the duties of the Council as a landlord. This is designed to signal that the Council takes anti-social/ nuisance behaviour seriously and also to make provision for the Council to act should the anti-social/ nuisance behaviour be perpetrated by its tenants or leaseholders.

Where evidence is obtained regarding incidents of anti-social/nuisance behaviour, then the Council has a number of options with regards to possible actions it may take. Any action taken will be proportionate to the nature and seriousness of the behaviour, however, we have a duty to ensure that tenants, leaseholders, their families and visitors do not breach any of the terms and conditions of their tenancy or leasehold agreement by behaving in a manner, which is likely to cause a nuisance to an individual or the wider community. The Council can also protect the interests of tenants and leaseholders should they become victims of anti-social behaviour. Some private residents can be subject to enforcement action if they commit anti-social/nuisance behaviour towards tenants or leaseholders. Unacceptable behaviour towards Council staff, which can be linked to the Council's role as a social landlord, can also be protected via enforcement action. With regards to continuing incidents of anti-social behaviour the Council will take action based on the circumstances of each case and it will be proportionate to the behaviour exhibited.

Actions can include one or more of the following:

- Tenant support
- Interviewing, visiting and/or writing to the known perpetrator(s)
- Installing noise monitoring equipment
- Mediation
- Acceptable Behaviour Contracts
- Notice of Seeking Possession/ Notice Before Proceedings for a Demotion Order
- Civil injunctions/ Anti-Social Behaviour Injunctions
- Demotion Orders
- Possession Proceedings
- Eviction

8.1 Writing to or interviewing the known perpetrator(s)

Either the Tenancy Enforcement Section or an appropriate officer will normally write to and/or visit the alleged perpetrator, after consultation with the complainant. They will advise them of the complaint made, explain the effect that their behaviour is having and ask them to modify their behaviour if appropriate. It is often the case that counter allegations are made and the officer dealing with the complaint will be required to carry out further inquiries to ascertain the facts.

8.2 Use of Noise Monitoring Equipment

Upon receipt of a noise complaint noise nuisance letters will be sent at the earliest opportunity. The use of the noise monitoring equipment will help to establish the authenticity of a complaint and can lead to the service of a Noise Abatement Notice by the Councils Environmental Health Officers.

8.3 Acceptable Behaviour Contracts – see also 6.5

Acceptable Behaviour Contracts (ABC's) are a useful tool when the perpetrator of the anti-social behaviour is aged 10 years and above and are used following the service of three initial referrals for anti-social behaviour. They are arranged by the Safer Caerphilly Community Safety Partnership via Strike 3 meetings, which are attended by all relevant agencies. ABC's are voluntary.

If the child/person agrees to the contract then all relevant parties that attend the signing sign the contract. The signed contract can cover items such as:

- Areas, streets or property that the individual should not visit
- Specific behaviour that they should not engage in, such as verbal abuse, climbing on roofs etc.
- Offer of support through mentoring, if applicable

The contract will last for 6 months. An ABC is a mechanism of support and enforcement. Breach of an ABC can be used as evidence in an application for an Anti-Social Behaviour Injunction.

8.4 Anti-Social Behaviour Injunction

An Anti-Social Behaviour Injunction (ASBI) would normally only be used in cases of persistent and/or high level ASB and after being considered by the multi-agency Safer Caerphilly Strike 4 meeting. The order is issued by the civil courts or Youth court and, like the ABC; it will normally contain a list of prescribed behaviours for the individual, including areas that they may not be allowed to visit. It may also contain 'positive requirements' which will try to get the individual to address the cause of their anti-social behaviour. Where there is a breach of the ASBI the court may consider a number of options ranging from a fine to imprisonment. An ASBI can be applied for against anyone over 10 years of age.

8.5 Criminal Behaviour Order

A Criminal Behaviour Order (CBO) is issued by the criminal court against a person who has been convicted of a criminal offence. In most cases the application will be made by the Crown Prosecution Service either on its own initiative or at the request of the Police or Council. In nature the CBO is very similar to an ASBI (see above). It can contain both prescriptive behaviours and positive requirements. If a CBO is breached the court can consider a number of options ranging from a fine to imprisonment.

8.6 Community Protection Notices

A Community Protection Notice (CPN) is intended to deal with particular on-going problems or nuisance which negatively affects a community's quality of life by targeting those responsible. A written warning is issued informing the person/business what the problem is and requesting them to stop/ rectify the issue. If they fail to stop/rectify the problem then a CPN will be issued listing prohibitions, positive requirements or specifications necessary to remedy the problem which must be completed within a specified time. Failure to comply with the CPN is a criminal offence.

