

Nuisance and Anti-Social Behaviour Policy



Tuntum Housing Association's Nuisance and Anti-Social Behaviour Policy is based on a sensitive, fair, firm, and supportive approach, which is in line with current best practice.

Tuntum aims to empower communities to be successful and vibrant. We focus on quality, making a difference and fairness in the way we provide housing services in the communities we serve. This policy sets out how we will deal with actions by residents, their family members or visitors which cause nuisance or annoyance to their neighbours. We have a separate policy and procedure in place to manage cases of domestic violence.

Our aims and the purpose of this policy

The purpose of this policy is to reduce the amount of Nuisance and ASB that impacts adversely on the lives and environment of our tenants, leaseholders and the wider community. It also defines Nuisance and ASB, ways in which we tackle it, and what our tenants and leaseholders can expect from us.

Tuntum aims to:

- investigate each complaint impartially, take action against offenders and support and protect victims and witnesses
- keep an open mind and investigate complaints made against alleged perpetrators in a fair and impartial way
- look initially at ways to resolve Nuisance & ASB without the use of legal enforcement and in proven cases provide support for alleged perpetrators to improve their behaviour
- demonstrate and communicate our commitment to tackling Nuisance & ASB and promote a culture of respect to our tenants, leaseholders and the wider community
- work in partnership with the Police, Community Safety Units and other agencies to ensure that Nuisance & ASB is dealt with effectively through a multi-agency approach

Policy context and legislative requirements

The tenancy agreements of Tuntum clearly set out the standard of behaviour expected of our tenants. The conditions related to Nuisance & ASB are referred to in detail when a new tenant signs up to their tenancy.

The term Nuisance & ASB is used to describe actions that interfere or could interfere with an occupier's normal use and enjoyment of their home and/or community. The definition extends to behaviour that creates nuisance and annoyance for another person which includes staff and contractors.

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Tuntum does not operate in isolation and this policy takes into account the following legislation, but is not limited to:

- Anti Social Behaviour Act 2003
- Crime and Disorder Act 1998
- ASB Crime and Policing Act 2014
- Housing Act 1985 (Schedule 2- Grounds for Possession)
- Housing Act 1996
- Police Reform Act 2002
- Disability Discrimination Act 1995
- Environmental Protection Act 1990
- Human Rights Act 1998
- Noise Nuisance Act 1993
- Equality Act 2010

Equality and Diversity

We respect the rights of all individuals when carrying out our day to day work. This means promoting equality, valuing diversity, supporting social integration and tackling discrimination. We understand that people have different needs and therefore may need to be treated differently, but at all times fairly and impartially.

Tuntum will:

- consider issues of vulnerability, disability and mental health when incidents of Nuisance and ASB are reported and consider referrals, where appropriate
- aim to identify mental health issues at the application /sign up stage to ensure appropriate support services are in place at the start of the tenancy
- put safeguards in place to protect vulnerable tenants involved in Nuisance & ASB, from eviction, by working with Social Services and other key agencies that can offer support to them
- demonstrate we have considered ways in which the action we take may directly or indirectly discriminate against different groups, before we take legal action
- only take legal action on alleged perpetrators when we have considered and taken all available options to resolve the case

What is anti-social behavior & nuisance?

There is no generally accepted definition of ASB & nuisance. However, following consultation with tenants and leaseholders, we have adopted a broad definition of ASB & neighbor nuisance as being:

“Any behaviour by residents, members of their household or their visitors that causes alarm or distress to another; or behaviour that interferes with the day to day well being, physical or mental health, safety and security of another household or individual”

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The Crime and Disorder Act 1998 defines ASB as:

“Any act which caused or was likely to cause harassment, alarm and distress to one or more persons not of the same household as the alleged perpetrator”

The Anti Social Behaviour Act 2003 defines ASB as:

“conduct which is capable of causing nuisance or annoyance to any person and which directly or indirectly relates to, or affects, the housing management function of a relevant landlord” or

“Conduct which consists of, or involves using or threatening to use, housing accommodation owned or managed by a relevant landlord for an unlawful purpose”

The Anti Social Behaviour Crime and Policing Act 2014 defines ASB as:

“Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person; conduct capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises or conduct capable of causing housing related nuisance or annoyance to any person.”

