

Paragon Housing Association Limited

POLICY:	NEIGHBOUR DISPUTES & ANTI SOCIAL BEHAVIOUR
POLICY AREA:	HOUSING MANAGEMENT
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Contents

1. Anti-social Behaviour Strategy
2. Policy Aims
3. Policy Statement
4. Definition
5. Legislative Provision
6. Categories of Anti-Social Behaviour and response times
7. Examples of what will and will not be considered as ASB
8. Tenant Participation
9. Reporting Anit-Social Behaviour
10. Actions
11. Multi-Agency Working
12. Procedures
13. Tenure
14. Equal Opportunities
15. Training
16. Confidentiality and Data Protection
17. Complaints
18. Monitoring
19. Landlord Health & Safety Manual
20. Review

1. Anti-social Behaviour Strategy

The Association will take positive and decisive action to deal with persistent cases of anti-social behaviour which proves detrimental to its customer's rights to the peaceful enjoyment of their homes.

The Association is aware that anti-social behaviour can occur in any area at any time and has developed a strategy to ensure that the situation is continually monitored and that all incidents of anti-social behaviour are effectively dealt with irrespective of where it arises

2. Policy Aims

This policy establishes how the Association will deal with cases of nuisance and anti-social behaviour affecting residents being reasonable in approach and balanced in our action, complying with statutory and regulatory requirements in relation to the Housing (Scotland) Act 2001 and 2014.

For the purpose of recording Anti-Social Behaviour complaints the policy will refer to the definition of Anti-Social Behaviour outlined in the Scottish Secure Tenancy Agreement which is

- Any conduct causing or likely to cause alarm, distress, nuisance or annoyance to any person or causing damage to anyone's property; conduct includes speech.

3. Policy Statement

This policy outlines the Association's position in relation to anti social behaviour. It is the Association's policy to deal with anti-social behaviour by:

- Investigating all incidents of anti-social behaviour.
- Supporting and offering effective help to the victim(s).
- Provide information and advice and referral to specialist agencies (when appropriate).
- Working in partnership with tenants, police, social work dept., health boards and other organisations, as appropriate.
- Ensuring tenants are kept regularly up to date on the status of their complaint and the actions taken by the Association.
- Taking any necessary action against the perpetrator(s) in line with the policy and Housing (Scotland) Act 2001 and 2014.
- Designing out opportunities for crime and anti-social behaviour in any regeneration or new housing schemes.

This policy applies to the Association's tenants, their families, other occupants and their visitors.

4. Definition

The Association has adopted the following definition and interpretation of anti-social behaviour as laid out in the Scottish Executive's Guide to the Anti-social Behaviour etc (Scotland) Act 2004 P: 17

"A person(s) acting in an anti-social manner, that is to say 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".

The test of "reasonableness" laid out in the SFHA Raising Standards in Housing –

Anti-Social Behaviour and Harassment (2001): P: 13 and used in court, is also applied to complement this definition.

5. Legislative Provision

Appendix 1 summaries the key legislative provisions. This is not an exhaustive or authoritative list but is designed to give an overview of legislation.

6. Categories of Anti Social Behaviour and response times.

The Housing (Scotland) Act 2001 defines anti-social behaviour as any conduct causing or likely to cause alarm, distress, nuisance or annoyance to any person or causing damage to anyone's property.

There are a wide range of issues which can be classified as neighbour disputes and anti-social behaviour. These can include activities such as excessive noise, gardens unkept, stairs/closets not cleaned, vandalism, litter and dog/pet control. More serious forms of behaviour can include racial and other harassment, threatened or actual violence, malicious damage, drug dealing, house breaking and theft.

For the purpose of monitoring complaints received by the Association, three categories of complaint have been identified; category A, category B and category C. When a complaint is received, the Association will carry out an initial risk assessment (triage) to determine its severity and to ensure that we provide a proportionate response determined by the category awarded to the complaint. A copy of the risk assessment form can be found at Appendix 3.

Following consultation locally agreed timeframes have been determined for each of the three categories.