8.7 Closure Orders

A Closure Order (CO) is a fast, flexible power that can be used to protect communities by quickly closing premises that are causing nuisance or disorder. This can be both business premises and residential premises. The CO is granted by the Magistrates Court and can be for up to 3 months.

8.8 Civil Injunctions

Civil Injunctions can be obtained through the County Court or Youth Court and can be used either against a Council tenant or any other person over 10 years of age to prevent conduct which:

- Is capable of causing nuisance or annoyance to any person in relation to that persons occupation of residential premises;
- Directly or indirectly relates to or affects the housing management functions of CCBC

The Council will consider the use of a Civil Injunction in order to prevent the unlawful/nuisance use of its properties and ensure its housing management functions may be carried out effectively.

Where there has been or there is likely to be a threat of violence or a threat of serious harm, the Council may seek a Civil Injunction without notice to the perpetrator if they believe that such a measure is reasonably necessary to protect the safety and welfare of victims or potential victims.

The Council may consider seeking an injunction restricting access to specific properties and locations. In exceptional circumstances the Council may seek that the Civil Injunction excludes an adult perpetrator from their home.

The Court can, where appropriate, attach a power of arrest to a Civil Injunction and should the terms be broken then a fine or a term of imprisonment may be considered.

If the Council believe that a term of a Civil Injunction has been breached by a CCBC tenant, then it may seek to take alternative enforcement actions, for example commencing or furthering possession proceedings.

CCBC Housing will work with Safer Caerphilly Community Safety Partnership on any Civil Injunctions against anyone aged 10 – 16 years. CCBC Housing reserves the right to use this power in relation to persons older than 16 years to resolve issues that are relevant to CCBC Housing.

8.9 Demotion Orders

Where a secure tenant persistently acts in a manner which is deemed anti-social, the Council can apply to the County Court for a Demotion Order, which will have the effect of ending the security of tenure of the existing tenancy. A Demotion Order is in force for a period of twelve months from date of issue. If no further acts of anti-social behaviour are perpetrated, after 12 months it will revert back to a secure tenancy. Should anti-social behaviour continue during the twelve-month period then the Council can seek to evict the perpetrator. It should be noted that where a Demotion Order is in place the occupant loses his or her right to assign/succeed their tenancy or to purchase their property.

8.10 Possession Proceedings

The Council can apply to the County Court for a Possession Order if they believe the seriousness and or persistence of the anti-social/nuisance behaviour warrants such a course of action. Possession Orders can either be outright or suspended and this will be the decision of the County Court. The Council sees the use of possession proceedings as serious and will endeavour to resolve issues by other means before this course of action is taken, however action will be decided on the circumstances of each individual case and will be proportionate to the behaviour exhibited.

8.11 Eviction

If a Possession Order is granted, the Council may apply for a Warrant of Eviction that will be executed by the County Court Bailiff. CCBC tenants who are evicted on the grounds of anti-social behaviour will not, in normal circumstances, be considered by the Council for rehousing, and they should be mindful that other Social Landlords might not actively consider any request for housing assistance. The Council recognises that possession proceedings and subsequent evictions are very serious and any action will be decided on the circumstances of each individual case and will be proportionate to the behaviour exhibited.

9 Multi-agency partnership working

It is recognised that the problems of anti-social/nuisance behaviour are complex and wide reaching and that CCBC is unable to work in isolation in tackling this issue. CCBC is committed to taking a multi-agency approach to anti-social/nuisance behaviour in order to seek the most appropriate solution.

The Safer Caerphilly Community Safety Partnership is made up of six main organisations: CCBC, Heddlu Gwent Police, Gwent Police Authority, South Wales Fire and Rescue Service, Wales Probation Trust and Aneurin Bevan Local Health Board. These organisations work together with other agencies, including voluntary and community groups, to reduce crime and the fear of crime within the County Borough.

CCBC is also mindful that whilst it must provide support and reassurance for the victims of anti-social/ nuisance behaviour, it is also committed to working with partners to investigate possible support interventions and rehabilitation options for the perpetrators of this behaviour. To this end there is close joint working with community workers, Social Services staff, Youth Offending Service, community drug agencies and a number of other support groups such as the Valleys Inclusion Project. See also Section 7.3.

Social Services

It is recognised that the majority of people who may be vulnerable due to their circumstances are not perpetrators of anti-social/nuisance behaviour and may be more likely to be the victims of such behaviour. Examples are young children and vulnerable adults whose safety and welfare may be affected by the behaviour of their parents, carers or visitors. CCBC, in adopting a multi-agency approach to anti-social/nuisance behaviour, will ensure that in such instances the necessary referrals are made to both Adult and Children's Services in accordance with the established processes. It is also recognised that some vulnerable persons can be both perpetrators and victims of anti-social behaviour.

