



Safer Birmingham Partnership

Practitioner's Toolkit

Tackling Anti-Social Behaviour in Hostels



Throughout this document you will notice blue text [like this](#). This text will act as a link to an area of the Toolkit or web address as specified.

In addition, if you click on any section of the contents page, you will be taken to the relevant text within the Toolkit.

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1 | Introduction and Purpose of Practitioner's Toolkit

- 1.1** The private rented sector plays a key role in the housing market. However, there are concerns about the way in which some parts of the sector operate. This is particularly true for the part of the sector catering for more vulnerable households and those on low incomes, with limited ability to exercise choice.
- 1.2** Landlords are already subject to regulation aimed at tackling poor stock condition and management through enforcement powers, given to local authorities in the Housing Act 2004.
- 1.3** The purpose of this toolkit is to outline the interventions available to tackle crime and disorder issues associated with the privately owned low cost hotel and hostel accommodation, and the adverse impact on local neighbourhoods where this type of accommodation is located.
- 1.4** The Toolkit contains details of partnership agencies working to improve the management of low cost hotel and hostel accommodation and prevent anti-social behaviour.



2 | Glossary of Terms

TERM	DEFINITION	DESCRIPTION
ABC	Acceptable Behaviour Contract/ Commitment	An agreement made between young people who are responsible for causing anti-social behaviour and their parents or guardians, along with agencies like the police or local authority.
ALMO	Arms Length Management Organisation	Not-for-profit companies set up by local authorities primarily to manage and improve all or part of their housing stock.
ASB	Anti-Social Behaviour	See ASB definition.
ASBI	Anti-Social Behaviour Injunction	An order of a court and bans a person or persons from a specific behaviour.
ASBO	Anti-Social Behaviour Order	A civil order made against a person who has been shown to have engaged in anti-social behaviour.
BASBU	Birmingham Anti-Social Behaviour Unit	A multi-disciplinary unit whose purpose is to tackle serious anti-social behaviour anywhere in Birmingham via a range of preventative measures and enforcement action.
BCC	Birmingham City Council	Local authority for the Birmingham area.
CPS	Crown Prosecution Service	The CPS is the government department for prosecuting criminal cases investigated by the police in England and Wales.
CRASBO	Criminal Anti-Social Behaviour Orders	An order made on conviction in criminal proceedings.

TERM	DEFINITION	DESCRIPTION
DBO	Drinking Banning Order	An order made against an individual aged at least 16 if he has engaged in criminal or disorderly conduct whilst under the influence of alcohol.
FMO	Final Management Order	Transfers the management of a house to the LHA for the duration of the order. An FMO lasts for a maximum of five years.
HMO	House in Multiple Occupancy	Property occupied by three or more persons living as more than one household who share at least one standard amenity.
IMO	Interim Management Order	An IMO transfers the management of a residential property to the LHA for a period of up to twelve months.
LHA	Local Housing Authority	
LDG	Local Delivery Group	Local Community Safety Partnerships that exist to reduce crime and ASB across each of the Constituencies in Birmingham. LDGs are a part of Safer Birmingham Partnership.
LHMO	Licensable House in Multiple Occupancy	Property of three or more storeys in height and occupied by five or more persons living as more than one household who share at least one standard amenity.
LPU	Local Policing Unit	West Midlands Police geographical policing area contains four local policing units in Birmingham covering North, South, East and West.
PRS	Private Rented Service	Local housing department service that regulates private landlords and provides advice to private tenants.
RP	Regulated Property	Property required to be licensed with the Local Authority Housing Act 2004.
SEG	Safer Estates Group	Safer Estates Groups (SEGs) consist of representatives from partner agencies working together to tackle anti-social behaviour. Agencies include Police, Local Authority, Registered Social Landlords (RSLs) and the Fire Service. Other organisations may also be requested to attend.
WMFS	West Midlands Fire Service	The name of the fire service covering the West Midlands geographical area.
WMP	West Midlands Police	The name of the police force covering the West Midlands geographical area.
YOS	Youth Offending Service	Multi-disciplinary service to deal with young offenders.
YOT	Youth Offending Team	Multi-disciplinary team with YOS, working with young offenders to address their offending behaviour.



3 | Definitions

3.1 Anti-Social Behaviour

'A person has acted in a manner that caused or was likely to cause harassment, alarm or distress to one of more persons not of the same household as themselves'

Crime and Disorder Act 1998

'Anti-social behaviour includes behaviour that is repetitive or part of a pattern that causes or is likely to cause, considerable nuisance, annoyance or distress to a reasonable individual or community. It also includes criminal behaviour,'

Birmingham ASB Strategy 2007 – 2010

3.2 Hostel

'A building in which there is provided for persons generally or for a class of persons, domestic accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons.

Or

A building managed by a voluntary organisation or charity which provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community.'

The Housing Benefit Regulations 2006

3.3 Houses in Multiple Occupancy (HMO)

An entire house or flat which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet.

Or

A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is let to three or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities.

Or

A converted house which contains one or more flats which are not wholly self-contained (i.e. the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by three or more tenants who form two or more households.

Or

A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations, and more than one-third of the flats are let on short-term tenancies.

