

Neighbour Disputes and Antisocial Behaviour Policy

Landlord Safety Manual

1. Introduction

- 1.1 This document outlines Ayrshire Housing's policy on responding to neighbour disputes and antisocial behaviour. The policy and associated procedures will outline the way in which complaints are dealt with taking account of current legislative provisions for dealing with antisocial behaviour and neighbour nuisance.
- 1.2 Through the Scottish Social Housing Charter the Scottish Housing Regulator has detailed a number of outcomes they expect social landlords to deliver in the services they provide to tenants and other customers. Some of these outcomes relate to estate management and antisocial behaviour.

These are:

Charter Outcome 6 – Neighbourhood and Community – Social landlords, working in partnership with other agencies, help to ensure as far as reasonably possible that tenants and other customers live in well-maintained neighbourhoods where they feel safe.

Charter Outcome 11 – Tenancy Sustainment – Social landlords ensure that tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.

Charter Outcome 13 – Value for Money – Social Landlords manage all aspects of their business so that; tenant, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

- 1.3 There are also clear links between this Policy and a number the association's other policies and strategies, including the following:

- Estate Management
- Allocation Policy
- Void Management Policy
- Corporate Complaints Handling Complaints Policy and Procedures
- Equality & Human Rights Policy
- Ayrshire Housing's Business Plan

2. Definition of antisocial behaviour:

2.1 The Antisocial Behaviour (Scotland) Act 2004 defines antisocial behaviour in the following terms:

“A person engages in antisocial behaviour if they act in a manner or pursue a course of conduct that causes or is likely to cause alarm or distress. This must be to at least one person who is not a member of their own household.”

Conduct includes speech and to be a course of conduct it must happen on at least two occasions.

2.2 The general range and scope of antisocial behaviour can range from relatively minor disputes involving noise and lifestyle clashes to serious and extreme cases including drug dealing, serious harassment, racial abuse and violence. Ayrshire Housing will endeavour to adopt a pragmatic approach reflecting the nature and seriousness of the conduct involved.

3. Aims and Objectives

3.1 In Ayrshire Housing’s Business Plan we state that we will aim:

- To enhance our tenants’ quality of life and
- To ensure that our neighbourhoods remain desirable places

3.2 This Policy will contribute to the delivery and fulfilment of those aims by the delivery of the following objectives:

- We will take prompt and effective action to assist those who are affected by or who are victims of antisocial behaviour.
- We will provide tenants with the necessary support or help them to obtain the necessary support and assistance they require to establish and maintain their tenancies.
- We will provide tenants with clear information about what we can do in response to a complaint or dispute and also to make information available regarding the assistance that can be provided by our partners such as local authorities, Police Scotland, and other agencies and support organisations.

3.3 Procedures have been written to ensure that an appropriate and effective response is in place to deal with complaints. Ayrshire Housing will ensure that accurate information and investigatory records are kept. All complaints will be dealt with in a professional manner and performance will be monitored and statistical information provided when required.

4. Legislative Framework

4.1 This section outlines the key areas of legislative provisions within which the association can respond to and address anti-social behaviours.

The legal framework which the association will work within includes the provisions made within the following legislation:

- **Misuse of Drugs Act 1971** – This act places a duty on us to report any known incidents of drug activity/misuse within our neighbourhoods to the Police.
- **Crime and Disorder Act 1998** – Introduced Antisocial Behaviour Orders
- **Data Protection Act 2018** – This act requires us to observe certain conditions regarding the sharing and gathering of information about individuals. Section 139 of the Antisocial Behaviour Act 2004 promotes the exchange of information between “Relevant Authorities”.
 - *We will hold information relevant to individuals, both reporters of and alleged perpetrators of antisocial behaviour which the Association requires to investigate and record antisocial behaviour incidents. We will only hold such information as necessary to allow us to tackle antisocial behaviour and take any legal action required and we will only hold such information as long as we deem it necessary in terms of future management of our tenancies.*
- **The Housing (Scotland) Act 2001** – legal framework detailing the responsibility on Registered Social Landlords to tackle anti-social behaviour. We have clearly defined our tenants responsibilities within our Scottish Secure Tenancy Agreements, particularly, section 2 “Use of the House and Common Parts” and 3, “Respect for Others”
- **Criminal Justice (Scotland) Act 2003** – This act extended applications for Antisocial Behaviour Orders to include Registered Social Landlords.
- **Antisocial Behaviour etc. (Scotland) Act 2004** - provides that a person engages in Antisocial Behaviour if they:-
 - *“act in a manner that causes or is likely to cause alarm or distress, or pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household as them.”*
 - A ‘course of conduct’ is defined in the Act as being on two or more occasions.
 - This legislation provides a legal framework for tackling anti-social behaviour and promotes a responsibility on local communities and local agencies to work in partnership to prevent, stop and challenge anti-social behaviour. We will use or work with our partners to take advantage of a range of tools in the Act to tackle anti-social behaviour, which include, Anti-Social Behaviour Orders, orders for the dispersal of groups and closure of premises, fixed penalties for noise nuisance and low level offences, parenting orders and Anti-Social Behaviour Contracts.
- **Housing (Scotland) Act 2014** – this widened the circumstances in which landlords can either give a Short Scottish Secure Tenancy (SSST) or “demote”