In relation to referrals for children, the All Wales Child Protection Procedure and the protocols and procedures determined by the South East Wales Safeguarding Children Board will be followed and all necessary steps taken to safeguard and protect children from abuse, neglect and exploitation, whether they have caused the anti-social/nuisance behaviour or are the victims of such behaviour.

Similarly for older vulnerable adults, the protocols and procedures determined by the Gwent-wide Adult Safeguarding Board will be followed and relevant referrals made for support for those persons requiring care and/or support and/or are at risk of harm from abuse or neglect and cannot protect themselves.

Tenancy Enforcement is willing to work with any other recognised agency in order to help resolve complaints of anti-social/ nuisance behaviour.

10 Domestic abuse policies

CCBC will not tolerate any form of domestic abuse and has embraced the aims of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

10.1 Definitions

CCBC, in order to build a shared understanding of different types of domestic abuse and for the purposes of this policy, recognises the Home Office definition of **domestic abuse**:

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse:

Psychological

Physical

Sexual

Financial

Emotional

Within this definition **controlling behaviour** is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. **Coercive behaviour** is an act or a pattern of acts of assault,

threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.'

CCBC recognises that domestic abuse is rarely confined to a single incident and typically forms a pattern of coercive or controlling behaviour.

Gender-based violence is directed against a person on the basis of gender. It is defined in the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 as:

- 'Violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation.'
- Female genital mutilation;
- Forcing a person (whether by physical force or coercion by threats or other psychological means) to enter into a religious or civil ceremony or marriage (whether or not legally binding)'

The Equality and Human Rights Commission defines **sexual violence** as:

'Any behaviour perceived to be of a sexual nature which is unwanted and takes place without consent or understanding. Sexual assault covers any other sort of sexual contact and behaviour that is unwanted, ranging from touching to any other activity if it is sexual'.

For the purposes of this Policy the term abuse is used to cover all the forms of abuse defined above.

10.2 Impact of Domestic Abuse and Violence

Some of the effects of domestic abuse and sexual violence that individuals may experience include physical injury, homelessness, low self-esteem, post-traumatic stress disorder, anxiety and other psychological disorders, social exclusion and depression.

CCBC has a Domestic Abuse, Gender-based Violence and Sexual Violence Policy for employees of CCBC.

10.3 Agencies

CCBC is a member of the Gwent Violence against Women, Domestic Abuse and Sexual Violence (VAWDASV) Regional Team. The Gwent VAWDASV Region is a pilot area for the implementation of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015. There are 2 pilot areas in Wales selected by Welsh Government. The pilot project will last for 3 years. As part of the pilot area CCBC has a representative on the Gwent VAWDASV Board and also has a Housing representative on the operational group. CCBC Housing has undertaken training to participate in assessing the implementation of the national training framework as set out in the VAWASV (Wales) Act 2015.

The Council provides support and advice for those who are victims of domestic abuse with assistance from its partners Llamau Womens Services Caerphilly, the Police, Victim Support and other dedicated services. CCBC will also make referrals to the Safer Caerphilly Multi Agency Centre (Caerphilly MAC) where front line agencies provide a vital service to victims of domestic abuse. The centre is

based on the principle of a One Stop Shop and aims to provide a swift and safe response for victims and their children.

The Council are active partners in the Multi-Agency Risk Assessment Conference (MARAC). The purpose of MARAC is to reduce the risk of serious harm or homicide for a domestic abuse victim and to increase the safety, health and well being of other victims, both adults and children. In a MARAC local agencies will meet to discuss the highest risk victims of domestic abuse in their area. Information about the risks faced by those victims, the actions needed to ensure safety, and the resources available locally are shared and used to create a risk management plan involving all agencies. The MARAC will seek to protect those who disclose domestic abuse and are at high risk of being seriously injured or killed from further abuse, through a coordinated response from all agencies. The MARAC is part of a multi-agency strategy to tackle domestic abuse in partnership with other agencies.

The Council are active partners in the daily Domestic Abuse Conference Call with Gwent Police. Housing, Social Services, Probation, Health and Llamau are active participants. Domestic abuse calls to Gwent Police are detailed daily and each agency is responsible for accessing the information and taking appropriate action to assist, support, ensure the safety of the victim, and reduce the risk of further harm and escalation of incidents. When appropriate Housing staff will conduct welfare checks on their tenants and also provide target hardening equipment to reduce their risk of further harm. It should be noted that it is very difficult for any service to work with or offer support to a victim when the perpetrator still lives in the same property, or frequents the family home. This can often put the victim and other family members, such as children, at more risk of harm and every care must be taken to prevent this. Sometimes support can be arranged through a third party such as a doctor, friend or family member, but this is often difficult.