Housing Act 2004



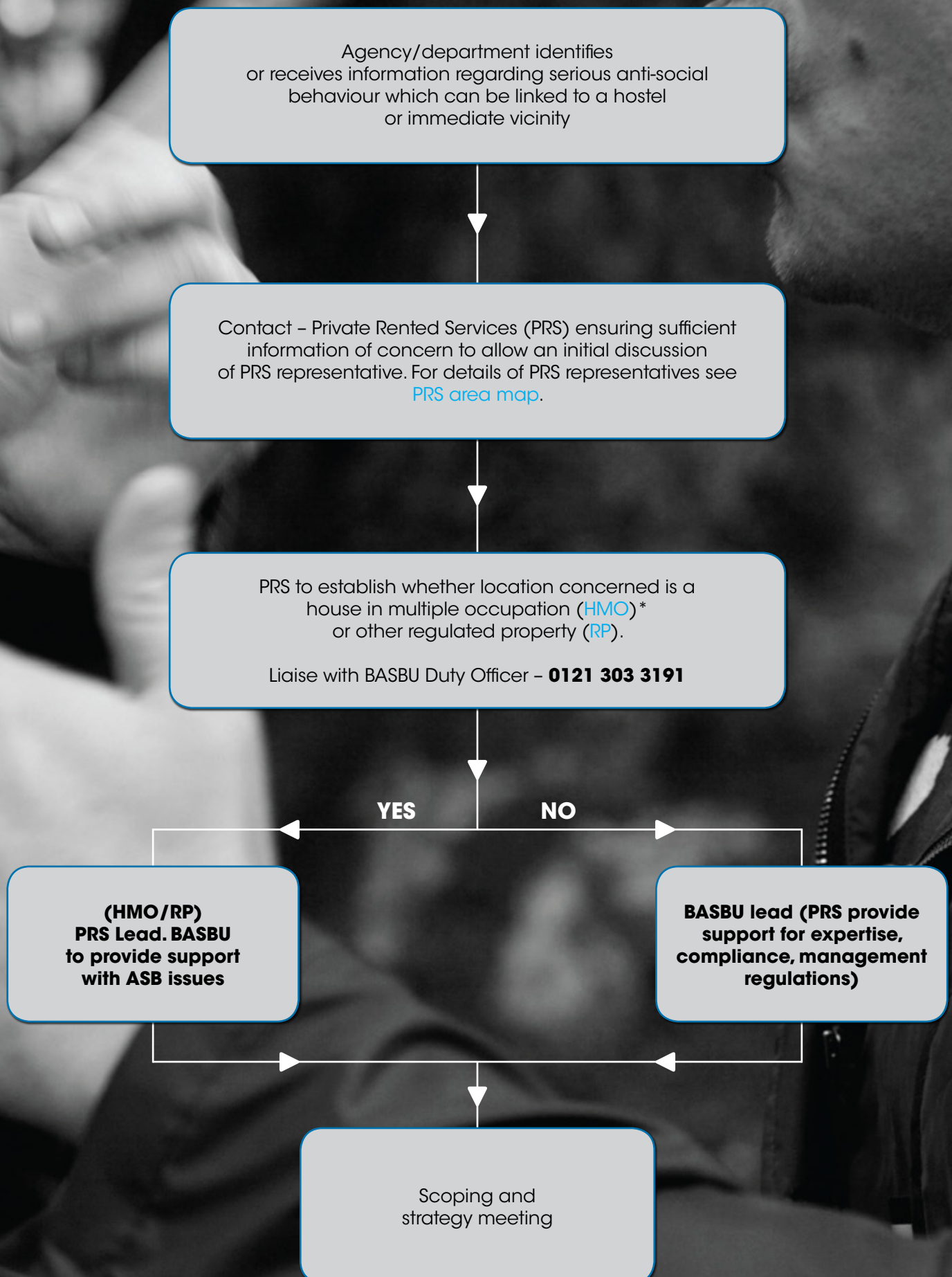


4 | Outline Procedures

- 4.1** An agency (West Midlands Police/Birmingham City Council Department/Birmingham Anti-Social Behaviour Unit), on being made aware of concerns surrounding a hostel or low cost hotel, should seek sufficient information regarding the problem to enable a representative from [Private Rented Services](#) (PRS) to be advised and briefed and to help determine the most appropriate agency to take action. **Early contact with PRS recommended.**
- 4.2** [PRS](#) should check existing records and establish whether it is a HMO/regulated property or a property operating in an unlicensed capacity.
- 4.3** Contact the [Local Policing Unit](#) and [BASBU](#) to ascertain whether any information or intelligence held such as command and control logs, IMS logs, relevant previous convictions of perpetrator or proprietor/licensee.
- 4.4** If HMO/regulated property or unlicensed property, [PRS](#) should lead with BASBU providing close support when dealing with related ASB issues
- 4.5** If not a regulated property/hostel, BASBU should lead on related ASB issues supported by PRS for expertise, compliance and management regulation.
- 4.6** Arrange a [scoping and strategy meeting](#) involving PRS/ WMP/BASBU/BCC Legal Services as considered appropriate.
- 4.7** Depending on the concerns raised, BCC Legal Services advice should be obtained at an early stage for advice particularly where ASB issues cross cut compliance and regulatory issues. Caveat – where opinions differ, contentious issues should be escalated to a senior departmental manager.
- 4.8** [BCC](#) should provide regular training for hostel/owners/ managers, e.g. workshops covering responsibility of proprietors/owners and what support [PRS/BCC](#) can provide.
- 4.9** A communications plan should be agreed at the outset providing ongoing updates to stakeholders as well as feed back.



