

## The Barnes Fund and The Walsingham Lodge Trust<sup>1</sup>

### Anti-social behaviour Policy

#### 1. Introduction

##### Walsingham Lodge

Walsingham Lodge is a community comprising two types of sheltered housing:

(a) The Walsingham Lodge Trust

Walsingham Lodge Trust is part of The Barnes Fund charity and provides sheltered housing (almshouses) at Walsingham Lodge. The Trust provides 33 almshouses, comprising 18 flats and 15 bungalows, where the accommodation is for older people or younger disabled people, who have limited means, are able to live independently, and benefit from sheltered housing.

(b) The Barnes Fund (long leasehold bungalows)

The Barnes Fund is landlord for five leasehold bungalows, located adjacent to the Walsingham Lodge Trust almshouses, and where the leaseholders have access to the HSO/Estate Manager, the emergency alarm system, and communal facilities including lounge, kitchen, laundry room and gardens. The leasehold bungalows are available to purchase on the open market by individuals over 60 regardless of income or need.

##### Management of Walsingham Lodge and responsibility for responding to Anti-Social Behaviour

The day to day management of Walsingham Lodge (both the almshouses and the landlord responsibilities at the leasehold bungalows) is delegated to a property management company

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<sup>1</sup> The Barnes Fund Trustee Ltd (Company Number 10873803), corporate trustee of The Barnes Fund (Charity Number 200103) and The Walsingham Lodge Trust (Charity Number 200103-1). Regulator of Social Housing registration number A2072.

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#### SUPPORTING THE COMMUNITY OF BARNES

(currently RLHA, a part of Elm Group). The directors<sup>2</sup> of The Barnes Fund Trustee Ltd, as directors of the Corporate Trustee for Walsingham Lodge Trust and for The Barnes Fund recognise that they have overall responsibility for responding to any anti-social behaviour at Walsingham Lodge, with their duty of care dispensed on a day to day basis via the appointed property management company.

In order to ensure residents are protected, the following steps taken:

- The Barnes Fund / The Walsingham Lodge Trust ensure that the property management company that manages Walsingham Lodge almshouses and the leasehold bungalows at Berkeley Road on a day to day basis has adequate anti- social behaviour measures in place, including an Anti-Social Behaviour Policy and training
- The property management company are required to report any incidents or concerns regarding anti-social behaviour to the Charities; to act to resolve them in accordance with this Policy; and to keep the trustees informed as matters progress
- This Policy is read by all trustees and is reviewed annually.

## **2. The Purpose and Scope of this Policy**

The purpose of this policy is to set out the Walsingham Lodge approach to managing and responding to Anti-social Behaviour. As a part of this, it explains trustees' expectations of the appointed management company (hereafter 'Elm Group') in this regard, and the manner in which they will implement their own anti-social behaviour policy (attached as an Appendix) in the particular circumstances of Walsingham Lodge.

This policy concerns the management of and response to anti-social behaviour only. Where there is an associated safeguarding concern, reference should be made to the separate The Barnes Fund and Walsingham Lodge Trust Safeguarding Policy.

## **3. Responsibilities as a Social Landlord**

The Barnes Fund (Walsingham Lodge Trust) is a registered social landlord (Regulator of Social Housing registration number A2072). Under Section 12 of the Anti-Social Behaviour Act 2003 a registered social landlord must prepare a statement of policy and procedures for dealing with anti-social behaviour. This policy is available for viewing from the HSO/Estate Manager's office, will in due course form a part of the Leaseholders' and Residents' Handbooks for Walsingham Lodge (see ELM Group policy, section entitled 'Publicity'), and can be provided via email on request.

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<sup>2</sup> Throughout the remainder of this document the directors of The Barnes Fund Trustee Limited are referred to as 'trustees'.