Any individual who approaches the Housing Service and requests rehousing for reasons of domestic violence and/or abuse will be signposted to the Housing Solutions Service. The Housing Solutions Service will consider the individual circumstances of each case and may provide appropriate advice and/or assistance under the Housing (Wales) Act 2014 or the Common Allocations Policy for Caerphilly County Borough Council.

In some exceptional cases where it is not safe for a tenant to remain at their home due to a high risk of imminent harm and this is supported by appropriate professionals, it may be necessary for an emergency temporary placement to be provided and consideration given to an emergency transfer. Requests of this nature will be thoroughly investigated and considered on a case by case basis, in accordance with the Caerphilly Homes Management Cases Discretionary Report Procedure.

All other cases of domestic violence and/or /abuse where rehousing is not requested will be looked at sympathetically and any appropriate action or support deemed necessary taken and/or offered. This could include referral and signposting to appropriate agencies, changing the locks, providing target hardening, waiving charges for damage to the property etc.

If there are children whose safety and welfare may be compromised as a consequence of domestic abuse, CCBC will adhere to the All Wales Child

11 Hate related incidents

Hate related incidents are considered to be any activity which has the intention or effect of depriving any person or group of persons of the peaceful enjoyment of their homes, or access to local facilities/ services by virtue of their ethnic origin, sex, age, marital status, sexual orientation, disability, gender reassignment, religion or belief, use of Welsh language, BSL and other languages, nationality, responsibility for dependants or any other reason which cannot be shown to be justified.

The Council will not tolerate any form of hate incident and will take action against any tenant, leaseholder or owner occupier causing distress to a person because of any of the protected characteristics listed above. The Council will work closely with the police and other recognised groups to combat such behaviour.

In addition, the Council will, when it receives complaints of any hate incidents, with the consent of the complainant, make a referral via www.reporthate.victimsupport.org.uk, and/or contact the Hate Crime Team or any other agency which can provide specialist services for consideration and advice.

Hate related incidents can take many forms and include but are not limited to:

- Abusive, threatening or insulting behaviour
- Threats of violence
- Physical assault
- Discriminatory graffiti
- Abusive telephone calls
- Arson and attempted arson
- Vandalism
- Repeated and unfounded complaints against a tenant or group of tenants
- Actions or activities intended to deter a person from occupying a particular property
- Placing rubbish, excrement or offensive materials near or in the complainant's home

The above policy demonstrates the Council's commitment and approach to all aspects of Equalities and complements the Strategic Equality Plan that is driven by the Equality Act 2010 and other preceding Equalities legislation.

12 Information sharing

The Council is mindful that for any anti-social behaviour policy to be successful there has to be an effective information sharing protocol between all partner agencies. The Council and its officers are aware of the statutory provisions as covered by Section 115 of the Crime & Disorder Act 1998 and the Data Protection Act 1998.

Section 115 provides that any person (whether a private individual or member of a public body) can lawfully disclose information, where necessary, or expedient, for the purposes of any provision of the Act, to a relevant Authority or person acting

on behalf of such an Authority, even if he or she would not otherwise have this power. Under the Act 'relevant Authority' means the Chief Officers of the Police area, the Local Authority, the Probation Service and the Local Health Board.

The Council has a formal information sharing protocol with Heddlu Gwent Police and uses this to obtain personal or conviction information. Information is requested from Heddlu Gwent Police where a tenant, resident or leaseholder's anti-social/nuisance actions can be linked to the Housing Management function of the Council.

TES will only share information with another agency if we have permission to do so; if we are legally required to do so; it is necessary to prevent harm to another or prevent crime and disorder.

13 Confidentiality

Complaints of anti-social behaviour should be treated in the strictest confidence. However there may be occasions when cases cannot be progressed without compromising the identity of the complainant. In cases such as this, permission from the complainant should normally be sought before action is taken.

In order to protect the confidentiality of a complainant the TES use a secure database to record and store information about the complaint. Once a complaint file is closed (paper copy) it is scanned and a computer file created. The paper file is held for a specific time period for auditing of scanned documents before being destroyed. The scanned file is held on a secure database. The CCBC Records Retention Policy stipulates that TES files are to be kept for a period of 6 years.

14 Telephone Call Recording

The Tenancy Enforcement Section records all telephone calls. Calls are stored on a secure system that can only be accessed by Tenancy Enforcement staff. Calls are recorded for the following purposes:

- Monitor the quality of call handling and customer service
- Facilitate staff training
- Verify what was said if there is a dispute or complaint
- Protect staff from abusive behaviour
- Verify customer agreements during certain service requests

All recordings will be retained for a minimum period of 12 months and will be deleted after 24 months.