Anti-social Behaviour & nuisance may be categorised broadly into four main areas and includes but is not limited to:

Disregard for community/ personal well being, such as

- Noise
- Rowdy behaviour
- Nuisance behaviour
- Hoax calls
- Animal related problems

Acts directed at people, such as

- Intimidation/ harassment
- Verbal Abuse
- Cyber bullying and on line harassment
- Domestic Abuse

Environmental damage, such as

- Criminal damage/ vandalism
- Litter/rubbish
- Fly tipping

Misuse of public space

- Drugs/substance misuse and dealing
- Street drinking
- Prostitution
- Abandoned cars
- Vehicle related nuisance and inappropriate vehicle use

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Reporting Nuisance & ASB

Tuntum publicises the broad range of mechanisms available for reporting incidents of Nuisance & ASB, which include:

- telephone
- talking directly to staff members
- e-mail
- Tuntum website: www.tuntum.co.uk
- written correspondence
- personal visits to any Tuntum Office
- through a third party (e.g. Councillor, friend or relative)

Preventing Nuisance & ASB

Tuntum recognises that one of the most effective ways to tackle Nuisance & ASB is to take preventative and supportive measures to discourage Nuisance & ASB from occurring in the first place. Tuntum will work with other agencies to take a range of measures including:

- Supporting and developing strategies that include early tenancy support and sensitive lets where appropriate, and that exclude applicants from the Choice Based Lettings Scheme
- Using Starter/Introductory Tenancies, where applicable, to take prompt action when a new tenant breaches the conditions of their new introductory tenancy agreement
- Explaining the clauses about Nuisance & ASB in the tenancy agreement to our new tenants at sign up
- Providing and publicising information on what constitutes Nuisance & ASB
- Multi Agency Partnerships - *see Appendix (a) for expanded list*
- Good Neighbour Agreements
- Security improvements
- Community Cohesion
- Support Services
- Publicity
- Ensuring that all information is available and accessible to all communities e.g. translations
- Tackling Social Exclusion in partnership with schools and other agencies

Non-legislative action

We believe that Nuisance & ASB can be stopped if challenged early enough. We use the non-legislative measures available to stop the problems escalating. These include:

- Written or verbal warnings
- Home visits/Office interviews
- Prompt action for repairs as a result of anti social behaviour e.g. the removal of graffiti
- Referral to Police/Community Protection/Environmental Health to investigate a statutory nuisance
- Referral to the Mediation Service
- Acceptable Behaviour Agreements
- Parenting Agreements
- Support for vulnerable alleged perpetrators
- Extension of Introductory/Starter Tenancies, where applicable.
- Good Neighbour Agreements
- Noise Monitoring
- Multi agency partnership working

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We may pursue legal action if the Nuisance & ASB is serious and or/criminal and we will evict alleged perpetrators only as a last resort or where there is a risk to others.

Legal action we may take includes:

- Notice of Seeking Possession
- Notice to Quit
- Notice of Possession Proceedings (Introductory tenancies) where applicable
- Possession Applications and Evictions
- Injunctions for breaches of tenancy and/or Anti-social Behaviour
- Demotion of Tenancy
- Parenting Orders
- Referral to Police and/or other agencies as appropriate

The Legal options vary depending on:

- the type of behaviour and the impact it has on others
- the age of the alleged perpetrator
- any vulnerability or disability of the alleged perpetrator
- whether the alleged perpetrator is a resident or non-resident
- willingness of the alleged perpetrator to engage with the support/intervention packages offered
- the evidence we have to support the case

Challenging nuisance & anti-social behaviour

Tuntum believes that Nuisance & ASB should not be tolerated. Taking action against perpetrators of Nuisance & ASB sends a clear message to other tenants, and the community that we will not tolerate such behaviour

Following investigation legal action may not always be appropriate. Tuntum will work with perpetrators, and provide the relevant support and challenge to enable individuals to modify and change behaviours. The ultimate aim is to stop the behaviour or behaviours. Tuntum will work with the victim and a number of partner organisations using a variety of methods to gather evidence. We will, as far as possible, take action against the perpetrator of Nuisance & ASB rather than moving the person affected by it.

Supporting the victim

Tuntum will take appropriate action to protect and support victims and witnesses of Nuisance & ASB. The safety of victims and witnesses is our first priority.

An 'action plan' will be completed with the complainant and/or victim of Nuisance & ASB which will agree a course of action and agree how the complainant and victim are kept informed with progress in resolving the complaint.

Working in partnership

Tuntum will work with partner agencies to produce a Community Harm Statement (CHS). This will highlight the wider impact of harm on a community in cases of Nuisance & ASB where legal action is being taken.

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The CHS will support a balanced and proportionate approach to the assessment of harm to a community as well as the human rights of the perpetrator and ensure evidence is presented to the Court in a consistent manner.