5 | Tackling Anti Social Behaviour in Hostels





6 | Scoping & Strategy Meeting

1. Chair to be identified from lead agency.
2. Agreement made on ensuring confidentiality and communications.
3. Identify inner circle of primary stakeholders. Initially including PRS/BASBU/WMP/ Legal Services.
4. Identify and address any safeguarding issues.
 - 4.1 [Safeguarding Adults](#)
 - 4.2 [Safeguarding Children](#)
5. Identify any [support needs](#).
6. Identify wider stake holders e.g. homeless services, Adults & Communities, elected members as appropriate.
7. Action plan responses, information gathering (evidence), identify timescales and milestones. [See powers available](#). Actions to include early meeting with proprietor at earliest opportunity to discuss concerns, providing the opportunity to rectify.
8. Accurate notes and actions from meetings should be taken. This is the responsibility of the senior PRS officer.
9. Regular follow up meeting(s) should be set up as required.



7 | Safeguarding

7.1 Safeguarding Adults (over the age of 18)

Birmingham City Council Adult Services aim to safeguard and protect vulnerable adults so that they live a life free from abuse and neglect.

Safeguarding adults means helping vulnerable adults who need support from community care services to keep their independence, safety and choice in their life.

A vulnerable adult is a person who needs extra support for example because they are elderly or may have a learning disability, physical disability, sensory impairment, mental health problem and who are unable to protect themselves against harm and abuse. It may be someone who is usually able to manage but at some stage, may not be able to do so because of an accident or illness.

Adult abuse can happen to anyone who is over 18. Birmingham City Council has the responsibility to coordinate the safeguarding of vulnerable adults, within the city. All agencies share responsibility for ensuring the development, ownership and effectiveness of local policies and procedures for the safeguarding of vulnerable adults. This shared responsibility is reflected in the Birmingham Safeguarding Adults Board (BSAB).

BSAB have a safeguarding vision for Birmingham which is to promote and protect individual human rights, independence and well-being and secure assurance that the person thought to be at risk stays safe, is effectively safeguarded against abuse, neglect, discrimination, embarrassment or poor treatment, is treated with dignity and respect and enjoy a high quality of life.

The Board has been established to facilitate and develop effective multi agency safeguarding adults arrangements. The Board meets regularly and ensures that the multi agency policy and procedures are monitored and reviewed.

Further information regarding safeguarding adults is available at:

www.birmingham.gov.uk/safeguardingadults

ASB Victim Vulnerability Matrix

The Adults and Communities Directorate Safeguarding Adults Team and Birmingham Anti-Social Behaviour Unit, have developed the ASB Victim Vulnerability Matrix.

This matrix assists staff receiving initial ASB incident referrals to ensure that both the seriousness of the incident and the vulnerability of the victim are taken into account, when making a decision about the relative priority of the case. The matrix has been developed to reflect current local authority practice and procedure whereby ASB cases are sub-divided into three priority levels:

- Level A - High Priority – the victim is visited within one working day.
- Level B – Medium Priority – the victim is visited within five working days.
- Level C – Low Priority – the victim is visited within 10 working days.

The matrix is not intended to provide a definitive needs assessment. It provides an initial guide as to whether a victim may also have vulnerabilities and needs, that might disproportionately and negatively affect their perceptions of the ASB they are suffering. The matrix therefore assumes that, having initiated a response, there will be further assessment undertaken with the victim to substantiate their needs and organise whatever support is necessary.

The matrix is based on the principle that it is better to be over cautious when responding initially to vulnerability in victims. As indicated above, the matrix provides a first response guide only and, further investigation may reveal that the risk or need was not as significant as first thought.

To that end, the matrix also assumes that there are certain key risks and vulnerabilities identified in the matrix as “triggers”. If in completing the assessment it appears that one or more triggers are present, the case is automatically categorised as a top priority level A investigation, irrespective of what other concerns, risks and vulnerabilities may also exist.

A copy of the ASB Victim Vulnerability Matrix is available at:

www.saferbirmingham.org.uk

7.2 Safeguarding Children (under the age of 18)

Safeguarding children is everyone’s responsibility!

Birmingham Safeguarding Children Board has a statutory duty to co-ordinate how agencies work together to safeguard and promote the well-being of children and young people in Birmingham, and to ensure the effectiveness of safeguarding arrangements.

The multi-agency child protection procedures set out the arrangements, guidance and procedures in Birmingham. These are available via:

www.birmingham.gov.uk

These are an essential tool for all agencies working with children and clearly detail what to do, should there be concerns for the welfare of a child. It is imperative that people who work with children are able to either access a copy should they have concerns for a child or, have a designated senior person to consult with and to offer guidance.

It is important that all practitioners understand their responsibilities and duties for safeguarding children as set out in primary legislation.

Working Together 2010 sets out how organisations and individuals should work together to safeguard and promote the welfare of children and young people.

Copies can be obtained from:

DoE (DCFS) Publications
PO Box 5050, Sherwood Park, Annesley
Nottingham NG15 0DY
Tel: 0845 60 222 60

Or downloaded at: publications.education.gov.uk

Common Assessment Framework (CAF)

The CAF is a key part of delivering frontline services that are integrated, and are focused around the needs of children and young people. The CAF is a standardised approach to conducting assessments of children’s additional needs and deciding how these should be met. CAF assessments are carried out by practitioners working for safeguarding children.

The CAF promotes more effective, earlier identification of additional needs, particularly in universal services. It aims to provide a simple process for a holistic assessment of children’s needs and strengths; taking account of the roles of parents, carers and environmental factors on their development. Safeguarding children practitioners are then better placed to agree with children and families about appropriate modes of support. The CAF also aims to improve integrated working by promoting coordinated service provisions.