15 Anti-social behaviour staff training

The Council is committed to the training and continual development of its staff. Tenancy Enforcement Officers will receive updates on the latest legal developments from case law and new legislation. They will also receive update training from the in-house Solicitor as and when necessary. TES staff will also attend any training that is appropriate to their role e.g. changes to support mechanisms, legislative changes to support services, awareness of new services available, awareness raising of incapacities affecting lifestyles etc.

16 Monitoring anti-social behaviour

All reported complaints of anti-social behaviour or neighbour nuisance will be logged, issued a unique reference number and dealt with in accordance with the Council's Anti-Social Behaviour Policy and Procedure. Each complaint will be acknowledged, graded and investigated. Where a complainant or alleged perpetrator is unhappy or dissatisfied with the action that is taken, then they may make a complaint to the Senior Housing Officer (Customer Services), or use the Caerphilly County Borough Council's Corporate Complaints Procedure or make a referral to the Local Government Ombudsman.

Tenancy Enforcement Officers will have regular case reviews with their manager to review their work and manage their caseload.

Satisfaction Surveys are sent out to the majority of complainants (excluding agency referrals) and responses are analysed on a quarterly and annual basis.

16.1 Performance Indicators

The Tenancy Enforcement section is currently monitored on the following indicators:

- Legal action taken that has resulted in a Court Order. This will be reasonable and proportionate to the number of referrals received and will not exceed 2% of all referrals.
- Maximise the use of referrals to support services.
- Satisfaction with the way complaints are handled by the Tenancy Enforcement Section will be maintained to a high standard and will exceed 90%.

Other factors also monitored are the number and type of referrals received each year and acknowledging referrals and making contact within the timeframes stated in the procedure.

Performance indicators may be altered to reflect the changing nature of the service.

17 Review

This document will be reviewed where changes in legislation, guidance and good practice dictate.

PART 2 - STATEMENT OF PROCEDURES

1 Operational aims and objectives

The Council's objectives in relation to these procedures are:

- To ensure that the complainant and perpetrator have a complete understanding of the processes to be followed in relation to complaints of anti-social behaviour.
- To ensure the complainant, whether a secure tenant, lease holder or otherwise, understands that the Council as landlord will take all complaints of anti-social/nuisance behaviour seriously.
- To ensure that the complainant has been fully advised of the assistance the Council can provide to protect and support them and their family during the process.
- To ensure that the complainant, if a tenant, understands their tenant obligations and the role of the Council as landlord.
- To ensure that the complainant and perpetrator are provided with details of the named officer or point of contact dealing with the complaint.
- To ensure that the perpetrator is given appropriate support to address unacceptable behaviour by tackling underlying causes and unmet support needs.
- To ensure that the perpetrator understands the consequences of their behaviour and the action that the Council can take to remedy the problem.

2 Confidentiality

Complaints of anti-social/nuisance behaviour should be treated in the strictest confidence. However there will be occasions when cases cannot be progressed without compromising the identity of the complainant. In cases such as this, permission from the complainant should normally be sought before action is taken.

Complainants will be advised that any information which is received by the Council in relation to anti-social/nuisance behaviour and a third party perpetrator might be subject to disclosure under the Freedom of Information Act 2000. However, where a request for disclosure is made the Council as lawful holder of that information will consider each case on its merit and in compliance with the Data Protection Act 1998 will ensure that the interests of the complainant are foremost.

In circumstances where the Council has dealt with cases of anti-social/nuisance behaviour via the legal process then a decision will be made as to whether the matters involved will be disclosed to the media for public interest. In such instances each case will be decided on its merit taking all factors into consideration.

3 Making a complaint of anti-social behaviour

Complaints of anti-social behaviour may be made either in writing or verbally by either the complainant directly, their representative or family member depending on their circumstances.

Complaints of anti-social behaviour involving existing Council tenants, leaseholders, former tenants with restrictive covenants and private renters/owners can be reported at any of the Council's Area or Neighbourhood Housing Offices or directly to the TES. Complaints can be made in person, in writing, by telephone or via the CCBC web site www.caerphilly.gov.uk A full list of contact details can be found in Part 2 - Section 9.

Council tenants should be aware that if their complaint is against another tenant, a member of their family and/or visitor to their property or the area, they should direct their complaint in the first instance to their local housing office.

All complaints of anti-social/ nuisance behaviour will be referred to the TES for Performance Monitoring/Information purposes. Complaints of a general nature and the less serious incidents of anti-social behaviour will be referred back to the Area and Neighbourhood Housing Offices for investigation. See page 5 for examples. The TES will investigate complaints of more serious incidents of anti-social behaviour. Complaints that are incorrectly directed to the TES will be redirected accordingly.