## 4. Definition of Anti-Social Behaviour (Section 153A of the Housing Act 1996)

Anti-social behaviour<sup>3</sup> is defined as:

- Behaviour which is capable of causing nuisance or annoyance to any person and which directly or indirectly relates to or affects the housing management functions of a relevant “landlord”; and
- Behaviour which is capable of causing nuisance or annoyance to any of the following:
  - A person residing in housing accommodation owned or managed by the relevant “landlord”
  - A person visiting the housing accommodation or otherwise engaged in lawful activity in or in the locality of the housing accommodation.
  - A person employed by the relevant “landlord” wholly or partly in connection with its housing management functions.

It is important that everyone can recognise Anti-social Behaviour, both in order to maintain the standards expected in the license agreement (for almshouse residents) and lease (for leaseholders); and because it can give risk to safeguarding concerns for any vulnerable adults subjected to it.

## 5. Requirements in the residents’ licence and lease

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<sup>3</sup> Related useful definitions are as follows:

### **Harassment**

Any behaviour that intimidates, dominates or harms an individual or a family or group of individuals. The actions can be either physical or verbal. Harassment differs from nuisance and ASB in that it is targeted against particular individuals, households or group of people. For example:

- Abusive or insulting behaviour – written or verbal
- Violence and threats of violence
- Vandalism
- Repeated or unfounded complaints against another tenant, family or group
- Abusive telephone calls. – Uninvited visits to someone’s home
- Placing rubbish, excrement or offensive materials near or in a victim’s home.

### **Hate incident/crime**

Any kind of behaviour that causes fear, alarm or distress where the victim or any other person feels that they have been targeted because of their racial heritage, religion or beliefs, disability, gender identity or sexual orientation. If a criminal offence has been committed a hate incident becomes a hate crime.

### **Nuisance**

Is more likely (but not always) to affect more than one individual or household. Nuisance also covers behaviour that unreasonably interferes with other people’s rights to the use and enjoyment of their home and community. For example:

- Noise nuisance including parties
- Intimidating behaviour from groups of people
- Car repairs and abandoned vehicles
- Drug and alcohol related incidents
- Rubbish dumping
- Using premises for commercial gain or outworking
- Graffiti, vandalism and damage to communal areas
- Nuisance caused by pets and other animals.

The **residents of The Walsingham Lodge Trust Almshouses** are required, as per their Licence Agreement or Letter of Appointment (para 4), 'to occupy the property quietly and with thought for other residents and/or neighbours. No radio, TV or music system should be operated in such a manner as to cause a disturbance, nor shall anything be done in, upon or about the premises which shall be a nuisance, annoyance or disturbance to the occupants of other almshouses, members of staff, or to the general Public.' Visitors should be made aware by the relevant resident of this condition of occupancy.

The **leaseholders at 31-39 Berkeley Road** where The Barnes Fund is the landlord are required, as per their leases (Sixth Schedule, Clauses 4 and 5), 'not to do or suffer to be done on the Premises or the Estate anything which may be or become a nuisance or annoyance or cause damage or danger to the Landlord or the occupiers of any other Bungalow or any nearby or adjacent property or which may injure or tend to injure the character or reputation of the estate' and 'not to use or permit to be used in the Premises any radio television set record player tape recorder or any musical instrument or machine of any kind or to practice singing in the Premises between the hours of 11pm and 7am such that the same is audible outside the Premises.' Again, visitors should be made aware by the relevant leaseholder of this condition of the lease.

## **6. Policy**

The trustees take anti-social behaviour extremely seriously. The Barnes Fund/Walsingham Lodge Trust will not condone or accept any form of abuse, and the trustees will not tolerate anti-social behaviour that affects the quality of life of a resident or the management of the charity for the benefit of all its residents.

The trustees will respond to anti-social behaviour quickly and effectively, in the first instance through asking ELM Group to act in accordance with their policy (as adapted here for the particular circumstances of Walsingham Lodge). Trustees will try where possible to ensure that such situations are resolved at the earliest opportunity, and will aim to ensure that anti-social behaviour is dealt with in a consistent, sensitive and objective manner.

Residents are encouraged to report to the Housing Services Officer or the ELM Group Area Manager any behaviour considered by them to be anti-social by any person. ELM Group will investigate such reports (in confidence when this is appropriate).

