



POLICY REVIEW

JANUARY 2008

## **CLYDEBANK HOUSING ASSOCIATION ANTI SOCIAL BEHAVIOUR POLICY**

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## **Aims and Objectives of the policy**

We aim to work with others to ensure that our tenants are able to live in a safe and well managed environment.

We aim to work with others to provide a service that is effective in dealing with anti social behaviour and neighbour nuisance. We will take effective and early action to tackle anti social behaviour and harassment.

We will adhere to the 5 Key Principles set out in “Raising Standards” Guidance.

- The response to complaints should be quick and efficient, within time limits for different levels of complaint, address all the points at issue, and keep the complainant informed of developments
- A non – judgemental approach is essential at the early stages of investigation, as some complaints may be unfounded or even malicious
- In clear cases of harassment, including racial harassment, the approach should be victim centred, with investigations and solutions to the complaint sympathetic to the stress and needs of the tenant. There will be a clear understanding that if the tenant or any other person believes that the behaviour is racially motivated, then this should be believed and acted upon.
- Legal remedies should only be used by RSLs when preventative and management approaches have failed to resolve the problem.
- There should be a clear review process for monitoring cases, and an appeals process for complaints which have not been satisfied.

## **Equal Opportunities**

We will not unfairly discriminate against any individual, household or group on the grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

Complaints may be received about noise where domestic abuse is involved. Tenants complaining to us should also be encouraged to contact the Police and other agencies if appropriate in these circumstances. We will handle all complaints sensitively.

## **Definition of Anti Social Behaviour**

Anti social behaviour can mean different things to different people. The Antisocial Behaviour etc (Scotland) Act 2004 defines anti social behaviour as:  
A person (“A”) engages in anti social behaviour if A

- a) acts in a manner that causes or is likely to cause alarm or distress; or

b) pursues a course of conduct that causes or is likely to cause alarm or distress,  
to at least one person who is not of the same household as A; and “antisocial behaviour” shall be construed accordingly.

“Conduct” includes speech; and a course of conduct must involve conduct on at least two occasions.

As well as this we acknowledge that antisocial behaviour covers a wide range of behaviour and some examples are:

- Dog fouling
- Noise
- Nuisance or threatening behaviour
- Rubbish dumping / litter
- Drug dealing
- Graffiti or other deliberate damage to property
- Harassment – can be on grounds of race, disability, gender, sexual orientation, religion or age
- Threatening behaviour
- Fighting
- Street drinking
- Shouting and swearing
- Abandoned cars

It is important to note that anti social behaviour is not behaviour that is merely different, or that is the result of a medical or developmental condition or mental disorder. So, tolerance and awareness of other’s needs is an important part of tackling anti social behaviour. Anti social behaviour can be associated with people of all ages and backgrounds.

It is also important to note that anti social behaviour is not solely resolved by landlords or other agencies. Tenants themselves have a large part to play in resolving a dispute. For example in speaking to their neighbour about any difficulties, in recording evidence, by reporting incidents to police / environmental health and in undertaking mediation where it is suggested.

### **Tenant’s Rights and Responsibilities**

All of our tenants have the right to live free from harassment. They have the right to complain about neighbour nuisance and anti social behaviour and to have their complaint(s) acted on.

Our tenants have the responsibility for making sure they keep to the conditions of their tenancy agreement. They have the responsibility to treat neighbours and those in the wider community with respect including those who are different. Tenants should be willing to work with us and others in relation to helping resolve anti social behaviour e.g. by reporting all instances of anti social behaviour to the relevant authorities and to act as witnesses if needed.

## **Making a Complaint**

Initially tenants should approach the person causing a nuisance and bring the problem politely to their attention. (This would not be relevant if a tenant felt threatened). The person may not know their behaviour is problematic.

If the situation does not improve thereafter, the tenant should generally make a complaint in writing or complete diary notes and sign them. Alternatively a tenant can make an appointment and a staff member will write down the complaint and the tenant will sign it. All tenants are entitled to have an advocate, however tenants themselves should be present at interviews as well as their advocate.