8 | A Single Point of Access (SPA) – Housing Related Support

BCC Supporting People has commissioned a number of Single Point of Access (SPA) services to ensure that clients are assisted into the most appropriate housing related support service based on their needs.

The SPA services will provide a single gateway to wider support services that Supporting People deliver and will provide assistance and information to clients and referral agencies regarding the range of housing related support services available. They provide housing related support for vulnerable people who are in the following categories:

- Young People Aged 16-25
- Those suffering from domestic violence
- Those suffering from HIV/Aids
- Refugees
- Offenders
- Those involved in substance misuse
- Gypsies and travellers

Access to services is through the Single Point of Access/ telephone system 0800 0730 817 that is staffed by experienced staff officers who will be able to provide clients and referral agencies, with a range of options to enable them to make informed choices and decisions.

Access to these services by people in hostels will therefore be through the SPA for Vulnerable Person, Refugees, Offenders and Substance Misuse.



9 | Powers Available to Control ASB

10.1 Relevant Legislation

Section 222 Local Government Act 1972

- S. 222 injunctions

Crime and Disorder Act 1998

- Anti-Social Behaviour Orders

Police Reform Act 2002

- The Crime and Disorder Act 1998 was amended by the Police Reform Act 2002. The act sets out statutory requirements for responsible authorities to work with other local agencies and organisations to develop strategies to tackle crime and disorder and misuse of drugs in their area.

Anti-Social Behaviour Act 2003

- Closure Orders which can build on the measures already available in the Crime and Disorder Act 1998.

Housing Act 2004

- Interim Management Orders & Final Management Orders

Violent Crime Reduction Act 2006

- Drinking Banning Orders

Criminal Justice and Immigration Act 2008

- Premises Closure Orders

Town and Country Planning Act 1990

- S. 172 outlines the power to issue enforcement notices for breaches of planning control.

The Regulatory Reform (Fire Safety) Order 2005 (FSO)

For an explanation of the legislation, please refer to [Appendix 1](#).

10.2 Non-Legal Interventions

Mediation

Mediation is a process in which an impartial third party - the mediator - helps people in dispute work out an agreement. The people in dispute work out the agreement, not the mediator.

For further information on mediation, see [Appendix 2](#).

Acceptable Behaviour Contracts (ABC)

An ABC is a non-legally binding written contract between one or more local agencies and an individual outlining what they should or should not do.

Community Agreements

Settlements reached between the residents of a community, landlord of privately rented property and local agencies to resolve disputes.

See [Appendix 2](#) for further information on community agreements and an explanation of non-legal interventions.