## **7. Procedure**

If a resident wishes to report anti-social behaviour they should contact the Housing Services Officer, Tracy Hamilton T: 020 8741 8148, [walsinghamlodge@rlha.org.uk](mailto:walsinghamlodge@rlha.org.uk) or if unavailable, the Elm Group Area Manager, Susi Jay, Email: [sjay@elmgroup.org.uk](mailto:sjay@elmgroup.org.uk) Tel: 01252 356 006 should be informed. Elm Group should inform the trustees of reports of anti-social behaviour. If there are safeguarding implications for any vulnerable resident subjected to anti-social behaviour, then The Barnes Fund and Walsingham Lodge Trust Safeguarding Policy and Procedures should be followed.

Upon receiving a report of anti-social behaviour, Elm Group will follow the procedures set out in their own ASB Policy and Procedure (attached), as amended by this Policy. The Elm Group policy sets out a series of graduated responses depending on the particular circumstances of each case. In coordination with trustees, ELM Group will decide whether it is appropriate to:

- Resolve the matter within the charity – Elm Group 'Level 1' response
- Refer the matter for external mediation or involve other external agencies – Elm Group 'Level 2' response; or
- Seek a more formal remedy, such as a civil injunction or a Community Protection Notice (CPN) – Elm Group 'level 3' response.

There are differences both between the terms set out in the licence agreement signed by Walsingham Lodge Trust Almshouse residents and the lease signed by leaseholders at 31-39 Berkeley Road (see Section 5 above), and in the legislation relating to these two different relationships. ELM Group will ensure that any case is processed within this context.

Wherever possible ELM Group will try to resolve disputes informally and help the people involved to resolve their differences.

Should mediation be appropriate, ELM Group may wish to refer the matter to an independent, external mediation service. This will enable an impartial person to view the matter from an unbiased perspective in order to help find a resolution to the problem.

If the matter cannot be resolved by mediation ELM Group will not hesitate to act on behalf of a resident affected by anti-social behaviour. If this is caused by another resident in contravention of either the Licence Agreement / Letter of Appointment or the Lease, Elm Group will follow the procedures set out in their ASB policy, in combination with this policy. After a due process of verbal and written warnings the resident's appointment to the almshouse may be set aside. Leaseholders are bound by the terms of their lease not to cause nuisance or annoyance or cause damage or danger to their neighbours. Legal action can be taken to enforce the terms of the lease, and forfeiture may be the ultimate sanction.

In the case of anti-social behaviour by visitors or neighbours, the trustees may seek a civil injunction or a Community Protection Notice (CPN).

In the case of a resident, the trustees may, if considered necessary, refer the matter to other agencies to resolve the problem, e.g. criminal proceedings by the police, or Adult Social Services.

**This policy has been approved for issue by the directors of The Barnes Fund Trustee Ltd.**

Date: 12 September 2019

(Updated for change of corporate trustee and charity name: 13 May 2020)



# Antisocial Behaviour Policy & Procedure

## 1. Introduction

Anti-Social Behaviour (ASB) can damage the quality of life for individuals, and can threaten the cohesion of communities. The Anti-Social Behaviour Act (2003) places a duty on Registered Social Landlords (such as Housing Associations) to seek to tackle ASB effectively. This policy outlines the range of remedies available to manage ASB across the diversity of the estates that ELM manages. This diversity is reflected in the suggested response which needs to be tailored to the specific circumstances of each individual case.

ELM Group is committed to supporting communities and individuals who are suffering anti-social behaviour, working with customers, staff and stakeholders to promote inclusive and harmonious communities. Where necessary or appropriate ELM will robustly confront perpetrators of anti-social behaviour and will work in partnership with other agencies in seeking effective remedies.

This Policy and Procedure relates primarily to ELM residents and the work of Estates staff.

## 2. Purpose and Scope

The purpose of this policy is to set out ELM's definition of anti-social behaviour and its approach in dealing with a range of anti-social behaviours and/or neighbour conflicts.

## 3. Responsibilities

It is the responsibility of all estate based staff, Area Managers and the Operations Director to ensure that this policy is adhered to.