an existing tenancy (SST) to a Short SST. The Act also set out the circumstances where an applicant for housing can be suspended where there has been a record of antisocial behaviour.

5. Prevention

5.1 Ayrshire Housing's approach to the prevention and management of antisocial behaviour is integrated with our allocations and estate management procedures.

Prior to offering an applicant a tenancy the association may carry out background information checks to consider whether an offer may be withheld or deemed unsuitable or inappropriate. It should be noted that such checks are limited to those permitted within legislation and the statutory framework and guidance for the allocation of social rented housing. Should support needs be identified at this time referrals are made to the appropriate agencies.

5.2 At tenancy sign up prospective tenants will be made aware of their responsibilities and obligations with regards to respect for others. New tenants will also be provided with a copy of the Tenant Handbook that includes information summarising these responsibilities.

The association's tenancy agreement specifies tenants' responsibilities including:

The tenant must not;

- act in an antisocial manner
- make excessive noise
- allow their pets to disturb neighbours, foul or cause damage to other people's properties
- allow visitors to be noisy or disruptive
- use their house for illegal or immoral purposes
- vandalise our property
- leave rubbish in unauthorised places
- use or carry offensive weapons
- run a business from their home
- sell alcohol or use or sell illegal drugs
- allow their children to cause nuisance or annoyance to others
- harass or assault any person in the house or neighbourhood

5.3 Good neighbour relations and appropriate conduct and adherence to the conditions of tenancy are reinforced at the New Tenant Visit which is carried out within 6 weeks of the tenant moving in to their home.

5.4 Tenancy and estate management are part of the housing and maintenance staff's responsibilities and prompt action is taken when there is an obvious breach of the tenancy conditions.

6. Categorisation of Disputes and Response Times

6.1 Ayrshire Housing recognises that antisocial behaviour can range from very minor to very severe. In line with good practice the association will prioritise our response times depending on the categorisation of the behaviour. The categorisation is based on the seriousness of the complaint and will determine the processes and timescales which will be followed in responding to the complaint.

The following guidance will be used to categorise the cases;

Category 1 (Red) Extreme Cases

Drug dealing
Assault or Violent Conduct
Racial or other Serious Harassment or Abuse
Criminal Behaviour

Category 2 (Amber) Serious Cases

Threatening Behaviour/Harassment
Serious Breaches of Tenancy e.g. Vandalism or Damage to Property
Frequent Disturbances

Category 3 (Green) Nuisance Cases and Minor Disputes

Noise Complaints
Infrequent Disturbances Running a Business
Access and/or Boundary Disputes
Condition of property/gardens
Minor Breaches of Tenancy e.g. pet nuisance, behaviour of children

6.2 The following timescales apply in responding to the initial complaint.

Action	Category Red	Category Amber	Category Green
Contact Complainer	1 working day	3 working days	5 working days
Contact neighbours/witnesses	2 working days	3 working days	5 working days
Contact alleged offender	2 working days	5 working days	7 working days
Liaise with other agencies, if appropriate	2 working days	5 working days	7 working days
Case Evaluation	3 working days	7 working days	10 working days
Case closed/resolution	12 weeks	8 weeks	4 weeks

The timing and frequency of subsequent contacts will be determined by the severity of the case. It should be noted that the Scottish Housing Regulator classifies a case resolved when:

- the landlord has taken appropriate measures as set out in its antisocial behaviour policies and procedures to address the cause of the antisocial behaviour
- Or
- the landlord does not have the authority or powers to resolve the matter

but it has provided to the service user a full explanation of the landlord's position.

7. Links with other Services and Agencies

7.1 Liaison with other agencies is key to the effective management of antisocial behaviour. Ayrshire Housing work in partnership with Police Scotland, the local authority Housing Services, Community Safety and Social Work departments. To provide additional support a referral may be made, if appropriate, to Victim Support. Following a referral to another agency an inter-agency approach may be adopted to resolve the issue.