Category A - Extreme Behaviour

This category will include complaints such as drug dealing, unprovoked assault, violence, harassment and racial harassment. Incidents of racial harassment will be dealt with under the Association's Racial Harassment Policy.

The target timescale for acknowledging the complaint and undertaking the initial risk assessment is 1 working day. The target for initial investigations is three working days, and the target for resolution is 60 working days.

Category B - Serious Anti-Social Behaviour

This will include complaints of threatening or abusive behaviour, frequent serious disturbance and noise or vandalism and damage to association property.

The target timescale for acknowledging the complaint and undertaking the initial risk assessment is 1 working day. The target for initial investigation is 5 working days, and the target for resolution is 40 working days.

Category C - Nuisance Cases/Other Breaches of Tenancy

This will include complaints which clearly breach the tenancy conditions but are of a relatively minor nature e.g. occasional noise, family disputes affecting neighbours, dog/pet control, behaviour of visitors or children and infrequent disturbance. This category will also include complaints about stair/bin cleaning, flytipping, garden upkeep and litter.

The target timescale for acknowledging the complaint and undertaking the initial risk assessment is 1 working day. The target for initial investigation is 5 working days, and the target for resolution is 20 working days.

7. Examples of what will and will not be considered to be Anti Social Behaviour

ASB covers a wide range of activities that have a negative effect on the quality of community life. This includes, but is not limited to:

- Actual or threatened violence or abuse towards any person
- Verbal abuse, intimidation, threatening behaviour or loitering
- Stalking, harassment, hate crimes and hate related incidents
- Illegal use of premises, other criminal behaviour, drug dealing, illegal use of drugs and alcohol related nuisance and annoyance
- Behaving in an anti-social manner (including but not limited to: noise, vandalism, shouting, screaming, swearing, making indecent or offensive gestures, or banging on walls or ceilings), misuse of communal areas, fire exits and public spaces.
- Pets and animal nuisance, including using animals in a threatening manner
- Ongoing neighbourhood management nuisance (including garden nuisance, dumping of litter and rubbish, flytipping).

Reports due to different lifestyles or everyday living situations which are not intended to cause nuisance or annoyance are not generally considered as ASB.

This includes, children playing and babies crying, household noise due to day to day living and DIY during reasonable hours (as defined by local authorities), one-off parties, BBQs and celebrations, cooking odours and reasonable household smells, smoke, minor car maintenance and minor disputes between neighbours or personal differences.

Although these are some examples of behaviour we do not normally consider to be ASB, we know that sometimes low level and repeated incidents treated in isolation, which may not appear serious or even as ASB, may be having a serious impact on the victim's life.

Therefore, no matter how low level the report may be, if it is found to be having a harmful impact on a person, they are at risk or potentially at risk and the behaviour is persistent and deliberate, then we will investigate the matter further and treat it as ASB in line with this policy.

8. Tenant Participation

In accordance with the Housing (Scotland) Act 2001 the Association will seek to involve our tenants in developing our Neighbour Disputes and Anti-Social Behaviour Policy.

The Association recognises that tenant involvement is crucial to preventing and tackling anti-social behaviour and harassment effectively.

The aim of such involvement will be to:

- ensure that tenants and other residents have an input into the policy;
- increase resident involvement from the design stage to prevent or design out anti-social behaviour problems.
- ensure that tenants and residents know what to expect from staff when a complaint about anti-social behaviour is made:
- make sure all tenants are aware that anti-social behaviour will not be tolerated; detailed in the tenancy agreement and the tenants handbook
- ensure that the potentially serious consequences of anti-social behaviour are understood by all parties;
- ensure that the message given is that anti-social behaviour is not acceptable within the Association's housing or estates.

Tenants need to appreciate that the Association cannot tackle this alone and that they need to work with the Association (and/or other agencies as outlined) to resolve serious cases of anti-social behaviour.

9. Reporting Anti-Social Behaviour

The Association respects the fact that the complainant may wish to remain anonymous and where appropriate, alternative methods to provide evidence will be used. However this may not be possible in some circumstances, for example where a person or child is at risk of serious harm or when required to do so by a court order.