Anonymous complaints will be accepted for relatively minor breaches of tenancy that can be easily corroborated such as untidy gardens or dirty common areas. Otherwise anonymous complaints will be recorded but not acted upon.

## **Categorisation of Complaints & Response Times**

Neighbour complaints will be categorised into 3 categories; the behaviours within these categories are not intended to be exhaustive:

Extreme	Category A
Serious	Category B
Neighbour Dispute	Category C

### Category A – Extreme

- Drug dealing from Association's property
- Unprovoked assault by an Association tenant
- Racial / other harassment
- Violent conduct towards neighbours

### Category B - Serious

- Frequent disturbances
- Vandalism / Damage to property
- Threatening Behaviour

### Category C – Other Disputes / Complaints

- Infrequent disturbances
- Noise complaints
- Running an unauthorised business from an Association property
- Verbal abuse
- Unauthorised alterations to our property
- Behaviour of visitors / children to property
- Basic breaches of tenancy e.g. pet nuisance, stair cleaning
- Maintenance of garden / common ground etc
- Boundary disputes
- Family disputes affecting neighbours

## Response Times

Action	Category A	Category B	Category C
Acknowledge complaint & provide initial advice where necessary	N/A	1 working day	1 working day
Contact complainer	1 working day	5 working days	7 working days
Contact neighbours / witnesses	1 working day	7 working days	10 working days where contact has been made
Contact / interview alleged offender	1 working day	8 working days	10 working days
Liase with other agencies	1 working day	8 working days	12 working days
Case evaluation / action	2 working days	10 working days	15 working days
Case review	8 weeks after evaluation / action	8 weeks after evaluation / action	8 weeks after evaluation / action

We will keep tenants informed of progress in a case. We will review the case 8 weeks after the case evaluation / action to be sure that there have been no further instances of nuisance or anti social behaviour.

## Remedies

We will consider using a wide spectrum of remedies some of which are listed below. Each case will be considered individually and relevant remedies tailored to it. Research has shown that a balance between prevention and enforcement is needed and that a graduated and proportionate response to enforcement is appropriate.

### Management Actions

- High quality of homes – “secure by design”, double glazing, fast offensive graffiti removal, security entry doors
- Void property management
- Appropriate clauses stating tenant responsibilities will be in missive
- Articles highlighting different areas of neighbour nuisance / anti social behaviour will be put into our newsletter regularly
- Mediation
- Interviewing tenants and other relevant people where appropriate
- Use of noise monitoring equipment
- Warnings - backed up in writing
- Monitoring by Community Wardens
- Involvement of other agencies – ASIST, Environmental Health
- Management transfer

- Identification of support needs and referrals to other agencies

### Legal Remedies

- Legal remedies will usually be considered only if other management methods fail.
- Legal options that may be considered are:
- Service of Notice of Proceedings
- Specific Implement
- Interdict or interim interdict
- Applying for an Anti Social Behaviour Order (ASBO)
- Converting the tenancy to a Short SST
- Start of court action to seek decree for eviction

### **Remedies for Neighbour Disputes & Antisocial Behaviour**

<b>Remedy</b>	<b>When this action will be considered</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Main players</b>
<b>Quality of the Property</b>				
Physical aspect of design.  Secure by design.	At all new developments we will seek "Secure by design award"	Scheme designed with the prevention of crime in mind.	None	CHA, Police.
Install controlled entry doors throughout our flatted properties & keep in good repair.	Currently in all stock.  Installed into all new build properties.	Crime prevention, prevention of anti social behaviour e.g loitering in common areas.	Depends on tenants/owners using the doors appropriately to help with security. Ongoing cost of repair.	CHA, tenants.
Graffiti removal	Priority given to racist or offensive graffiti removal.  Other graffiti will also be removed.	Prevents area from looking run down, prevents people thinking it's OK to graffiti a particular area.	None	CHA.  WDC will become involved with commercial premises in area.
Installation of double glazing	At design stage of new build properties.	Reduces noise pollution	None	CHA

