

South Kesteven District Council

Anti-Social Behaviour and Enforcement Policy

Introduction

South Kesteven District Council is committed to the reduction and prevention of Anti-Social Behaviour within the District. The South Kesteven Crime and Disorder Reduction Partnership have set a target to reduce the level of crime by 15% over 3 years. This policy seeks to enhance the Authority's commitment to the reduction of anti-social behaviour, and sets out the framework and procedures to support this target. Anti-Social Behaviour is defined within the Crime and Disorder Act 1998 and this definition has been adopted by South Kesteven District Council.

"Any person acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself".

Aim

In 1998 the Crime and Disorder Act was introduced, under the 1998 Act, the Council has a legal duty to consider the crime and disorder implications of all its policies and practices. The view South Kesteven District Council is taking; is that the legislation should cover all areas and activities that impact on residents and communities of South Kesteven. Section 17 of the 1998 Act requires that consideration of crime and disorder issues are integrated into all functions and corporate thinking. This part of the Act seeks to identify corporate responses to crime and disorder by stating that:

"Without any prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area"

The requirement of Section 17 is to make sure Community Safety is considered throughout South Kesteven District Council as a whole when carrying out its activities and functions, there is a further reference with this section entitled partnership working. Section 17 is one of the most comprehensive and fundamental sections of the 1998 Act, and dictates the way in which authorities need to plan, implement and monitor work on crime and disorder issues in the future. Section 218A of the Housing Act 1996 inserted by Section 12 Anti-Social Behaviour Act 2003 requires landlords that are local housing authorities to prepare and publish policies and procedures in relation to Anti-Social Behaviour by 30 December 2004. The Council approved the Housing Services Anti-Social Behaviour Policy and procedure on 9th December 2004.

This policy and procedure extends beyond the scope of the Landlord function and include other enforcement polices within the South Kesteven District

Council's statutory functions and framework. Anti-Social Behaviour statements, policies and procedures should support the priorities of South Kesteven District Council; its Corporate aims and objectives.

Scope of the Anti-Social Behaviour and Enforcement Policy

The Anti-Social Behaviour and Enforcement Policy and Procedures seek to provide guidance to officers responsible for Anti-Social Behaviour and Enforcement of any nature. It informs and explains to employees, the public and businesses how the Council will enforce this legislation. In addition this policy supports and enhances the Enforcement Polices already in place covering the following service areas; Housing, Community Safety, Cleansing (Contracts), Food, Licensing, Health and Safety, Environmental Protection, Planning, and Building Control.

Who is affected by the Policy?

"Everyone who lives in, works in or visits South Kesteven".

Implementation Accountability and Responsibility

Corporately the accountability for the strategic overview rests with the partners within the South Kesteven Crime and Disorder Reduction Partnership.

Heads of Service will be responsible for making sure this policy is implemented, communicated to staff and that appropriate training is made available. Accountability and responsibility for operational issues rests with the Heads of Service and delegated officers.

Authority to serve Formal Notices will only be given to those officers that are suitably qualified. All authorised officers must have received appropriate training and must have suitable relevant experience to demonstrate competence through an understanding of legislation and enforcement powers.

Any recommendations to prosecute will be referred by the enforcing officer to the Manager, who will seek legal advice. In all cases where there is a likelihood of a prosecution; approval will be sought from the Heads of Service or delegated officer with the appropriate delegated authority for the specific service area. The Heads of Service will need to have due regard for the nature of the offence and where appropriate, link their decisions to other relevant service units, where there may be an overlap in enforcement action and where other legal remedies can be considered.

South Kesteven District Council will work to make sure that enforcement decisions are consistent, well balanced, fair and related to common standards both locally and nationally.

Partnership Working

Anti-social behaviour has to be tackled in partnership and the various functions of South Kesteven District Council can contribute to tackling anti-social behaviour through prevention, early intervention, rehabilitation and enforcement.

South Kesteven as a district authority has responsibility for tackling anti-social behaviour and in line with Section 17 of the Crime and Disorder Act (1998) there is a requirement on Housing, Environmental Health, Cleansing, Planning and Building Control functions of South Kesteven District Council to consider the crime and disorder implications and how they can contribute to tackling anti-social behaviour in their policies and procedures.