Complaints between owner-occupiers should be reported to CCBC's Community Safety Officer who will arrange, where appropriate, to coordinate a response on behalf of CCBC.

Complainants, when reporting acts and issues relating to alleged anti-social/nuisance behaviour, are likely to be asked to provide a number of details to assist the investigating officer in dealing with their complaint. The following are examples of some of the questions asked:

- What has happened?
- Where it happened?
- When it happened?
- Who was involved?

Whilst it is not essential for complainants to have all the above information at hand it will help the Council deal with complaints more effectively. Diary sheets or photographs that record incidents should be kept for information and could be used as evidence in any legal action.

Complaints that are submitted anonymously to the Council are referred to the Internal Audit Section for recording and then passed on to the relevant departments. If such cases allege anti-social behaviour involving tenants, leaseholders and private renters/owners whose behaviour can be linked to the Council's role as a social landlord, they will be passed to the Tenancy Enforcement Section (TES) who will investigate where it is practical to do so. This may include speaking to other agencies to see if they have any details of incidents.

4 Grading and assessing a complaint

Upon receipt of an anti-social/nuisance referral in the Tenancy Enforcement Section, it will be assessed and graded using the information provided, considering the circumstances and severity of the situation. This process should take place within 5 working days of receipt of the initial complaint referral.

The following is a guide of how complaints of anti-social/nuisance behaviour may be graded. Each complaint will initially be graded on the information provided.

GRADE 1 COMPLAINT

- Physical violence
- Hate related incidents
- Domestic violence

GRADE 2 COMPLAINT

- Verbal and written abuse
- Harassment, intimidation and threatening behaviour
- Vandalism and damage to property
- Substance misuse – drugs and alcohol

GRADE 3 COMPLAINT

- Noise

GRADE 4 COMPLAINT

Minor acts that are not considered to represent a serious breach of the tenancy agreement or where legal action is likely to be inappropriate. These include:

- Pets and animal nuisance (apart from noise related nuisance) e.g. breeding, smells and animal fouling
- Litter, rubbish and fly tipping
- Gardens e.g. untidy gardens, rubbish, bonfires
- Misuse of communal areas or public spaces e.g. children's games/playing games, unauthorised parking on grass verges
- Nuisance caused by running a business e.g. buying/selling/repairing cars
- Boundary disputes
- Parking disputes

These issues will not be investigated by The Tenancy Enforcement Section – see Statement of Policy – section 4.0.

GRADE 5 COMPLAINT

Issues of anti-social behaviour which are not directly related to housing management but which require the involvement of other departments or agencies. This could relate to cross tenure complaints.

- Criminal behaviour

Whilst initially each complaint will be graded on the information provided, circumstances of the case and the severity of the anti-social behaviour, all cases can and will be subject to ongoing review and where necessary regraded to reflect the current situation, the severity of the problem (if applicable) and the changing needs of the complainant.

Cases that are graded higher will be given priority and responded to more quickly if cases have to be prioritised.

5 Investigating a complaint of anti-social behaviour

All responses to incidents of anti-social/ nuisance behaviour will be proportionate, measured and reasonable. TES use an incremental approach, where

appropriate, to resolve complaints by offering advice, support and, if necessary, referrals to the appropriate support agencies with the aim of reducing the nuisance behaviour. However if this is not appropriate then legal remedies may/will be used.

5.1 Interviewing the Complainant

On acceptance of the initial complaint of anti-social behaviour by TES, an Officer will contact the complainant within five working days to arrange to carry out an assessment interview. Cases that are graded higher will be given priority and contacted more quickly. Contact can be made by telephone, home visit or e-mail.

This initial interview will allow the Officer to:

- Explain the procedure to the complainant
- Confirm the grade of the complaint, according to its severity
- Identify appropriate means of communication
- Identify support packages, if appropriate
- Agree an action plan
- Set realistic timescales and targets to complete the process
- Complete an impact assessment - see Appendix 1

During the initial interview, the complainant will be requested to provide information on the facts of the complaint and provide any supporting evidence that is available. The initial contact can take place at the complainants home, elsewhere if preferred, on the telephone or by e-mail. No actions will be taken until the complainant has been spoken to, unless the seriousness of the situation overrides this. All complaints are confidential and in the majority of cases the identity of the complainant will not be disclosed to the perpetrator unless the complainant has agreed. There are situations where it is very difficult to keep the complainants details confidential due to the nature of the complaint and this will be explained to the complainant. If legal proceedings are commenced it is very difficult to keep the complainants identity confidential.