Criminal cases will be referred to the Police. If the complainant reporting the Nuisance & ASB wishes to pursue their own action to resolve a problem and we feel there is sufficient evidence to do so, we will provide advice and support to assist them.

What happens when a report of Nuisance & ASB is received?

Upon dealing with the initial complaint, customer services will allocate a grade, confirm this to the customer and where appropriate, arrange an appointment with a Housing Officer. This can either be at home, Tuntum's Head Office or any other appropriate place. The complaint will be graded on a scale of 1 to 4, with grade 1 cases being the most serious. Tuntum will not usually take any formal action on cases graded 4, other than to note them on file.

All initial gradings will be made on the basis of the information that the victim/witness provides; however, grades may be reassessed later during the investigation process.

The officer will also fill in a risk assessment form to establish whether the case is low, medium or high risk.

Exceptions to the above approach:

(A) Domestic Noise Nuisance

Normal Service Standards DO NOT apply. All complaints of noise nuisance will be referred to the Police/Community Protection/Environmental Protection Team within the relevant city/county council. If they find evidence of noise nuisance and serve a Noise Abatement Notice they will inform us. We may then consider legal action.

(B) Different Lifestyles

Quite clearly the term 'anti-social behaviour' includes a wide variety of behaviour that can blight the quality of community life. However, we do not classify as anti-social behaviour everything that is reported to us. For example;

- People mowing their lawns
- People vacuuming
- People walking across a wooden floor whilst wearing shoes
- People using washing machines
- Noise or disruption from children arguing, playing or misbehaving (save where there is a criminal offence committed)
- Cooking smells
- Noise of a child playing in or near their own home

All of the above are considered to be everyday living noises or minor lifestyle differences rather than nuisance & anti-social behaviour. They will not therefore be investigated as such under the terms of this policy. This list is not exhaustive.

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Although people are expected to hear a certain amount of noise from their neighbours, they are not expected to have to endure unreasonable and persistent levels of noise nuisance. Even some of the examples used above could be a noise nuisance if they were to regularly occur late at night. Anyone in

any doubt should contact us for advice and assistance. Domestic noise nuisance will be investigated by the relevant Police/Community Protection/Environmental Protection Team. In cases where there is evidence of Nuisance/ASB and noise nuisance the two departments will share information and conduct joint investigations.

Children playing ball games is not considered to be nuisance/anti-social behaviour. The government aims to encourage children to play outside as this will help to reduce childhood obesity, it is therefore recognised that unless those playing ball are engaged in other more serious nuisance, such as verbal abuse or criminal damage, we will not take action against children for playing ball games. This would be unreasonable and disproportionate.

We will also not fit “no ball games” signs to roads and highways as it is illegal for children to be playing in the road. Complaints about children playing ball games in the street should be directed to the relevant Neighbourhood Management Team of the Borough/City Council. Unless there are exceptional circumstances we will not fit “no balls games” signs to our communal areas or open green spaces as they are unenforceable.

The remedies offered are considered on a case by case basis at the discretion of the investigating officer. Consideration is given to the gravity of the anti-social behaviour, the circumstances of the perpetrator, previous steps taken in relation to that perpetrator and the legal framework. Not all disposals will be suitable in every case, for example mediation.

Mediation will only be offered where both parties agree, there is no criminality, and where there is not an imbalance of power between the parties involved. Possession will only be sought as a last resort, except in very serious cases where the anti social behaviour is so serious that the only appropriate response is eviction.

Under S115 Crime and Disorder Act 1998 (as amended) and other applicable legislation and Regulations, we will share information with partner organisations in order to prevent or detect Crime and Anti-Social Behaviour and conduct joint or multi-agency investigations

The responsibility of the complainant

When we receive a report of anti-social behaviour & nuisance we will, as part of our investigation, always try to contact the complainant to find out as much information as we can. First ^{contact} is usually made by telephone, but could be made by using other means, such as a home visit.

It is important therefore that all complainants recognise the importance of working with us to resolve their complaint. They should do this by responding to our calls and/or letters, collecting information on the nuisance and to be available for pre-arranged meetings or home visits. Failure to do so may lead to the case being closed due to lack of contact with the complainant.

If a case warrants it, we may request that complainants and/or witnesses provide us with a statement and attend court. It is important therefore that all complainants understand that this may be a course of action pursued as a means of resolving the nuisance.

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All complainants have a responsibility not to make malicious complaints about their neighbours, visitors or anyone engaged in lawful activity around their property. We take malicious complaining very seriously and will take action that is appropriate and proportionate against anyone found to be doing so.

The responsibility of the wider community

Although all reports of nuisance & anti-social behaviour will be thoroughly investigated, the wider community has a responsibility to not engage in nuisance & anti-social behaviour & to report it where seen.