Remedy	When this will be considered	Advantages	Disadvantages	Main players
Management of Void Properties	In all vacant properties	Ensure properties are let as quickly as possible therefore reduction in possibility of vandalism. Secure void properties as necessary.	None	CHA
<b>Other Management Actions</b>				
<p>Insert relevant clauses re asb into missive and explain them at tenancy sign up. Include reference in tenants handbook. Produce a leaflet re different agencies' roles. Produce relevant periodic newsletter articles. New tenant visit should include delivery of leaflet re asb.</p>	For all tenants / prospective tenants	<p>Tenants have an understanding of their rights and responsibilities before they sign their tenancy agreement. This is reinforced by other reference material. Tenants have increased awareness of how to complain.</p>	None	<p>CHA, tenants.</p> <p>Other agencies may become involved where tenancy breaches occur e.g. WDC ASIST Team, WDC Environmental Health section re noise or litter or dog fouling.</p>



<b>Remedy</b>	<b>When this will be considered</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Main players</b>
Investigation	In most cases of complaints an investigation will be required unless parties agree to go ahead with mediation where this is appropriate. Full investigations will be needed in all category A complaints and most category B complaints.	Can give staff a fuller picture of what is actually happening. Can trigger proceedings / liaison with other agencies on the way forward. Can identify a need for support.	Time consuming for Association and any others asked for comments. May not produce results due to no contact by neighbours. Can lead to breakdown in neighbour relations.	CHA, tenants, other agencies as appropriate e.g. Police
Mediation	Most of category C complaints and possibly some category B complaints.	Cheap. Effective in many cases. Terms of settlement decided by tenants involved in dispute instead of being imposed on them.	Concentrates on future behaviour so does not necessarily deal with past behaviour – this can be seen as negative by some people.	CHA, WDC neighbourhood mediation service, tenants.
Use of Noise Monitoring Equipment	When noise is complained of and cannot be corroborated or the tenant disputes they are making noise this will be considered.	Establishes what is happening in neighbour dispute. When WDC machine is used, evidence can be used in court.	Depends on tenant taking accurate recordings over a period of time.	CHA, WDC Environmental Health Section, tenants.

<b>Remedy</b>	<b>When this will be considered</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Main players</b>
Incremental warnings	Where complaint regarding a breach of tenancy has been substantiated and other actions have failed or are inappropriate, warnings may be issued.	Lets all concerned know that we consider the breach of tenancy to be serious and that we expect it to stop.	Tenant may not take a warning seriously.	CHA. Other agencies may also be involved e.g WDC or police.
Monitoring by the community wardens	Where monitoring for a period is needed to establish exactly what is happening at a property / in an area.	Daily report backs from wardens allow us to build up a picture quickly. Most effective where a definite pattern re time of antisocial behaviour is occurring. Wardens can act as professional witnesses. An additional service for tenants to use.	Limitations of service - wardens cannot be everywhere at once.  Have no priority when contacting the Police.	CHA, tenants, WDC community warden service/ Out of Hours Service.
Identification of support needs of tenants.	At sign up stage of tenancy acceptance. Also at time of investigation into complaint.	Allows us to refer tenant to appropriate agency so that appropriate support is in place.	None.	CHA, tenants, support agencies.

<b>Remedy</b>	<b>When this will be considered</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Main players</b>
Management Transfer	Very occasionally as a last resort when all management actions have failed. Mainly when there is an intractable dispute between 2 parties and staff are unable to corroborate complaints. Transfer accommodation will be comparable accommodation in an area suitable to the family needs – the Council or another landlord may be able to assist. Tenant must be agreeable to move.	Means the dispute can be ended.	It may be difficult to find suitable alternative accommodation.	CHA, WDC, other RSLs.