## 4. Procedure

## a) Defining anti-social behaviour

The term anti-social behaviour (ASB) is generic and has been defined as

***'any behaviour that unreasonably interferes with other people's rights to the use and enjoyment of their home and community'.***

The Crime and Disorder Act 1998 defines ASB as activity

***"[of] a manner that caused, or was likely to cause harassment, alarm or distress to one or more persons not of the same household".***

The Anti-Social Behaviour Act 2003 strengthened this, defining it as

***"[conduct] capable of causing a nuisance or annoyance to any person and directly or indirectly relates to or affects the housing management functions".***

ELM Group recognizes a wide definition of ASB which may typically include noise nuisance, intimidation, fouling of public areas or of private areas which impact on public areas, violence against people or property, verbal abuse and wandering in communal areas at times of night which are likely to disturb other residents. ELM Group expects residents to act in a considerate way, especially in areas where people live in close proximity to each other, for example, in a block of flats which is frequently the case with schemes managed by ELM Group. The definition however says nothing about the causes of ASB, which for many of our customers are likely to be rather different from the population as a whole due to their age.

## b) Performance Monitoring

ELM Group's Corporate Plan has an ongoing commitment towards policy development and review. In addition to its strategic role, the Board monitors trends in ASB as they occur. This is by means of an incident report submitted by the Operations Director to the ELM Board.

Alongside the work undertaken by the Board, a strategic review is maintained through the HOD's Team to ensure consistency across the organisation. The Chief Executive reviews the most serious housing-related cases in consultation with the Operations Director.

### c) Procedure for Managing Anti-Social Behaviour

ELM encourages victims, or those witnessing ASB to openly report incidents, where possible directly to the member of staff based on site. On unstaffed sites, incidents should be reported directly to the Area Manager. Where another member of staff receives any such report, they should pass on the report to the Area Manager responsible at the earliest opportunity. Incidents are centrally recorded and trends assessed. Given the nature of many of ELM's housing schemes which have resident staff, the incidents will often be witnessed at an early stage by a member of staff, who may indeed also be the target of the ASB.

ELM's staff have a wide range of responses available to tackle ASB. Given the relatively vulnerable nature of many of ELM's elderly residents, and taking into account the fact that many cases of ASB which arise in ELM-managed schemes are likely to have implications for medical or social care, it is difficult to generalize in advance about which response will be appropriate in any particular circumstances. Instead, the Area Manager is expected to consider each case on its merits and in the light of its particular circumstances, in consultation with other staff involved. Typically, this may include the Estate Manager, social services, close relatives and where appropriate the Operations Director.

The procedure to be adopted is as follows:

1. Incident of ASB is notified to ELM
2. Area Manager/ Estate Manager consults with residents, staff and other involved parties to decide the most appropriate response
3. Area Manager/ Estate Manager implements chosen response(s) and monitors results
4. Area Manager reports to Operations Director monthly on any identified cases, who in turn will report to the Chief Executive
5. Depending on the nature of the incident a follow up review will take place no later than six months after the initial report and at appropriate intervals thereafter.
6. This procedure will continue until the case is closed

## **d) Range of Responses**

The responses to be followed in each individual case will vary according to the particular circumstances of each case, such as the health and social care needs of the perpetrator, and the identity of the person suffering the effects of the ASB. For example, whilst staff should not be expected to endure repeated harassment from residents without proper support, staff will reasonably be expected to show a greater understanding of the causes and hence a greater tolerance of some kinds of ASB. For example, incipient dementia may lead an elderly person to level unfounded and repeated accusations of theft against the Estate Manager. If these accusations were levelled at another resident rather than the Estate Manager, it would require a different form of intervention.