Partnership working is crucial if we are to prevent nuisance/anti-social behaviour and tackle it quickly and effectively.

Examples of our partner agencies include (*although this list is not exhaustive*);

- Police
- Health Services
- Social Services
- Youth Offending Service (YOS)
- Public Protection Team
- Community Safety Team
- Probation
- Fire and Rescue Service
- Youth services
- Neighbourhood Management

Together with our partner agencies, we have also signed an information sharing protocol that enables us all to share appropriate and relevant information when dealing with cases of anti-social behaviour.

All information is shared in line with the protocol and within the terms of the Data Protection Act 1998 and the Crime & Disorder Act 1998 (as amended) and any other relevant legislation or Regulations.

We attend a number of multi agency forums aimed at strategically planning and targeting resources to prevent and reduce anti-social behaviour. These forums include Community Tasking and Neighbourhood Team meetings.

We will meet on a regular basis with partner agencies such as the Police and council departments to collectively target appropriate resources at emerging areas of crime and disorder.

Supporting vulnerability

In recognising the importance of supporting vulnerable people, we will refer anyone who we know or who we suspect has a vulnerability to a specialist Supporting People service, providing that the individual is willing to receive this support. This is regardless of whether they are the alleged perpetrator or the complainant.

When a complaint of nuisance/anti-social behaviour is made against someone who we know or suspect is vulnerable, we will try to change or modify their behaviour by linking in with the support services. However, we will also make it clear that any failure to engage with this service may lead to legal action being taken against them to enforce their tenancy conditions.

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Witness support

When we are preparing to take action against someone for nuisance/anti-social behaviour, we understand that it can be a frightening and distressing time for our witnesses. We will therefore do all that we can to make this process as easy as possible.

Witnesses in court

Where witnesses are required to give evidence in court we will provide a full explanation of what people should expect and offer a pre-court visit in advance of the hearing (where possible).

Witnesses can expect to receive the following support throughout court hearings;

- Transport to and from the court
- A separate waiting room for witnesses (where possible)
- An escort during the hearing (this will usually be the officer who has been managing the case)
- Compensation for loss of earnings
- Refreshments & lunch through the hearing.

In all cases that have been resolved following a court hearing, officers will continue to support witnesses for a period of time afterwards. The length of time required will vary for each case and it will be agreed with witnesses on an individual basis. We can also refer witnesses for additional support from the Victim Support Scheme (VSS).

Hate crimes & incidents (racist harassment, homophobia, sexual harassment and acts against those groups covered by the 'protected characteristics' of the Equalities Act 2010)

Complaints of this nature are classified as very serious.

The nine 'protected characteristics' detailed in the Equalities Act 2010 are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Anti-social acts against individuals because of their 'protected characteristic' will be treated seriously and are categorised as Grade 1.

We will deal with all complaints of racial harassment in line with our Racial Harassment Policy.

We define racist harassment as being:

"Unwanted conduct on the grounds of race or ethnic or national origin which has the purpose or effect of:

(a) violating that other person's dignity or

(b) creating an intimidating, hostile or offensive environment for him (sic)"

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Using this definition of a racist incident during an investigation does not prejudice the perpetrator's intention. After a thorough investigation of an incident it may be clear that the harassment is not racially motivated, but by using perception we ensure that any racial motivation is fully considered throughout the investigation.

As with a racist incident, we define a hate crime or incident as an incident that is perceived to be such by the victim of any other person. Examples of a hate crime or incident could be because of someone's religion, gender, sexuality, mental health, learning or physical disability, or cultural difference. Having HIV, AIDS or a physical deformity/impediment is also defined similarly.

Where a racist or hate crime incident has been reported to us, we cannot take any enforcement action without evidence.

All complainants and witnesses in these cases will be dealt with in a sensitive, supportive and understanding way.

We will also offer to refer complainants and witnesses to an appropriate support agency who will be able to provide them with additional support, such as Victim Support Scheme (VSS). If the property where the victim/witness lives has been the subject of vandalism or graffiti, we will deal with this as a matter of urgency. Our target for removing abusive, racist or homophobic graffiti is within 24 hours.

Closing cases

We will close cases where the situation has been resolved & the complainant is happy for us to do so.

In certain circumstances, we will close cases even if the complainant does not want us to. If we are satisfied that we have done everything we can, that is reasonable and proportionate to resolve the complaint. We will record the reasons for closing cases and advise people about what they can do next.