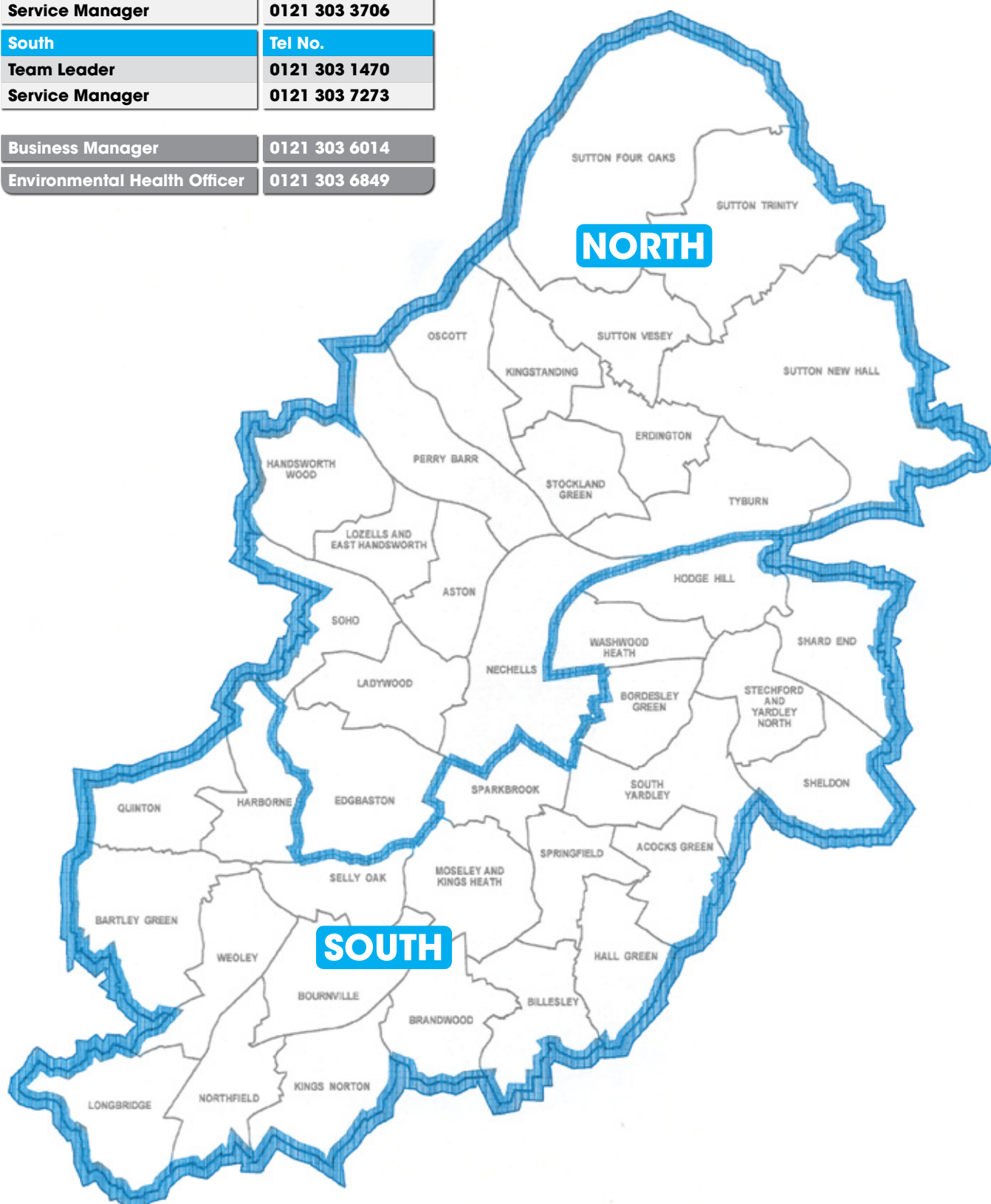
10 | Stakeholders

STAKEHOLDER	DESCRIPTION	CONTACT
Adult Services	Assistance provided when dealing with people who are vulnerable.	Safeguarding Children Tel: 0121 675 5385 Email: ACSafeguarding@birmingham.gov.uk
Drug & Alcohol Action Team	Deliver preventative and treatment interventions to people who misuse drugs and alcohol.	Tel: 0800 0730 817
BASBU	A multi-disciplinary unit run by Birmingham City Council to take action to stop or prevent serious anti-social behaviour anywhere in Birmingham.	Tel: 0121 303 3191 Email: houbasbu@birmingham.gov.uk
Benefit Services	Assistance with outstanding benefit queries.	Martin O'Neill, Head of Benefits, Birmingham City Council Tel: 0121 464 1450 Mob: 07766 922356
Debt Advice Service	Assistance with people who have multiple debts to help maximise their income to ensure that rental charges are paid.	Debt Advice Line - Tel: 0121 303 2087
Family Intervention Project	Intensive support project that aims to help families, single people and couples to address their anti-social behaviour.	ASB Helpline - Tel: 0121 303 1111
Family Group Conferencing	Works on the concept of the family making the plans and decisions on how to deal with the presenting issues of anti-social behaviour.	Shelter - Tel: 0844 515 1621
Probation Service	Assistance if alleged perpetrator is in prison or just released.	Information Officer Staffordshire and West Midlands Probation Trust, 1 Victoria Square, Birmingham B1 1BD Tel: 0121 248 6666 Email: wm.enquiries@west-midlands.probation.gsi.gov.uk
Regulatory Services	Assistance with provision of noise monitoring equipment, environmental issues, e.g. pest control.	Pest Control - Tel: 0121 303 6007 Noise Team - Tel: 0121 303 9946
Social Care Services for Children, Young People and Families	Working with children and families to provide services that support families to work in partnership with parents and other carers.	Children Young People and Families Council House Extension, Margaret Street, Birmingham B3 3BU Tel: 0121 303 2590 Fax: 0121 303 1318 Email: cypfcomms@birmingham.gov.uk
Supporting People	The Supporting People programme offers vulnerable people the opportunity to improve their quality of life by providing a stable environment which enables greater independence.	Tel: 0121 303 3037 Fax: 0121 303 3148 Email: supportingpeople@birmingham.gov.uk
Tenancy Support Service	This service aims to help council tenants who are finding it hard to manage their tenancies and can also help them to obtain new skills and become more independent.	Central Team - Tel: 0121 303 3711 Service Manager Housing, Support Service, Floor 2, Chamberlain House Paradise Circus B2 2HA
West Midlands Fire Service	Enforcement of general fire precautions using the Regulatory Reform (Fire Safety) Order 2005	HQ Office - Tel: 0121 380 6049 Hay Mills Office - Tel: 0121 380 7591
West Midlands Police	To obtain relevant information as necessary from SEG, LPU etc.	Tel: 0345 113 5000 West Midlands Police, Lloyd House Colmore Circus, Birmingham B4 6NQ
Housing Department		Housing and Constituencies Louisa Ryland House, 44 Newhall Street Birmingham B3 3PL Tel: 0121 303 4125 Email: contacthousing@birmingham.gov.uk
Housing Department Private Rented Services	Providing information and advice to tenants on a variety of subjects including: landlord charges, rights and responsibilities, types of tenancy agreement, repairs to rented property, houses of multiple occupation (HMOs), tenant responsibilities, landlord responsibilities and landlord harassment.	For details see PRS Map .



11 | Private Rented Service Area Map

North	Tel No.
Team Leader	0121 303 5347
Service Manager	0121 303 3706
South	Tel No.
Team Leader	0121 303 1470
Service Manager	0121 303 7273
Business Manager	0121 303 6014
Environmental Health Officer	0121 303 6849





12 | Review Mechanisms

The effectiveness of this Toolkit will be monitored through scrutinising recorded incidents of ASB where hostel premises are located. The process will be reviewed under the direction of the Safer Birmingham Partnership Tasking & Coordination Group, which will examine the data on a regular basis.

From time to time, legislation concerning hostels, HMOs, and low cost hotels may change. ASB interventions may also change or develop. This Toolkit will be reviewed six months after its launch and thereafter, reviewed annually to ensure that it is fit for purpose.