There is a sequence of graduated responses as set out below, from Level 1 to Level 3. Some cases will typically progress from Level 1 up to higher levels if the problem is not solved, while other (usually serious) cases may require an immediate move to a higher-level intervention. Any legal action or reports to police, mental health or other authorities under Level 3 action must first be authorised by the Operations Director

### **Level 1**

Minor or low level one-off incidents, where ongoing case management is not required:

- Advice and assistance
- Low level mediation
- Reminder letter or warning

### **Level 2**

Clear and usually significant or persistent breach of lease terms, requiring ongoing case management which may lead to some form of enforcement:

- Higher level mediation, involving outside help
- Inter-agency liaison/case conference
- Legal warning letter
- Involvement of family/support mechanisms

### **Level 3**

Major breach of lease terms, unlawful acts including harassment, racially motivated abuse, domestic violence or other incidents involving violence against staff or other residents:

- Civil court action, injunctions, forfeiture or ASBO
- Protection for staff or other residents
- Liaison with police for criminal action

- Liaison with health and social services to take action under Mental Health Act powers (sectioning)

Some of these remedies are described in more detail below. At the same time, it should be borne in mind that any of these responses should be implemented with due regard to the wider context of law and good practice within which ELM Group operates, including the following:

- Landlord and Tenant Act legislation
- The lease terms
- The ARHM Code of Practice
- ELM Group's procedures, specifically the Leaseholder's Handbook and the Housing Services Manual
- ELM Group's Staff Handbook (where a member of staff is involved as alleged perpetrator or victim)
- Crime and Disorder Act
- Equality Act

It is essential that throughout the process ELM Group's policy on confidentiality is observed scrupulously. The requirement for the consent of the resident before involving any outside agency must only be circumvented following full compliance with the laid down procedure which requires the consent of the Operations Director.

## **e) Remedies available**

### ***Support mechanisms***

Some perpetrators of ASB have a distinct vulnerability, which is often linked to mental illness or disability. This is likely to become an increasing problem among a small but growing number of elderly residents of ELM Group. Wherever possible the appropriate levels of support from agencies such as social services, health and other agencies will be negotiated, and remedies that are practical and realistic will be sought. On occasions, whilst recognising the legislative framework of the Disability Discrimination Act, ELM Group must be aware of the needs of other residents and of the wider community when reasonably deciding on how cases are managed.

Staff will be guided by current legal opinion. The most recent case law has addressed this issue in deciding that legal action can be started if it is "justified to bring possession so as not to endanger the health or safety of any person (including the disabled person)." In supporting both victim and perpetrator as far as possible, ELM will actively seek and encourage joint working with other agencies when deciding how best to resolve difficulties.

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

ASBOs, including Interim ASB Orders, can be applied in cases where the perpetrator is over the age of 10, and are targeted to tackle specific ASB acts. An ASBO is effective for a minimum of 2 years and RSLs as well as local authorities can make applications. Effective partnership is expected and required between interested groups, before an ASBO application is made.

There is little experience to date of using ASBOs to counter problematic behaviour by elderly people but this may be a useful tool on those estates which are non-retirement. ELM Group intends to monitor developing practice in this area first to assess the practicality and acceptability of the use of ASBOs with retired leaseholders, before proceeding down this path.

### ***Injunctions***

Injunctions can be sought by an RSL to prevent ASB, for a breach of the conditions of the tenancy or lease. Following the Housing Act 1996, RSLs can also seek a 'power of arrest' to be attached to an injunction, depending upon circumstances. Private individuals can also seek an injunction through the Harassment Act, to protect themselves. Injunctions introduced under the Anti-Social Behaviour Act 2003 are broader in scope than those introduced by the Housing Acts.

### ***Lease Enforcement***

Leaseholders (and generally their tenants also) are bound by the terms of their lease not to cause nuisance or annoyance to their neighbours. Legal action can be taken to enforce the terms of the lease, and forfeiture may be the ultimate sanction.

Possession action will only be considered when other interventions have failed to protect the individual or wider community, and can only be pursued with the backing of a court order.

### ***Environmental Protection Legislation***

The local authority through Environmental Health legislation can take action where a statutory nuisance has been caused. This normally concerns noise nuisance but can be extended to other areas relevant to environmental health, such as keeping a flat in an insanitary condition which may pose a health threat to other occupiers in the building.