We will not assume that a situation has improved if we have not heard from the complainant in a while. We will try and make contact with them before passing a case for closure. We will do this by writing to them, telephoning and / or conducting a home visit.

Only when all these have failed will a case be passed for closure on the grounds of no contact.

We will also close a case where the complainant has failed to respond to our requests for information.

To avoid cases being open indefinitely, each case classification has a target timescale for closing. We recognise that not all cases will be closed within these target times because of individual circumstances (such as delays in getting a court date), but we aim to resolve the majority of cases within these times.

Target times for closing cases:

Minor – (grade 3 and 4) 24 weeks

Serious – (grade 2) 24 weeks

Very Serious – (grade 1) 16 weeks

Cases can be re-opened at any time, but there must have been further incidence of nuisance for us to be able to do so.

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Publicising success

Publicity is essential if local communities are to support us when tackling anti social behaviour. Therefore, we will publicise successful results of both legal and non-legal actions that we have taken in circulations such as 'engage' the tenant's newsletter, local media and other appropriate outlets.

We will also, from time to time, publish a statistical summary showing the numbers of cases, actions, resolutions and court results to our tenants and partner agencies through a variety of publications (e.g. notice boards, newsletters and annual report).

When we obtain an Injunction or other relevant court order we will produce information for all relevant parties in line with our publicity protocol. Each case will be dealt with on its merits and any case involving juveniles will be discussed with the Head of Public Protection, where applicable. The information could include details of the name and age of the perpetrator, together with a list of the prohibitions and the expiry date of the Order. It will also contain details of who to contact should the Order be breached.

Protection of staff

We will not tolerate any threats or abusive behaviour towards our staff.

We will take strong action if this condition is breached including legal action which could result in an Injunction, possession proceedings or both.

Complaints & Compliments

If you are pleased with a service that you have received and you would like to pass on your praise to the staff concerned, compliments can be made directly to the team or office concerned, or you can contact as follows:

- Email: admin@tuntum.co.uk
- Phone: 0115 9166066
- Letter to: Customer Services, Tuntum Housing Association, 90 Beech Avenue, New Basford, Nottingham NG7 7LW
- Calling into: Tuntum HA Head Office
- Online: <http://www.tuntum.co.uk/residents/customer-information/customer-feedback/>

If a customer is dissatisfied with the response of Tuntum to their situation they may make a complaint through Tuntum's Customer Care Procedure. Copies of Tuntum's Customer Care Procedure complaints procedure can be obtained from via the website (www.tuntum.co.uk), by telephoning (0115 9166 066) or visiting Tuntum's Head Office.

Reporting

The Head of Housing & Sales is responsible for reporting quarterly statistics of Nuisance & ASB and racial harassment cases to the Senior Management Team.

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Confidentiality and data protection

The Data Protection Act 1998 allows for the exchange of information where it is for the prevention or detection of crime or for the apprehension or prosecution of offenders.

Tuntum will explain to complainants the importance of the processes in dealing with Nuisance & ASB and it may be necessary to disclose information to other official departments or agencies.

Information will be shared with other agencies, where there is a duty to do so, and /or where information-sharing protocols are in place (see below).

Information sharing

Section 115 of the Crime and Disorder Act 1998 allows Tuntum to share information for the purpose of preventing and detecting crime and disorder. Tuntum reserves the right to share information in line with any relevant legislation or Regulations.

Tuntum recognises that confidentiality is important to develop a relationship of trust with complainants and guarantee that any information provided will be kept in the strictest confidence.

Tuntum will not reveal the identity of any person unless written permission is obtained beforehand. Where Child Protection issues are suspected, the identities of any person will not be released.

Review

The terms of this policy shall be subject to ongoing review in the light of experience, changes in legislation and Tuntum policy and meeting the needs of our customers and stakeholders. In any event this policy will be reviewed as a minimum every three years.

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Appendix (a) - Multi Agency Partnerships

Tuntum will adopt a multi agency approach to tackle neighbor nuisance & anti social behaviour sharing expertise and resources.

Tuntum will work in partnership with statutory organisations, partners, community groups, professional bodies and other stakeholders to support individuals who report anti social behaviour, witnesses and alleged perpetrators.

Tuntum will work in partnership at a strategic and operational level with:

1. The Local Authority
2. Environmental Health
3. The Police
4. Community Safety Units
5. Community and Voluntary Agencies
6. Troubled Families
7. Resident /Tenants Groups
8. Local Action Teams where appropriate
9. Other Housing Providers
10. Youth Offending Teams
11. The Mediation Service
12. Social Services (Adult and Children)
13. Mental Health Team
14. Support Agencies

Policy approved by Board:14th September 2016