Safer Birmingham Partnership is responsible for reviewing and updating this document. The responsible officer is David Clifton, Senior Project Officer who is available on **0121 464 6560** or via email at **dave.clifton@birmingham.gov.uk**

Appendices

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Appendix 1

Legislation Explained

Section 222 Local Government Act 1972

Any council department can use Section 222 of the Local Government Act 1972 to obtain injunctions to protect the interests of the residents in their area where it is considered expedient to do so. This Act can be used to apply for injunctions to stop behaviour that can be shown to be a public nuisance. To prove a public nuisance, the council must show that:

- The behaviour materially affects the reasonable comfort and convenience of life of a class of Her Majesty's subjects.
- The area affected by the nuisance behaviour can be described as the neighbourhood.
- There are sufficient numbers of people within the local community affected by the nuisance behaviour to constitute a class of the public (a representative cross-section).

Crime and Disorder Act 1998

Under the Crime and Disorder Act 1998, local authorities, the police (including British Transport Police) and social landlords have the power to obtain Anti-Social Behaviour Orders (ASBOs) to deal with persistent nuisance, harassment and criminal behaviour.

Anti-social Behaviour Orders (ASBOs)

ASBOs are currently obtained by the police (including British Transport Police), local authorities (in our case Housing/BASBU) and registered social landlords using the Crime & Disorder Act 1998.

To obtain an ASBO, it has to be shown using evidence not more than 6 months old that:

- (a) The person acted in an anti-social manner (i.e. has caused or is likely to cause, harassment, alarm or distress to one or more persons not of the same household as themselves). The burden of proof for this is of a criminal standard - beyond reasonable doubt.

and

- (b) The order is necessary to protect people from further anti-social acts (for this you need to establish a pattern of anti-social behaviour).

For this second part, hearsay evidence can be introduced e.g. records of complaints of alleged nuisance, evidence from prior to six months before.

In serious cases when immediate protection is required, an interim ASBO can be obtained, without the defendant being informed of the court proceedings.

The interim ASBO will not come into force until it is served on them personally. A date will also be set aside for a full hearing of the case, to confirm or revoke the interim ASBO.

ASBOs can be used against anyone over 10 years old and have a minimum of two years duration. A breach is a criminal offence, carrying powers of arrest.

The offence is triable either way and maximum penalty for adults on conviction at Crown Court is five years imprisonment. For juveniles the maximum sentence is a two-year detention and training order.

Breaches are prosecuted by the Crown Prosecution Service and investigated by the police. The order can be applied to the whole of England and Wales and so moves with the person.

ASBOs are civil orders and therefore professional witnesses and hearsay evidence is permitted. Anonymous evidence is also permitted if it was considered that the witness was in fear of intimidation.

A consultation is required with police and other agencies e.g. Youth Offending Team, Health Authority, Education Department and Social Care and Health.

If the anti-social behaviour order concerns a child, in certain cases, a range of other measures to tackle the problem must have been tried and shown to have not worked or to be inappropriate before an ASBO can be considered.

However an ASBO can be considered as a first option if it is appropriate.

Interim ASBOs

If there is a potential risk to the safety of a complainant in the run up to a full trial for an ASBO, an Interim Order can be obtained in order to put some protection in place.

The case can be heard with or without notice to the defendant and is binding as soon as it is served.

Without notice applications should be used if there is likelihood of reprisals against witnesses, by the defendant, before any protection was in place. A later full hearing then enables evidence to be challenged.

Part six of the Housing Act 2004 contains a number of measures designed to provide social landlords with further tools to tackle ASB. Local authorities now have the flexibility to extend introductory tenancies by a further six months where there are continuing doubts about the conduct of the tenancy. These measures complement those introduced by the Anti-social Behaviour Act 2003.

Anti-Social Behaviour Act 2003

Closure Orders

This is a police power in consultation with the local authority. Where premises are being used for the unlawful use, production and supply of class A drugs and the use of the premises is associated with disorder or serious nuisance to members of the public, a senior police officer can apply for a Closure Order within 48 hours at the Magistrates Court. The premises can be closed for three months and up to six months. They are sealed and entry is an offence.

The Court must be satisfied that:

- the premises have been used in connection with the production, supply or use of Class A drugs;
- the activity associated with Class A drugs must be evident during the three months preceding the closure notice;
- the premises are associated with disorder or serious nuisance; and
- an order is necessary to prevent further disorder or serious nuisance.

Interim Management Orders (IMO)

An IMO transfers the management of a residential property to the LHA for a period of up to twelve months. The circumstances in which an order can be made are discussed below.

In particular the IMO allows the LHA:

- possession of the house against the immediate landlord, and subject to existing rights to occupy;
- to do anything in relation to the house, which could have been done by the landlord, including repairs, collecting rents etc;

- to spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the house; and
- to create new tenancies (with the consent of the landlord).

Final Management Order (FMO)

A Final Management Order (FMO) cannot be made unless immediately beforehand an IMO or another FMO was in force.

An FMO lasts for a maximum of five years.

The FMO transfers the management of the house to the LHA for the duration of the order.

In particular the FMO allows the LHA:

- possession of the property against the immediate landlord, but subject to existing rights of occupation;
- to do anything in relation to the property, which could have been done by the landlord, including repairs, collecting rents etc;
- to spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the property; and
- to create new tenancies (without the consent of the landlord).

Power to make an Interim Management Order (IMO)

The local authority may make an IMO in respect of a property if:

- it is an HMO that is not required to be licensed; or
- it is a privately rented property whose occupants are causing anti-social behaviour (known as a Special IMO).

HMO that is not required to be licensed

Not all HMOs have to be licensed. Licensing only applies to those HMOs that are of at least three storeys and occupied by at least five people. Many HMOs fall outside this threshold. However, because of the inherent risks within HMOs (caused mainly because no one occupier has control of the whole property, and is not therefore aware of any risks or dangers developing in another part of the property), local authorities can still obtain IMOs in respect of them.