### ***Publicity***

The Group believes its policy should be widely publicised so that all residents and stakeholders will understand the values of the organisation, and the importance which ELM Group attaches to tackling ASB. The policy will be publicised to residents through the Leaseholder's Handbook, and discussion on suitable occasions such as the Residents' Associations Forum. The policy will be publicised to staff through the Staff Handbook, with a cross-reference to the policy and the [Estate Manager's Manual](#).

The Group may also on occasions seek ways to demonstrate its commitment to tackle ASB, by publicising successful action taken against perpetrators. However, this will only be done with sensitivity and in appropriate cases, to avoid the risk of causing concern and alarm to elderly leaseholders who may not fully appreciate the issues involved.

### **Training**

The Group believes staff who provide services to leaseholders should be aware of its policy on ASB, and should be clear about the action they should take if it occurs. The staff who will often be the first to become aware of ASB are Estate Managers. For this reason the Estate Manager's Manual will be amended to cover a summary of this Policy, and cross-referenced to the Policy and Procedures Manual where the full document can be accessed.

### **f) Domestic Violence**

Domestic violence among elderly people is rare, but it is not unknown and on non-retirement estates there is a greater chance that this may occur. For this reason staff should keep an open mind on the possibility of domestic violence occurring on schemes managed by ELM Group, and should report the matter promptly when there is any suspicion that domestic violence has occurred or may occur in future.

When dealing with domestic violence, staff should be aware of ELM Group's Anti-Social Behaviour Policy and be familiar with the principles of supporting victims and dealing with perpetrators.

The Home Office has defined domestic violence as

**“any violence between current and former partners, in an intimate relationship, wherever and whenever it occurs”**

The violence may involve physical, sexual, emotional or financial abuse. Whilst different organisations have defined domestic violence slightly differently, ELM Group adopts the Home Office definition.

ELM Group acknowledges that through its contacts with residents, it may occasionally have the opportunity to play a role in supporting victims of domestic violence and has a responsibility to respond effectively to deal with perpetrators in such a situation.

ELM Group is committed to tackling domestic violence, and will operate in a victim-centred manner when dealing with victims of domestic violence. This means that the starting point is one where the victim's perceptions are taken seriously while the matter is investigated. ELM believes that firm action should be taken against the perpetrator in most circumstances, although we will consider the victim's wishes when deciding what action should be taken.

- **Racial Harassment**

ELM Group is determined to do everything in its power to combat racial harassment occurring on any estates we manage, or involving any of our residents or staff. The Group recognises racial harassment as a distinctive form of intimidation and will deal very seriously with any incidents that are reported. When dealing with racial harassment, staff should be aware of ELM Group's Anti-Social Behaviour Policy and should be familiar with the principles of supporting victims and tackling perpetrators.

Given the serious implications of any incidents of racial harassment for both the perpetrator and the victim, ELM is likely to escalate any reported incidents immediately to Level 3 in ELM Group's range of responses (see the Anti-social Behaviour Policy), which is the most serious level of response.

The Group treats all incidents as a potentially racial incident, if it is perceived as such by the victim, or the person reporting it. This definition was recommended by the McPherson Report following the murder of Stephen Lawrence and is endorsed by ELM Group. ELM Group has had regard to the publication "Tackling Racial Harassment: Code of Practice for Social Landlords", and will seek to follow its recommendations to the fullest extent appropriate to ELM Group's activities and specialised client group. We will pay particular attention to:

- Prevention and publicity
- Encouraging reporting and monitoring

- Supporting victims and witnesses
- Action against perpetrators

The Race Relations (Amendment) Act 2000 places a statutory duty upon RSLs to tackle unlawful discrimination, to promote equality of opportunity and good race relations between different racial groups.

ELM will robustly tackle perpetrators of racial harassment and we will usually report any alleged incidents directly to the police, where there are grounds for suspicion that a criminal offence may have been committed.

In any cases where, on grounds of health or social care needs, a decision is made that police involvement would not be an appropriate response, Operations Director is required to initiate appropriate alternative action and to justify to the CE the grounds on which no police report was made. We will give priority to accessing suitable support for the victim, where appropriate through a specialist support agency. In most cases we will take action against perpetrators even when victims are reluctant to take action themselves, as the ELM needs to consider its responsibility to the wider community.