Section 17 of the Crime and Disorder Act (1998) requires that consideration of crime and disorder issues are integrated into all council functions and corporate thinking. In line with this requirement in the following service areas; Housing, Community Safety, Cleansing, Environmental Health, Planning, and Building Control should include in their service plans a statement in relation to tackling Anti-Social Behaviour.

Summary of the Legislation

Anti-Social Behaviour Act 2004

The purpose of the Act is to provide the tools for practitioners and agencies to effectively tackle anti-social behaviour. The Act is comprised of eight parts, which build upon existing legislation to clarify, streamline and re-enforce the powers that are available to practitioners.

Crime and Disorder Act 1998

The purpose of this Act is to tackle crime and disorder and help create safer communities. The Act gives the lead responsibility for Crime and Disorder to the Police and Local Authorities. The 1998 Act provides additional powers for agencies to use when carrying out their work to reduce crime, namely:

- Section 115 which allows for the sharing of information for the purposes of preventing crime and disorder without contravening the Data Protection Act 1998
- The establishment of local partnerships between Police, Local Authorities and others to help fight crime
- Section 17 places a duty upon local authorities to consider the community safety within their district for any function that it may undertake. This section dictates the way in which authorities need to plan, implement and monitor work on crime and disorder issues.
- Section 1 introduced the Anti-Social Behaviour Order, which aims to prevent serious and persistent anti-social behaviour.

Police Reform Act 2002

The purpose of this Act is to make provisions about the supervision, administration functions and conduct of Police Forces, Police Officers and other persons serving with or carrying out functions in relation to the Police.

In relation to Anti-Social Behaviour the Police Reform Act 2002 strengthened the arrangements in the Crime and Disorder Act 1998 for anti-social behaviour orders:

- Extending the use of Anti-Social Behaviour Orders to the British Transport Police and Registered Social Landlords
- Extending the area over which an Anti-Social Behaviour Order can be made within the United Kingdom
- The provision of imposing an Anti-Social Behaviour Order in addition to a sentence on conviction for a criminal offence involving Anti-Social Behaviour
- Section 59 of the Police Reform Act 2002 introduced Police powers to deal with the anti-social use of motor vehicles on public roads and off road.

Local Government Act 2000

Puts a duty on Local Authorities to promote economic, social and environmental wellbeing in its area

Housing Act 1985 and the Housing Act 1996

The purpose of these Acts gave measures to local housing authorities to enforce the terms and conditions of tenancy where there are breaches which may be considered to be nuisance and or annoyance and where the local housing authority may wish to seek possession.

Protection from Eviction Act 1997

The Act covers racial harassment and is defined as the use of words or behaviour, which would put the victim in fear of violence.

Human Rights Act 1998

The Act gives statutory effect to the European Convention on Human Rights, key rights include:

- Freedom of expression
- Right to life
- Prohibition of torture
- Prohibition of discrimination
- Right to freedom of thought and religion
- Right to respect for private and family life

South Kesteven District Council will ensure it is doing all it can within its powers to enable quiet enjoyment by people of their homes and to ensure that it is not breaching the human rights of anyone it may take action against for anti-social behaviour.

Children Act 1989

This Act places a duty on authorities to co-operate with each other in the protection of children. In particular information on one authority's actions must be shared with others if it would help them carry out their functions.

Disability Discrimination Act 1995

This Act made it unlawful for a local authority to discriminate against a disabled person by evicting them. The Council has to ensure that a person's anti-social behaviour is not a direct consequence of their disability.

Race Relations Act 1976 and the Race Relations (Amendment) Act 2000

This places a statutory duty on Public Authorities to eliminate unlawful discrimination, promote equality of opportunity, and promote good race relations. Race equality issues must be considered in all of its policies.

Examples of ASB

Listed below are some of the types of anti-social behaviour that the Authority considers to be unacceptable. This is not a complete list:

- Noise nuisance
- Intimidation and harassment
- Fouling of public areas
- Dumping rubbish
- Vandalism and graffiti
- Aggressive and threatening language and behaviour
- Abandoned vehicles
- Actual violence against people and property
- Hate behaviour targeting people or members of identified groups because of their perceived background or their gender race, religious beliefs, disability, sexual orientation or other perceived difference
- Using public or private housing accommodation to sell drugs and for other unlawful activities
- Domestic violence

Principle of Enforcement

The overriding principle of Enforcement and that which has been adopted by South Kesteven District Council is contained within the Office of the Deputy

Prime Minister's Enforcement concordat. Any enforcement action that is taken has to be in the best interests of the public and the four principles of enforcement are:

- **Proportionality:** the degree of enforcement action taken should be proportional to the risk involved.
- **Consistency:** officers should take a similar approach in similar circumstances to achieve similar outcomes.
- **Transparency:** making sure that our role is clear to businesses, employees and customers and that any advice given or action taken by enforcement officers is understood.
- **Targeting:** inspection priorities are aimed at highest risk areas and we identify those responsible for controlling those risks.