However, before the IMO can come into force, it must be authorised by the Residential Property Tribunal (RPT), who must be satisfied that the making of the order is necessary for the purpose of protecting the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

Special IMOs (SIMOs)

A Special IMO can be authorised by the RPT in respect of any property in a local authority's area, which is rented out by a private landlord (but not a registered social landlord). The RPT must be satisfied that:

- the area in which the property is located is experiencing a significant and persistent problem with anti-social behaviour;
- that the problem is attributable, either completely or partially, to the anti-social behaviour of someone occupying the house;
- the landlord is failing to take appropriate action to combat the problem;
- the making of the Special IMO, when combined with other measures taken by the local authority and others will lead to the reduction or elimination of the problem.

'Anti-social behaviour' means conduct by the occupier which:

- (a) causes or is likely to cause a nuisance or annoyance to anyone living in or visiting the property or the surrounding area; or
- (b) involves or is likely to involve the use of the property for illegal purposes.

A Special IMO cannot be used as an isolated tool. It must be part of a package of measures being pursued by the local authority and other organisations in partnership. This fits in with wider obligations on local authorities to play a leading role in tackling anti-social behaviour, whether through their relationships with the police and other social landlords (via the Crime and Disorder Reduction Partnerships), by implementing and adhering to their own anti-social behaviour policies or by exercising their powers in securing injunctions, anti-social behaviour orders (ASBOs) or possession orders.

In deciding whether a Special IMO is appropriate, it is essential for local authorities to liaise with their housing departments and partner agencies to ensure that any order is part of a cohesive and co-ordinated attack on anti-social behaviour.

The effect of such an order is to transfer all management responsibilities and rent collection to the local housing authority for a period of up to one year. A SIMO can be followed by a Final Management Order, if there is no improvement in the situation. This can last for up to five years.

Violent Crime Reduction Act 2006

Drinking Banning Orders

Drinking Banning Orders (DBO) will allow the prohibition of specific individuals entering certain premises if involved in criminal or disorderly conflict under the influence of alcohol. These orders can be made to protect people and/or property.

These orders can be made against any person over the age of sixteen between two months and two years. The penalty for non compliance is a fine of up to £2,500.

Councils are required to consult with affected individuals and organisations before proceeding to apply for an order. Individuals can appeal if the order causes hardship - with employment for example.

The orders cannot be enforced to prevent a person accessing the place in which they reside, they are employed, they are required to attend by the order of a court or tribunal or a place they are expected to attend for education, training or receiving medical treatment.

The duration of an order can be reduced if the offender completes an approved course specified in the order to address their alcohol misuse behaviour. The length of any reduction in the order's duration is at the discretion of the court but it cannot exceed half the order's specified term.

Criminal Justice and Immigration Act 2008

Premises Closure Orders

Section 118, Schedule 20 Criminal Justice and Immigration Act 2008 inserts a new Part 1A of the Anti-Social Behaviour Act 2003.

Premises closure orders are tenure neutral powers that can be used to offer communities immediate respite by temporarily closing premises for three months that are responsible for:

- Significant and persistent disorder; or
- Persistent serious nuisance to a community.

The closure order gives a power to close a property completely or partially for a **maximum of three months** and to prevent access by any persons – even those with rights of abode or ownership.

Orders may be discharged when problems associated with the premises have been addressed. **No property should remain empty longer than is necessary.**

Who can use the powers?

Police forces and local authorities.

This new power is very similar to Crack House Closure Orders but is designed to tackle serious and persistent anti-social behaviour, not just class A drugs.

Like the crack house closure power, this new Order is exercisable by a police officer not below the rank of superintendent, or the local authority where such a person or organisation has reasonable grounds for believing:

- (a) That any time during the relevant period a person has engaged in Anti-Social Behaviour on the premises; and that
- (b) The use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.

Grounds for an order

Police and local authorities assessing the need to issue a closure notice, must have reasonable grounds for believing that at any time in the preceding three months a person has engaged in anti-social behaviour on the premises; and that the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.

It is up to the courts to define the terms 'significant and persistent disorder' or 'persistent serious nuisance'. Suggested below are guidelines for levels of nuisance which may be considered serious in this context.

- Intimidating and threatening behaviour towards residents.
- A significant increase in crime in the immediate area surrounding the premises.
- The discharge of a firearm in, or adjacent to, the premises;
- Significant problems with prostitution or sexual acts being committed in the vicinity of the premises;

- Violent offences and crime being committed on or in the vicinity of the premises;
- Running illegal businesses from the property;
- Frequent drunken parties;
- Serious disorder associated with alcohol abuse, for example in and around drinking dens;
- High numbers of people entering and leaving the premises at all times of the day or night and the resultant disruption they cause to residents; or
- Noise (constant/intrusive) – excessive noise at all hours associated with visitors to the property.

The action should not be taken by one agency in isolation. The police and the local authority must consult each other before decisions are taken. Early consultation with relevant registered social landlords and other local authority services such as social work and housing is recommended to provide advance warning of potential demands on their resources. Reasonable steps must also be taken to identify and alert those with a legal or equitable interest in the property.

Premises covered

The orders are tenure neutral and apply to privately-owned properties (including owner-occupied or privately rented). The following premises are covered:

- Flats and apartments;
- Common areas adjacent to houses/flats;
- Garages and sheds;
- Factories;
- Shops;
- Pubs and clubs;
- Public buildings;
- Community centres or halls; and
- Car parks.