7.2 Housing Officers will ensure that any individual(s), who they come in to contact with whilst investigating a neighbour complaint who is in need of support, should make a referral to the appropriate agency that may be able to address their support needs. Support needs could range from drug/alcohol related problems, welfare services, money advice, parenting skills or mental health issues.

A protocol has been set up with South Ayrshire Council and Police Scotland to assist in information sharing of incidents of Antisocial Behaviour in accordance with section 139 Antisocial Behaviour etc. (Scotland) Act 2004.

7.3 Neighbour disputes that meet the required criteria can also be referred to South Ayrshire Council's Mediation Service.

8. Incidents Involving Persons who are not Tenants of the Association

8.1 In cases where association tenants are experiencing antisocial behaviour from persons who are not tenants of the association or members of their households, the association will work with other agencies as appropriate to attempt to resolve the issue. Other agencies may include the local authority or Police Scotland.

8.2 Support and advice will be provided to the association's tenants throughout the process. Where appropriate e.g. if there has been vandalism or damage caused to the association's property the association will consider taking appropriate action against the perpetrators.

8.3 Where tenants of the association or members of their household conduct antisocial behaviour against non-tenant households the association will take appropriate action relevant to any breach of the tenancy or other relevant legislation.

9. Record Keeping and Monitoring

9.1 It is essential that records are kept of complaints made and action taken both for monitoring purposes and to help identify the nature of problems and the type and frequency with which problems occur.

9.2 It is important that complaints of antisocial behaviour are dealt with and seen to be dealt with quickly and efficiently so that tenants have confidence that the

association will take the appropriate action. Complainants will be kept informed of the association's actions through regular and effective communication.

9.3 Appropriate attempts will be made to clarify the validity of complaints. In terms of breaches of the tenancy agreement action will only be taken when allegations are substantiated and corroborated.

9.4 Complaints will be logged in the association's housing management software and will allow for monitoring and reporting internally and externally on numbers and performance.

Monitoring of antisocial behaviour complaints will permit Ayrshire Housing to measure the occurrence of antisocial behaviour and the success of different actions taken. Ayrshire Housing will monitor action on antisocial behaviour in the following way:

- number of complaints of antisocial behaviour received, by category of complaint.
- number and type of legal remedies sought.
- number of cases referred to mediation.
- number of evictions for antisocial behaviour.
- number of tenancies converted to a Short Scottish Secure Tenancy.
- number of Antisocial Behaviour Orders (ASBO's).

9.5 Confidentiality and Data Protection

All complaints will be treated in confidence if the complainant requests this. It will, however, be made clear that if the complaint is followed up, the alleged perpetrator may be able to identify the complainant, simply from the details of the complaint. In addition if the complainant wishes their name to remain confidential this may limit the action it is possible to take.

10. Remedies

10.1 The association will adopt a process of taking action which will escalate according to the seriousness and frequency of the complaint. This will begin with verbal warnings followed by written warnings and then consideration of more formal legal action. If the conduct is of a serious nature it may be appropriate to escalate the response to a more formal stage earlier in the process.

10.2 In addition to verbal and written warnings other actions could include the following:

- **Mediation.** Where appropriate and where both parties agree to participate, a referral can be made to South Ayrshire Council's Mediation Service which can explore opportunities for resolution between two parties which might otherwise be insurmountable. This might be appropriate where there is a lack of independent corroboration or where a complaint by one party is met by a counter complaint from the other party
- An **Acceptable Behaviour Contract (ABC)** is a voluntary agreement between the tenant, Ayrshire Housing and Police Scotland. The main aim of an ABC is to help

the person who is behaving antisocially to admit to their behaviour, understand how it affects others, and, hopefully, stop it. It is intended to promote positive behaviour and can be seen as an alternative to pursuing a more formal ASBO. ABC's can be useful in demonstrating to a Sheriff that the landlord has tried reasonable alternative approaches to an ASBO or Court action for recovery of possession.