The Council will be guided by codes of practice issued under the various pieces of legislation. Any departure from these policies must be exceptional, capable of justification and approved by the appropriate Corporate Director, unless there is a significant risk in delaying a decision.

The Community Safety Team, Housing Services, Environmental Health Services, Cleansing Services, Planning and Building Control; may use a variety of means such as education, advice and guidance, warning letters and or legal notices to ensure that individuals and or groups are made aware of their actions, and responsibilities and what the outcomes may be.

Depending upon the individual circumstances; the following actions may be taken:

- No action necessary.
- Mediation and arbitration.
- Informal action – written or verbal advice.
- Issuing formal notices.
- Use of formal cautions.
- Seizure of equipment.
- Direct action.
- Prosecution.

Enforcement options specific to the Anti-Social Behaviour Act

The options available for the enforcement of Anti-Social Behaviour are contained primarily within, Housing Act 1996, Crime and Disorder Act 1998, Anti-Social Behaviour Act 2003. Where there are serious cases of Anti-Social Behaviour the following remedies can be applied:

Acceptable Behaviour Contracts (ABC)

ABC's are voluntary written agreements between a person, the authority and the Police. Under the ABC a person agrees not to be involved with certain

specified anti-social acts and agrees to a range of undertakings. The contract is not a legally binding document and usually lasts for about six months.

Anti-Social Behaviour Orders (ASBO)

ASBOs under section 1 of the Crime and Disorder Act 1998 are legally defined court orders designed to prevent persistent anti-social behaviour. ASBOs have effect for a period of not less than two years and if breached a prison sentence of between six months to five years depending upon the severity of the breach can be imposed along with a fine.

Post Conviction Anti-Social Behaviour Orders (ASBO)

A person that is convicted of a relevant offence in the Criminal Courts, can under Section 1c of the Crime and Disorder Act 1998, as amended by Section 64 of the Police Reform Act 2002, make an order that is equivalent to an Anti-Social Behaviour Order, prohibiting the defendant from doing anything that may be specified in that order.

Injunction and Exclusions Orders

Injunctions and exclusions orders under sections 153a, 153b, 156c or 153d of the Housing Act 1996. Injunctions were introduced to prevent anti-social behaviour, unlawful use of premises and breaches of tenancy agreements. In order for injunctions to be appropriate there has to be some blame on behalf of the perpetrator. The injunction order can force the perpetrator to do something and or forbid a further breach of the tenancy. The length of the order is left to the discretion of the Judge. However, it is unlikely that the order will not exceed 12 months and will only take effect once personally served upon the perpetrator. Injunctions can also be obtained under section 222 of the Local Government Act 1972.

Demoted tenancies

Where a tenant or resident of or visitor to the dwelling is guilty of anti-social behaviour, the local housing authority will be able to apply for an order for the demotion of the tenancy. In relation to secure tenancies the tenancies will become demoted tenancies.

Possession Orders

Possession can be sought under Ground Two of Schedule 2 to the Housing Act 1985, (as substituted by Section 144 of the Housing Act 1996) Ground 2 – The tenant or a person residing in or visiting the dwelling house:

- a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- b) has been convicted of:

- (i) using the dwelling house or allowing it to be used for immoral or illegal purposes, or
- (ii) an arrestable offence committed in, or in the locality of, the dwelling-house

Any other legal action which could be taken with the support of the Police or Local Authority for example Environmental Protection Act 1990 action or criminal prosecution.