10. Actions

There are a number of Acts of Parliament and local bylaws relating to anti social behaviour. Each case of anti-social behaviour will be treated individually and appropriate action will be taken in relation to individual cases and circumstances. Each case will be decided on the evidence gathered and appropriate action will be taken.

ASB Risk Assessment

Interviews and Letters

Interviews and letters will be used in accordance with the Association's procedures.

Information

The Association will seek to ensure that applicants and tenants understand the view taken on anti-social behaviour. Information and advice will be given to any complaints or anyone seeking advice on anti-social behaviour. Where appropriate, and referrals will be made to specialist agencies in accordance with General Data Protection Regulation.

Allocations Policy (including transfers)

The Association's Allocations Policy will advise that reports of anti-social behaviour will be fully investigated and any findings will be taken into consideration when dealing with an application for housing. Each case will be considered on its own merit.

Within the Association's Allocation Policy there is scope for points to be awarded for re-housing of victims, in appropriate circumstances.

Allocating a Property

It has been identified that many neighbour disputes or anti-social behaviour is attributed to conflicts of "lifestyle" rather than malicious behaviour. The Association will allocate its properties according to the housing need of applicants but will also endeavour to take account of the household mix in the neighbouring properties to avoid obvious lifestyle conflicts where possible.

Tenancy Agreement and converting to Short SST

The tenancy agreement set out the legal rights, duties, and obligations of both the Association and the tenant. Section 3 - Respect for Others sets out in detail the behaviour expected of the tenant and those living with the tenant and any visitors, including particular prohibitions on behaviour which may cause nuisance or annoyance to neighbours or any person in the neighbourhood and on harassment or assault of any person in the house or neighbourhood, for whatever reason.

A number of new provisions have been introduced in the Housing (Scotland) 2014 Act to allow landlords to address anti-social behaviour. One such way is social landlords are given the power to convert an existing tenant's Scottish secure tenancy (SST) to a Short SST or to grant a Short SST to new tenants in cases where there is evidence that the tenant, a member of their household or a visitor has been involved in antisocial behaviour in or near their home within the last three years. Further information on this can be found in the Association Allocations policy.

The Housing (Scotland) Act 2014 has introduced the option to convert a Scottish secure tenancy (SST) to a short Scottish secure tenancy (SSST) on the grounds of anti-social behaviour in cases where there is evidence that the tenant, a member of their household or a visitor has been involved in antisocial behaviour in or near their home within the last three years.

The length of a Short SST for cases relating to antisocial behaviour has been

increased from six months to a minimum of 12 months with provision for to request a further six month extension if antisocial behaviour issues continue. When issuing a Short SST for antisocial behaviour, the reasons for the decision and the tenant will have the right to appeal. During the initial 12 months Short SST, the Association must ensure housing support services which are deemed to be appropriate are provided for the tenant. This is a condition of the Short SST conversion. If the Short SST is extended, housing support must be provided.

At the time of signing the Tenancy Agreement the conditions contained in it will be emphasised by the staff.

Tenants Handbook

The Tenants Handbook includes a specific chapter on what is expected of a tenant and this contains a section on being a good neighbour and disagreements with neighbours.

Acceptable Behaviour Agreements

The use of voluntary acceptable behaviour agreements will be used as a method of early intervention designed to get an individual involved in unacceptable or anti-social behaviour to acknowledge this behaviour and its impact on other people, with the aim of stopping it.

Mediation

The use of the mediation service offered by the three local authorities in our area of operation will be used in cases of low level anti-social behaviour when people are willing to enter into to discussions and where disputes have arisen due to non-communication and misunderstanding. It is not appropriate for more serious anti-social problems such as cases involving violence, or threats of violence, or where more drastic action involving the police or courts is required.

Legal Remedies

The Association will normally seek to resolve instances of anti-social behaviour without having to use the legal routes available against a tenant, changes to the Anti-social Behaviour (Scotland) Act 2014

The Anti-social Behaviour (Scotland) Act 2004 allows a Sheriff to grant an Anti Social Behaviour Order (ASBO) or interim ASBO against an individual over 12 years of age. When dealing with an individual between 12 and 16 years of age staff will attend a children's hearing for advice on the application.