- If a tenant refuses to sign or breaches an Acceptable Behaviour Contract Ayrshire Housing can serve an **Unacceptable Behaviour Notice** (UBN). This is a written notice, signed by Ayrshire Housing and Police Scotland, formally advising the tenant that their behaviour is unacceptable and, should this continue, legal action will commence against their tenancy. A UBN can be used to support an application for an ASBO and/or eviction action.
- An **Interdict** is a legal remedy which may be used to restrain wrongful behaviour, which is either occurring or is likely to occur. The behaviour could include a breach of tenancy agreement, threat of violence or a pattern of ongoing nuisance. An application for an interdict or interim interdict can be made by either the association or the tenant. The interdict may be used by Ayrshire Housing for example in cases such as playing of loud music, verbal abuse/threats to staff, willful fire damage, flooding of neighbours, damage to property.
- The remedy of **Specific Implement** is an order of the court requiring a person to perform his or her legal obligation for example, obligations under a contract. It can be used by social landlords who require a tenant to take positive action.
- Ayrshire Housing may apply to the court for an **Antisocial Behaviour Order** (ASBO) in order to restrain particular individuals from engaging in unreasonable conduct, which adversely affects members of the community. ASBO's are not criminal convictions or part of a criminal record but breaking the terms of an ASBO is itself a criminal offence.

An ASBO can be awarded by the Sheriff Court against anyone over the age of 12yrs.

The association could consider an application for an Antisocial Behaviour Order for example;

- To tackle behaviour which cumulatively causes considerable alarm or distress to the community, but which does not consist of single acts which are sufficiently serious or sufficiently clear-cut to be prosecuted individually as criminal offences.
- On individuals who intimidate neighbours and others through threats or violence.
- On persistent racial harassment or homophobic behaviour.
- On persistent antisocial behaviour.

11. Legal Action

- 11.1 In cases where persistent or serious breaches of tenancy conditions involving any kind of antisocial behaviour occur, Ayrshire Housing will take firm action against any tenant found to be causing such a breach. This may result in legal action, repossession of the tenancy or applying at Court for an Antisocial Behaviour Order against the tenant or member of their household.
- 11.2 If a complaint cannot be satisfactorily resolved, legal action will be taken if appropriate. If this is the case a Notice of Proceedings will be served to alert the tenant and the 'qualifying occupiers' within the household that Ayrshire Housing intend to instruct court proceedings. In such cases the evidence gathered will be passed to the Head of Housing Services who will ultimately decide whether legal action is to be raised. Ayrshire Housing's solicitors may be consulted for advice.
- 11.3 A **Community Harm Statement** can be prepared in order to highlight the impact that those involved in antisocial behaviour are having on a particular community. This can be used to support any legal action taken, and to help build up a wider picture of how antisocial behaviour affects a community as well as/as opposed to an individual.
- 11.4 All possible legal remedies will be considered, subject to the level of evidence and the nature of the antisocial behaviour. Ayrshire Housing will view actions involving racial harassment or racially aggravated offending behaviour particularly seriously.
- 11.5 **Conversion to a Short Scottish Secure Tenancy for Antisocial Behaviour** in certain circumstances we can change a tenancy agreement from a Scottish Secure Tenancy (SST) to a Short Scottish Secure Tenancy (SSST), this gives the tenant less rights and protection from eviction action. From 1 May 2019, due to legislation changes these circumstances will now include any situation where a tenant or someone living with the tenant has acted in an antisocial manner in or around the property. If we choose to convert the tenancy to a SSST we will serve a Notice on the tenant which will detail the actions of the person who has behaved in an antisocial manner and our reasons for converting the tenancy. This SSST will be for a period of 12 months. At the end of the 12 months and following close monitoring the tenancy can be converted back to a SST, the SSST can be extended for a further 6 months or the tenancy can be ended. The tenant will have the right to appeal the conversion to the Sheriff Court.

12. Drug Related Offences

- 12.1 The association recognises that the misuse and abuse of drugs can have a serious effect on those who misuse them, their families and their communities. Involvement with drugs can often have a direct link to antisocial behaviour, particularly where the supply or sale of drugs is taking place.
- 12.2 While each case will be considered on its merits, the association will normally seek the repossession of a tenancy, i.e. eviction, in cases where tenants, members of

their households or visitors to their property have been convicted of the sale or supply of drugs to others.

- 12.3 Convictions for the possession of drugs for personal use will not routinely result in the association seeking repossession of the tenancy unless there are other aspects of antisocial behaviour associated with the offence such as damage to the property, disturbances, nuisance to neighbours, etc.

13. Equalities and Human Rights

- 13.1 Ayrshire Housing is committed to equal and fair treatment of all sections of the community. Accordingly, no person will be discriminated against during the implementation of this policy on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In delivering this policy, Ayrshire Housing's staff will comply fully with the requirements of the association's Equalities and Human Rights Policy.

14. Complaints

- 14.1 Any individual who is dissatisfied with the service experienced should be encouraged to provide feedback. Complaints regarding the implementation of this Policy will be dealt with in accordance with the association's Corporate Customer Complaints Handling Policy and associated procedure.