Other Tools

There are a range of services and enforcement tools that are available to South Kesteven District Council to deal with and to address anti-social behaviour and this depends on the specific nature of the complaint, but these can include the following:

Community Safety Manager

The Community Safety Manager will assist the Council in discharging its functions under the Crime and Disorder Act 1998 and will be responsible for the co-ordination of activities of the South Kesteven District Council Crime and Disorder Partnership, and will take action to address the objectives of the Crime and disorder Strategy and comply with Anti-Social Behaviour Legislation. The Community Safety Team Manager will manage the Community Safety Team.

The Community Safety Team

The Community Safety Team aims to reduce anti-social behaviour by:

1. Having due regard in carrying out its function for the agreed procedures set out in the Lincolnshire County Partnerships Protocol on Anti-Social Behaviour Orders and Acceptable Behaviour Contracts and by;
2. Working in partnership with a number of key agencies such as the Police, PCT, Probation, Drug Action Teams, Youth Offending Teams, the County Council's education, and social services, Registered Social Landlords, Victim support, Women's Aid and, both other statutory and voluntary agencies.

The Community Safety Team will provide training and support to staff and other external bodies on issues around Anti-Social Behaviour. The role of the team is to:

- introduce and implement diversion and prevention strategies
- review jointly with the police individual cases of anti-social behaviour and take the appropriate enforcement measures
- develop and implement anti-social behaviour policies and procedures
- strengthen community partnerships

Housing Services on mixed Tenure Estates

Housing services will include direct contact with a member of the Housing Service Estate Management Team. The Estates Management Team Manager has the overall responsibility for co-ordinating the Estate Management Services and enforcing the terms and conditions of the tenancy. The Estates Management Team will be the first point of contact and will make an initial assessment, as to the severity of the problem and the appropriate course of action.

Cleansing

Cleansing (Contract Services) deal directly with the following:

- Litter
- Abandoned vehicles
- Rubbish
- Graffiti
- Fly tipping

Environmental Health

Environmental Health Service deals directly with the following:

- Noise nuisance
- Graffiti
- Bonfires

Planning Enforcement

Planning Enforcement will deal with the following enforcement issues:

- Unauthorised physical development
- Unauthorised changes of use
- Unauthorised works to protected trees
- Unauthorised works to listed buildings
- High hedges
- Breaches of planning conditions
- Fly-posting and unauthorised advertising
- Untidy sites

Referral to other Enforcement Agencies

Where the enforcement action is outside of the local authority's remit the following agencies may be contacted.

- Police, criminal activities and anti-social behaviour that is not covered by South Kesteven District Council
- Education

- Registered Social Landlords

Referral to Support or Advice Agencies

- Victim Support
- Mediation
- Community Development Projects and Youth Workers
- Social Services
- Drug and Alcohol Action Teams
- Independent Legal Advice
- Citizens Advice Bureau
- Domestic Violence Services

Data Protection and Confidentiality

Under the Crime and Disorder Act 1998 section 115, personal data or information may be disclosed to the police, probation service or health authority, where it is necessary or expedient for the purposes of obtaining an ASBO. The information must however still be processed in accordance with the data protection principles under the Data Protection Act 1998 and the common law e.g. defamation, duty of confidence.

Training and Support for Staff

South Kesteven District Council recognises that its staff must be trained in tackling anti-social behaviour. Heads of Service will be responsible for ensuring that all front line staff involved should receive training in best practice, legal solutions, evidence gathering, and attendance at Court, and dealing with racial incidents. Training needs are identified through annual appraisal interviews.

South Kesteven District Council recognises that staff dealing with complaints of anti-social behaviour may well face threats of or actual abuse, both physical and verbal. As such, all staff should receive training in how to deal with violence and difficult situations. Effective lone working procedures should be in place together with risk assessments for all front-line staff.

South Kesteven District Council will take appropriate legal action such as seeking injunctions, anti-social behaviour orders, possession proceedings against any individuals who threaten, abuse or harm its staff. It will also support criminal prosecutions where necessary.

Lincolnshire County Partnership Protocol on ASBO and ABC

The Lincolnshire County Partnership Protocol on Anti-social Behaviour Orders and Acceptable Behaviour Contracts it set out the protocol for what this policy seeks to achieve; that is to protect the community from anti-social behaviour by effectively stopping and then preventing it. The protocol is attached at appendix A.

Monitoring and Data Collection by the Community Safety Team

Details of the data that will be record by the Community Safety Team and the agreed Performance Indicators for South Kesteven District Council for the period 2005 to 2006 are shown at appendix B.