Using eviction to resolve an anti –social behaviour issue remains a last resort for the Association. If the Association intends bringing an SSST to an end following the conversion from an SST created due to antisocial behaviour then the Association must provide clear reason(s) why this action is being sought doing so and set out

which requirement(s) of the tenancy agreement have been broken. The Association will have to provide at least four weeks' notice before eviction proceedings can be raised. The Housing (Scotland) 2014 Act gives tenants the right to request a review by the Association before the case goes to court.

The Housing (Scotland) 2014 Act implements a streamlined eviction process for those perpetrating in criminal or anti-social behaviour. Where there has been a recent criminal conviction punishable by imprisonment for tenancy related anti-social behaviour or criminal behaviour within the last 12 months. This applies to the tenants, or joint tenant, a person living in or lodging in the house, subtenant or person visiting the house.

Staff will only use the appropriate legal remedies available to resolve the problem effectively when all other means of resolving the issue have been exhausted. Full details are contained in the Procedures.

11. Multi Agency Working

The Association's staff will develop effective working relationships with the appropriate staff of other agencies which might become involved in anti-social behaviour situations, such as the Police, local Social Work and Environmental Health Departments.

Local Authority Anti-social Behaviour Teams

The Association will use the services of the local authority anti-social behaviour teams to assist in gathering evidence to establish or further support the facts in cases involving the anti-social behaviour of individuals. The teams officers will be used to give evidence as a professional witness to incidents observed in the course of their professional duties.

Anti-social Behaviour Strategies

The Anti-social Behaviour (Scotland) Act 2004 gave the police and local authority's joint responsibility to develop an anti-social behaviour strategy. The Association will encourage staff to participate in the review and revision of these strategies.

12. Procedures

The Association has developed a detailed procedure to deal with the variety of situations which may occur.

The procedures will be regularly reviewed and updated to take account of experience, published good practice and legal requirements.

13. Tenure

It is recognised that differing forms of tenure will determine the Association's detailed response. In situations where non Association tenancies are involved the following

may apply.

Owner v Tenant

Complaints made by owner occupiers against Association tenants will be investigated under the same procedures as complaints made by tenants with any appropriate action being taken.

Tenant v Owner

When complaints are made by a tenant against an owner occupier these should be investigated in the usual manner.

The options available include:

- An interdict could be raised in relation to the behaviour contravening the obligation. If this is ignored, further action can be taken for breach of interdict
- An action of specific implement can be raised. This would be raised where the objective was to make the owner take some action to fulfil an obligation.
- an ASBO

Owner v Owner

Where a dispute is between two owner occupiers they should be advised to contact their solicitor or other appropriate agency. A list of such agencies will be provided.

14. Equal Opportunities

The Association will seek to promote equality of opportunity, eliminate discrimination, prevent victimisation and harassment, promote positive measures and apply relevant supportive procedures and practices.

The Association will apply this policy consistently and fairly and will not discriminate against any person on grounds of their race, colour, ethnic or national origins, religion, sexual orientation, disability, gender, age or any other matter that may cause a person to be treated with injustice.

The Association will offer assistance where required and a sign or language interpreter can be made available. Complaints will be discussed in a location where the victim feels comfortable and they can have a family member, friend or other representative with them if they wish to do so.

15. Training

The Association will ensure that staff dealing with anti-social behaviour will be appropriately trained and supported in order to deal with issues as they arise and in particular are familiar with any relevant legislation and good practice relating to anti-

social behaviour and neighbour disputes.

16. Confidentiality and Data Protection

The Association will, as far as possible, treat as confidential all matters of anti social complaints. However, where activities are uncovered that are of a criminal nature, the Association's staff will report the matter to the Police.

The Housing Manager will be the named person to gain any relevant correspondence from the Police. In their absence the Housing Officers will obtain the information.

Where information has to be passed on to a solicitor for evidence at a court hearing it will then become the responsibility of the solicitor to keep this relevant information.