The complainant will also be asked to keep a record of any further incidents. The Officer will provide the complainant with nuisance diary sheets on which to record new incidents. The nuisance diary sheets are very important in assessing changes in the alleged perpetrators behaviour and provide essential information in the event of a court case. If a person is unable to complete nuisance diary sheets, arrangements can be made for them to contact TES who will record the information on their behalf, or other arrangements can be agreed such as a family member recording the information for them. It is important that while investigating a complaint TES have the full cooperation of complainants and work together to resolve the complaint. It is often impossible to resolve a complaint without the cooperation of a complainant, who is vital in resolving the issues they have complained of. The Officer will at all times ensure that the complainant and any witnesses are made to feel part of the complaints process and offered any support or assistance they require to help them through what can be a very stressful time. The Officer will maintain regular contact for updates.

If the complainant wishes for no further action to be taken, the alleged perpetrator, in most circumstances, will be advised of the complaint. The details of who has complained will be withheld.

5.2 Wider Investigations

Checks will be made of Housing records to determine if either party is previously known to TES. This can also provide information on actions by other sections within Housing, previous contacts, support/vulnerability of either party, potential to combine actions etc. Information on both the victim and the perpetrator can be useful in developing a course of action to help resolve the situation. Current or preceding actions by other Housing sections can assist in speeding up the process and actions may be combined.

The TES may make wider investigations depending upon the nature of the complaint. This may include contacting other agencies such as the Police, Social Services, and Safer Caerphilly etc. for information that is or may be relevant to the investigation. This would assist in helping to understand the needs/ vulnerabilities, previous behaviour (criminal or otherwise) of either party, to help develop a course of action, which may involve multi-agency working to reduce/ resolve the situation being experienced.

5.3 Interviewing the alleged perpetrator

In most instances the Officer will visit the alleged perpetrator to discuss the complaint. Where and when an interview takes place will be determined by the nature of the complaint. The perpetrator will be given the opportunity to provide their account of the incident that has led to a complaint and any factors that they think are relevant to the investigation.

The approach followed to resolve the complaint will vary but may include:

- regular contact with and/or visits to the alleged perpetrator
- letters
- mediation
- referral to support agencies
- multi agency work
- final warning
- if the issues cannot be resolved satisfactorily, legal action will be considered.
- case closure

See Part 1 Statement of Policy - Sections 6, 7 and 8 for a list of actions that may be available.

5.4 Evidence

Any action taken must be deemed reasonable, proportionate and in keeping with the severity of the complaint. There must be evidence of the behaviour complained of for any action to be taken.

In order to take legal action the evidence must meet the threshold of the civil burden of proof – balance of probability. This is not the only factor to be considered. Reasonableness, proportionality, severity of the incident(s) and likelihood of recurrence also need to be considered before legal action is commenced. These issues will be discussed in full with Legal Services, the investigating officer and the Tenancy Enforcement Manager. In some instances legal action may be the first course of action taken due to the seriousness of the incident reported.

Reasons why action might not be taken include:

- Establishing that the incident did not happen
- Not enough evidence to meet the civil standard of proof
- The issues reported are not anti-social behaviour
- The non-cooperation of the complainant and/or witnesses has prevented a thorough investigation

In cases where the possible neglect or abuse of children is identified, the Officer will, in accordance with the All Wales Child Protection Procedures, make a referral to the Information, Advice and Assistance Section of Social Services where the referral will be assessed. In relation to adult safeguarding a referral will be made to the Information, Advice and Assistance Section where the referral will be assessed and referred to the appropriate service such as POVA, Older Persons, Drug and Alcohol etc.

6 Supporting Complainants

Throughout the complaint process the Officer will support the complainant in various ways, from making referrals to support agencies to keeping in regular contact to provide reassurance.

Sometimes it becomes necessary to take legal action against a person, as other interventions have not remedied the problem or the situation warrants this approach. If court action is necessary, complainants will be offered help and support during what can be a very stressful time. For any action to be successful we would normally require statements from independent witnesses and for complainants to be willing to go to court, if necessary, to confirm what they have seen or heard or what has happened. The Council will offer support and assistance at every point of the process. In extreme circumstances, and if the situation merits it, the Council will consider re-housing the complainant. All complainants are offered support and assistance by the investigating officer and those who agree to provide formal statements and attend county court as witnesses will be offered the services of the Witness Support Scheme as described in Part One – Statement of Policy - Section 7.2.

Tenancy Enforcement Officers will work towards gathering independent evidence and will act as professional witnesses to support hearsay evidence in cases where complainants feel threatened or intimidated by the complaints process. This is designed to prevent undue pressure or stress being brought to bear on the complainant. However it is recognised that hearsay evidence is given much less weight by a District Judge than that of a direct witness and the significance of this will be fully explained to the complainant.