**Legal Action – will only be considered if management actions have failed**

<b>Remedy</b>	<b>When this will be considered</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Main players</b>
Application for an Interdict / interim interdict	Civil action, can be used to stop someone from doing something. Will be considered in each complaint.	Speedy. Can be directed at the guilty person instead of innocent co-residents.	If the terms of the interdict are broken, a new court action needs to be started to deal with the breach or court action – burden of proof is high, time consuming. Landlord can choose not to do this and may	CHA, Sheriff.

			start other action.	
<b>Remedy</b>	<b>When this will be considered</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Main players</b>
Application for Specific Implement	Can be used to get tenants to do something. Will be considered in each complaint.	Relatively quick.	Has to be very specific or person may find a way around it.	CHA, Sheriff.
Application for an Anti Social Behaviour Order (ASBO)	Only where other actions have failed and where the behaviour is likely to escalate to a criminal level or where patterns of behaviour cumulatively cause alarm or distress to the community.	Applies to all tenures.  Another option to try to prevent homelessness.	Has limitations - need to know names & addresses of those committing asb before an ASBO can be applied for. Application quite time consuming as others need to be involved.	CHA, ASIST, Police, Court system.
Converting the tenancy to a Short SST	If the tenant or a member of the tenant's household is the subject of an ASBO.	Gives the tenant a final chance to keep their tenancy.	Landlord has to ensure support is put in place to help someone sustain the tenancy.	CHA, support agencies, tenant & family.
Service of Notice of Proceedings	If warning(s) have had no effect on the behaviour of a tenant / tenant's household and other remedies have failed or are inappropriate.	Lets all concerned know that we are willing to instigate legal action if necessary. Allows all concerned to know that we are taking the matter seriously.	None – other action can be ongoing at the same time.	CHA

<b>Remedy</b>	<b>When this will be considered</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Main players</b>
Start of court proceedings to seek decree for eviction.	Where all other management tools and other appropriate legal remedies have failed.	If several other actions have failed, this can be used as a last resort.	Expensive and time consuming – a court case can last many months. No guarantee of success – Sheriff's decision based on what is considered reasonable by that Sheriff. Tenants may have to appear as witnesses.	CHA, independent witnesses e.g. surrounding tenants/commercial residents, community wardens, support providers. Sheriff.

### **Different Tenures**

Complaints may be received about sharing owners or owners. Mediation can be offered if appropriate to residents in all tenures. As the legal process is different in these tenures we will generally involve West Dunbartonshire Council in cases where mediation is not suitable or has failed.

### **Other Agencies' Involvement**

West Dunbartonshire Council has developed an anti social behaviour strategy. This document refers to the Council's range of measures to prevent and deal with anti social behaviour. Our tenants, sharing owners, owners and their families will benefit from these measures.

We liaise with several departments within the Council e.g. Environmental Health, ASIST, neighbourhood mediation service. Other organisations we work with include Strathclyde Police.

A leaflet outlining contact information for relevant agencies will be produced and will be available from the office free of charge. The leaflet will also be displayed in our reception area. The leaflet will outline services available from other agencies in relation to neighbour nuisance or anti social behaviour.

Victim Support has a role to play in offering support to victims of anti social behaviour and the agency's contact details should be given to victims of antisocial behaviour where appropriate.

We will ensure that when we are able to identify a support need for any party when investigating a neighbour dispute or antisocial behaviour, we will refer that party to the appropriate support agency(s). Support needs could vary from money advice, drug or alcohol abuse to managing their own door.

### **Committee and Staff Responsibility**

Committee's role is in the formulation and review of the policy and monitoring its effectiveness. Committee must also agree legal action that can have an effect on a tenant's tenancy e.g. applying for an ASBO / interim ASBO or an action seeking decree for eviction.

Staff have delegated responsibility for the day to day implementation of policies and procedures and for investigating complaints and taking appropriate action as outlined in the policy and procedures.

Both Committee and staff recognise that the Association will rarely work in isolation in relation to anti social behaviour and are not solely responsible for resolving it. Staff are likely to work with different agencies who also have a responsibility in this area e.g West Dunbartonshire Council Environmental Health Section, ASIST, support agencies and the Police.