No customer information will be divulged any more than is absolutely necessary by the Association. Where formal data sharing occurs the Association will be compliant with the General Data Protection Regulation legal framework from 25 May 2018.

17. Complaints

Any party involved in a neighbour complaint who feels there has been personal injustice as a result of bad, inefficient or improper administration can use the Association's complaints procedure.

In the event that they are still dissatisfied after using the Complaint's procedure they can contact the Scottish Public Services Ombudsman. The Ombudsman will not normally deal with complaints until the complainant has exhausted the Association's own complaints procedure.

18. Monitoring

The Association's procedures detail how staff will monitor all anti-social complaints.

Complainants will be kept informed of the progress and status of their complaint throughout the investigation.

All anti-social behaviour cases and statuses will be reported monthly to the Housing Management and Investment Sub Committee.

19. Landlord Health & Safety Manual

This policy has been reviewed alongside the Landlord's Health & Safety Manual and any updates will be further reviewed.

20. Review

This policy will be reviewed at least every 5 years.

Appendix 1

Key Legislative Provisions and Summaries

Housing (Scotland) Act 2001 and 2014

Short Scottish Secure Tenancies for Anti-Social Behaviour and Other Miscellaneous Changes to Short Scottish secure tenancies – Statutory Guidance for Social Landlords - Housing (Scotland) Act 2001 and 2014

Streamlined Eviction Process – Criminal or Anti-social Behaviour – Statutory Guidance for Social Landlords - Housing (Scotland) Act 2001 and 2014

Antisocial Behaviour etc. (Scotland) Act 2004

Crime & Disorder Act 1998

Environmental Protection Act 1990

Civic Government (Scotland) Act 1982

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

Dangerous Dogs Act 1989 and 1991

Social Work (Scotland) Act 1968

Mental Health Act 1984

Children (Scotland) Act 1995

Motor Vehicle Regulations Act 1986

Road Traffic Act 1988

Dog Fouling (Scotland) Act 2003

Criminal Justice (Scotland) Act 2003

Regulation of Investigatory Powers (Scotland) Act 2000

Data Protection Act 1998

Human Rights Act 1998

Protection for Abuse (Scotland) Act 2001

General Data Protection Regulation

Housing (Scotland) Act 2001 and 2014

There are a number of provisions under this Act that have an impact on anti-social behaviour:

- The introduction of the Scottish secure tenancy and short Scottish secure tenancy.
- Harassment is included as a statutory ground for eviction.
- The amendments to the Act in 2014 have been significant to anti-social behaviour
- Social landlords are given the power to convert an existing tenant's Scottish secure tenancy (SST) to a Short SST in cases where there is evidence that the tenant, a member of their household or a visitor has been involved in antisocial behaviour in or near their home within the last three years without having to go to court.
- The length of a Short SST in cases involving antisocial behaviour has been increased from six months to a minimum of 12 months with provision for the landlord to request a further six month extension if antisocial behaviour issues persist.
- During the initial 12 month Short SST, the landlord must provide, or ensure the provision housing support services which are deemed to be appropriate
- The Act aims to simplify the eviction process in cases involving serious antisocial behaviour by allowing social landlords to make use of an existing conviction as grounds for possession. The tenant must have been convicted within the last 12 months.

Antisocial Behaviour etc (Scotland) Act 2004

The Act introduced a number of measures to tackle anti-social behaviour.

- Antisocial Behaviour Strategies – every local authority, together with the relevant chief constable, was required to prepare, publish and review a strategy for dealing with anti-social behaviour in their council area.
- Anti-social Behaviour Orders – introduced ASBOs and Interim ASBOs for individuals aged over 12.
- Dispersal of Groups – allows the police to deal with trouble spots in terms of anti-social behaviour to help bring relief to local communities.
- Closure of Premises – gives the police and courts power to seal off for up to 3 months to give surrounding community relief, premises (residential and non-residential) which are the constant focus of anti-social behaviour.
- Noise Nuisance – gave the local authorities additional powers to deal with noise nuisance quickly.
- The Environment – introduced measures for greater use of fixed penalty notices for littering and fly-tipping
- Housing: Anti-social Behaviour Notices – aimed at ensuring landlords take reasonable steps to manage or stop anti-social behaviour in properties they let.
- Housing: Registration of Private Landlords. – introduced a registration scheme

for local authorities to prepare and maintain a public register of all private landlords in their area.