7 Monitoring complaints of anti-social behaviour

A separate case file will be opened to record and administer each case of anti-social behaviour. Each document/file is allocated a reference number and is used to maintain a detailed record of all visits, telephone conversations, letters and interview notes.

For each complaint of anti-social behaviour there will be:

- A chronological record of all actions taken by the investigating officer. This may be required for court.
- Notes of all visits, phone calls, interviews, copies of e-mails etc. This will ensure that in the absence of the Officer dealing with the case, another officer can progress the case.
- All relevant forms and diary sheets completed.

A case will remain open until the investigating officer determines that the file can be closed. This may or may not be with the agreement of the complainant. A case will not be closed immediately after action has been taken but will be monitored for a period of time (minimum of 4 weeks) to ensure that the problem has sufficiently reduced or been resolved. The length of time a file is monitored will vary from case to case depending on factors such as the seriousness of the incident, vulnerability of the complainant, action taken, ongoing investigations etc.

If there are further incidents during this period the complainant will need to record those incidents and a review of the complaint will be undertaken with the investigating officer to determine the next course of action. The method of contact during the monitoring period will vary from case to case but will always be agreed between the officer and the complainant. The action to be taken will continue to follow the incremental process (if that is still appropriate) and further action taken as deemed suitable by the investigating officer in consultation with the complainant. Sometimes the officer may have to take action that the complainant does not agree with or will not take action that the complainant wants. At all times the officer will manage the expectations of the complainant against the reasonableness and proportionality of the action to be taken.

8. Case Closure

All cases will be closed using the following reasons:

- Resolved
- Resolved – no contact from complainant
- Unresolved
- Unresolved – no contact from complainant
- Closed at complainants request
- Duplicate
- Wrong details of complainant or perpetrator provided
- Not housing complaint
- Created in error

‘No contact’ refers to the complainant not responding to calling cards, visits or a letter advising them if they do not contact the investigating officer within 7 days the file will be closed.

The investigating officer will determine what category a case will be closed under. A case will be closed in consultation with the complainant (if possible) but it may be closed without their full agreement. This type of case will be closed as **unresolved**. An example of this is when there is nothing further that CCBC as an organisation can do but the complainant wants to keep the file open or is requesting action be taken that is not appropriate or proportionate.

Letters may be sent to either party at the close of a case advising them that their file is now closed and no further action will be taken. This is at the discretion of the investigating officer. Reasons for not sending letters can include that the complaint and closure have been fully discussed with the complainant at a final visit and there is no need to send a letter, or that the situation is now resolved and a letter is likely to reignite issues. Reasons for not sending a case closure letter will be recorded on the file by the investigating officer.

Satisfaction Surveys are sent out to the majority of complainants (excluding agency referrals) and responses are analysed on a quarterly and annual basis. The questionnaires are anonymous and are printed on the back of pre-paid postage cards so only need to be completed and posted.

Once a complaint file is closed (paper copy) it is scanned and a computer file created. The paper file is held for a specific time period for auditing of scanned documents before being destroyed. The scanned file is held on a secure database. The CCBC Records Retention Policy stipulates that TES files are to be kept for a period of 6 years.

9 Contact Details

The Area/ Neighbourhood Housing Offices are:

Upper Rhymney Valley Area Housing Office
Gilfach House
William Street
Gilfach
Bargoed
CF81 8ND
Tel: 01443 873535

E-mail: urvaho@caerphilly.gov.uk

Eastern Valleys Area Housing Office
5 The Market Place
High Street
Blackwood NP12 1AU
Tel: 01495 235229

E-mail: eastvalleyaho@caerphilly.gov.uk

Lansbury Park Neighbourhood Housing Office
45 Attlee Court
Lansbury Park
Caerphilly
CF83 1QU
Tel: 02920 860917

E-mail: lansburyparknho@caerphilly.gov.uk

Graig-y-Rhacca Neighbourhood Housing Office
Grays Garden
Graig-y-Rhacca
Machen
CF83 8TW
Tel: 02920 853050

E-mail: graiyghaccanho@caerphilly.gov.uk

10. Availability of the policy and procedure

Copies of the Council's Statement of Anti-Social Behaviour Policy and Procedure and Summary are available on request or can be viewed on the Council's website www.caerphilly.gov.uk at the office of the TES or at a Local Housing Office

This publication is available in Welsh and in other languages and formats on request.

Mae'r cyhoeddiad hwn ar gael yn Gymraeg, ac mewn ieithoedd a fformatau eraill ar gais.