It is stressed that this is an Order of last resort to be used only when other options have been tried or failed to work. The power should not be used as an eviction tool or a fast track to eviction.

This does not remove the obligation to tackle the Anti-Social Behaviour by following all policies and procedures. RSLs, local authorities and ALMOs will still be required to consider seeking Injunctions, ASBOs and possession.

Breach of closure order

Breach of the closure order is an offence. A person guilty of an offence is liable on summary conviction to imprisonment for a period not exceeding 51 weeks, a fine of £5,000 or both.

Town & Country Planning Act 1990

S 172 Power to issue enforcement notice

If there is a breach of planning regulations such as premises being used as a hostel without appropriate planning permission, or conditions such as more than the maximum number of permitted residents or other breaches of the management conditions, then an Enforcement Notice can be served and this can carry a fine of up to £20,000. A Stop Notice can also be served.

The Regulatory Reform (Fire Safety) Order 2005 (FSO)

The Regulatory Reform (Fire Safety) Order 2005 (FSO) came into effect in October 2006 and replaced over 70 pieces of fire safety law.

The FSO applies to all non-domestic premises in England and Wales, including the common parts of blocks of flats and houses in multiple occupation (HMOs). The law applies to you if you are:

1. Responsible for business premises;
2. An employer or self-employed with business premises;
3. Responsible for a part of a dwelling where that part is solely used for business purposes;
4. A charity or voluntary organisation;
5. A contractor with a degree of control over any premises; or
6. A providing accommodation for paying guests.

Under the FSO, the responsible person must carry out a fire safety risk assessment and implement and maintain a fire management plan.

Appendix 2

Good Practice Examples

Acceptable Behaviour Contract (ABC)

An Acceptable Behaviour Contract (ABC) or Agreement (ABA) is an intervention designed to engage an individual in acknowledging their anti-social behaviour and its effect on others, with the aim of stopping that behaviour.

An ABC is a written agreement made between a person who has been involved in anti-social behaviour and their;

- local authority;
- landlord; and
- local police force.

ABCs are not set out in law which is why they are usually referred to as 'agreements'. The two terms – Agreement and Contract – are interchangeable and practitioners should use whichever term they feel will achieve the desired outcome with the perpetrator. Any agency is able to use and adapt the model, but it is important that the youth offending team is contacted and becomes involved when completing an ABC with a young person.

Although ABCs have often been made with young people, they are a tool that can be used for a person of any age. The informal, flexible nature of the contract means they can be used for various types of anti-social behaviour.

Mediation

The Mediation Service is free to all residents of Birmingham, irrespective of their housing tenure, who are all in dispute with a neighbour. Mediation is a very effective means of conflict resolution. It helps people who are in dispute to reconcile their differences themselves, rather than have a solution imposed by landlords or by the courts. It builds effective, lasting agreements. Council tenants access the service via their local housing team. Other Birmingham residents can access the service via the ASB help line on **0121 303 1111**.

Community Agreements

Community Agreements are written settlements reached between the residents of a community, police, Safer Birmingham Partnership and landlord to resolve disputes. The agreement sets out conditions in respect of the future management of a privately rented property and the obligations of the landlord to ensure that their tenants do not cause anti-social behaviour to other residents in the community. They are used when there is conflict or unrest within a neighbourhood.

Anti-Social Behaviour – Community Agreement

This is a record of a **Community Agreement** made on [date]

Between [name of landlord] of accommodation to let, [address of accommodation to be let]
and Birmingham Anti-Social Behaviour Unit (BASBU) and West Midlands Police Authority.

[name of landlord] agrees the following in respect of future management of:
[address of property]

1. Inform BASBU and West Midlands Police Authority of all future residents at [insert address of property] prior to their arrival. This is so that background checks can be carried out to ensure there are no concerns about their occupation at: [address of property.]
2. Consider developing a formal warning system to fully incorporate the 3-strike rule. This includes sending the person a letter to inform them when they receive an official strike and to remind them of the repercussions of further incidents.
3. Look at the existing tenancy agreements and incorporate further conditions to address any anti social behaviour
4. If this warning system does not work internally, then BASBU and West Midlands Police Authority will begin formally warning the tenants should they cause harassment, alarm or distress to the local community. Further interventions such as Acceptable Behaviour Contracts (ABCs) will then be considered. After this, enforcement legal actions such as Anti-Social Behaviour Order's (ASBOs) or Anti-Social Behaviour Injunction's (ASBIs) would be considered.
5. Report back to the local resident's on what action is taken following any complaint made regarding one of your tenant's. This is due to the amount of Police and Ambulance activity, which causes upset and concern to the community.

The requirement for this Community Agreement follows complaints from residents within Name of Road and West Midlands Police about Address of property. Name of Landlord is aware of the ongoing incidents at Address of property and accepts that there have been various unacceptable incidents of anti-social behaviour in the past. Name of Landlord met with BASBU and West Midlands Police Authority on date of meeting to discuss these issues in greater detail. A number of proposals were agreed upon however this Community Agreement sets out to ensure any further occurrences of anti-social behaviour are dealt with in a prescribed manner by all agencies and also identifies Accommodation to Let's commitment to ensuring the community do not experience further problems.

A copy of this Community Agreement will be made available to that resident's who have raised their concerns to BASBU and West Midlands Police Authority.

DECLARATION

I can confirm that I understand the meaning of this Community Agreement and that Accommodation to Let will follow this Community Agreement.

Signed: _____

Date: _____

WITNESSED

Signed: _____

Date: _____

Signed: _____

Date: _____





SaferBirmingham Partnership

Working together for a safer city



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