- Parenting Orders – deal with parents who deliberately or recklessly fail their children – on both welfare grounds and failing to take reasonable steps to prevent their children committing offences or behaving anti-socially.
- Fixed Penalty Notices – gives the police the power to issue Fixed Penalty Notices for certain offences.
- Children's Hearings – introduced new measures which impacted on the Children's Hearing.

Crime & Disorder Act 1998

The Act introduced the Anti Social Behaviour Orders. They restrain particular individuals from engaging in specific behaviour in a specific locality or in a particular authority area in general.

Failure to comply with the terms of the order would be a criminal offence leading to the possibility of imprisonment.

Other measures brought in under the Act include sex offender orders, police powers of seizure or sound producing equipment, drug treatment and testing.

Environmental Protection Act 1990

Part 111 of this Act, as amended deals with statutory nuisance, including noise.

Civic Government (Scotland) Act 1982

Section 49 of this Act provides that any person who suffers or permits any creature in their charge to cause danger or injury to any other person who is in a public place or give such a person reasonable cause for alarm or annoyance shall be guilty of an offence.

Section 47 provides that any person who urinates or defecates in circumstances so as to cause or likely to cause, annoyance to any other person shall be guilty of an offence.

Section 50 provides that any person who is, while not in the care of a suitable person, in a public place, drunk and incapable of taking care of themselves are guilty of an offence.

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

The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 gives public authorities a statutory general duty to promote race equality. The aim of the general duty is to make promoting race equality central to the way public authorities work; and this includes schools. The general duty says that the body must have 'due regard' to the need to:

- eliminate unlawful racial discrimination; and
- promote equality of opportunity and good relations between people of different racial groups.

Dangerous Dogs Act 1989 and 1991

These allow the police to take action against owners of dangerous dogs not complying with the Act.

Social Work (Scotland) Act 1968 & Mental Health Act 1984

These provide powers for the care and support of people who have mental health problems.

Children (Scotland) Act 1995

This Act requires Social work to provide support and make care and supervision orders for children.

Motor Vehicle Regulations Act 1986

This provides powers to deal with obstructions caused by parking on pavements, grass verges and private driveways.

Road Traffic Act 1988

This Act covers a range of areas including removing vehicles in a dangerous position or driving vehicles elsewhere and on the road.

Dog Fouling (Scotland) Act 2003

The Act replaced the existing dog fouling provisions contained at section 48 of the Civic Government (Scotland) Act 1982 which makes it an offence for a person to allow a dog to foul on certain public places such as footpaths and pavements. The 2003 Act changed the emphasis of the offence from allowing a dog to foul to failing to clear up after it. The Act also introduces new enforcement provisions which allowed local authorities and the police the option of issuing fixed penalty notices to those persons they believe have committed an offence.

Criminal Justice (Scotland) Act 2003

The Act deals with a number of aspects of the Scottish criminal justice system. The broad policy objectives are to improve public protection including victims' rights, promote effective sentencing, maintain an efficient criminal justice system, keep the law up to date and make certain changes in the law relating to young people.

Regulation of Investigatory Powers (Scotland) Act 2000

Section 5 of the Act provides that surveillance carried out under and in terms of an authorisation granted under the Act will be lawful.

Data Protection Act 1998

The Act governs the right of privacy of information and introduced the right for all members of the public to view their personal records.

Human Rights Act 1998

Under the Act, the Scottish Executive, Scottish Parliament, and any “public Authority” including RSLs are required to comply with the rights set out in the European Convention of Human Rights.

Protection from Abuse (Scotland) Act 2001

Section 1 of the Act gives the applicant of an Interdict the right to apply to the Court to have a power of arrest attached to an Interdict, this is to protect the applicant from risk of abuse in breach of the Interdict.

ASB Process