### **Data Protection and Information Sharing**

We will enter into a protocol with other landlords and the Police on how we can share information within the confines of the Data Protection Act 1998.

### **Staff Training**

Staff will undertake relevant training that enables them to deal effectively with complaints. Staff will also develop relevant relationships with other organisations that will help in dealing with anti social behaviour.

### **Monitoring**

We will monitor the number and types of complaints received, how many are investigated within timescale and how many have been resolved. We will monitor tenant satisfaction with the way we deal with complaints.

### **Appeals**

Any of our residents who make a complaint to us and feel that it has not been dealt with in a satisfactory way can appeal to the Housing Management & Maintenance Sub Committee initially. All appeals should be addressed to the Secretary of the Housing Management Sub - Committee who will arrange for the Committee to hear the appeal. An applicant may be requested to attend the Committee meeting where the appeal will be discussed. A copy of our complaints policy is also available free of charge from the office.

## **Bibliography**

A Guide to Antisocial Behaviour etc. (Scotland) Act 2004 – CloH March 2005

Housing (Scotland) Act 2001

Crime & Disorder Act 1998

Protection from Harassment Act 1997

West Dunbartonshire Anti Social Behaviour Strategy 2005/2008

Performance Standards in Housing

Raising Standards in Housing

SFHA Information Note

Anti social Behaviour and Housing:the Law     S Collins & D O'Carroll 1997

Housing and Neighbour Problems – Scottish Office 1998

[www.scotland.gov.uk](http://www.scotland.gov.uk)

### **Explanation of Legal Remedies**

Legal remedies should only be considered where management actions have been unsuccessful. Not all remedies will be effective in each case. The best options for each case should be considered individually. "Reasonableness" is a term often referred to in legislation and Guidance. Sheriffs are obliged to consider this term when considering a case. In this context the Sheriff will have regard to many factors such as the frequency, seriousness, whether the perpetrator is the tenant, the length of tenancy and previous problems, how long the behaviour has lasted, the nature of the conduct, any support needs, conduct of the neighbours, up to date situation and other remedies tried by the landlord and others. The Sheriff may also consider the effect of the behaviour on neighbours and the landlord, efforts made by the landlord to involve other agencies, whether the conduct was intentional or whether there was other factors e.g. mental illness and the effect of eviction on the household members.

### **Interdict / Interim Interdict**

An interdict is an order from the court prohibiting someone from doing a specified act. It is an order not to do something. Needs to be very specific for example can stop someone playing the bagpipes from their house. However this would not prevent that person playing another instrument. It would need to be considered whether it would be reasonable to specify that someone could not play any musical instrument from their property. If this was not thought reasonable the problem may not be solved if the person takes up playing the drums for example.

### **Specific Implement**

This is an order from the court that requires a person to perform their legal obligations, for example, under a contract. For example it can require someone to carry out a tenancy obligation like cleaning the stairs. We would need to be certain that the person was the only one in the common area not cleaning the stairs otherwise it is not likely to have the desired effect of the area being clean. Additionally a tenant should not be singled out unless we are very sure of our facts.

### **Anti Social Behaviour Order (ASBO) – landlords or Police apply.**

A landlord can apply, in conjunction with the Police, for a Sheriff to grant an ASBO or interim ASBO against someone aged 12 or over. The name and address of the person must be known. The Sheriff must be satisfied that the individual has engaged in anti social behaviour and that the ASBO is needed to protect others from further anti social behaviour. Before a Sheriff can consider an ASBO against children under 16, a children's hearing must be held to have input to the application. An ASBO can be used to convert a Scottish Secure Tenancy (SST) into a Short SST. A breach of an ASBO is a criminal offence that can be reported to the Procurator Fiscal. The Fiscal will consider appropriate action but imprisonment is not an option for under 16s.



**Notice of Proceedings for Possession of Property**

This Notice is served where there is a possibility of the landlord seeking a decree for eviction. The Notice expires 28 days after its service and thereafter court action can start. This should only be served where there is an intention to start court action.