



## **ANTI-SOCIAL BEHAVIOUR & NEIGHBOUR DISPUTES POLICY**

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## 1. Introduction

- 1.1 Manor Estates Housing Association is committed to ensuring that all residents have the right to peaceful enjoyment of their homes.
- 1.2 The Association will seek to investigate and resolve all cases of anti-social behaviour, neighbour nuisance and breaches of tenancy involving its tenants.

## 2. Definitions

- 2.1 Quite clearly, there is a vast range of behaviours that could be considered to be “anti-social” and these can range from very minor complaints to serious criminal activity.
- 2.2 For the purposes of this policy, the Association has adopted a definition of the term “anti-social behaviour” which reflects Section 143 of the Anti-Social Behaviour Etc (Scotland) Act 2004.
- 2.3 **Anti-social behaviour is considered to occur where a person**
  - (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.**
- 2.4 Notes: the term “conduct” includes speech; and  
a “course of conduct” must involve conduct on at least two occasions.
- 2.5 This Policy also outlines the Association’s approach to dealing with issues that are more appropriately defined as “neighbour nuisance” and this would include, for example, failure to clean stair/common areas; rubbish dumping; untidy gardens; minor or low level noise nuisance. In some circumstances, these issues will be dealt with under our Estate Management Policy and Procedures.

### **3. Equalities Statement**

- 3.1 The Association is committed to equal opportunities.
- 3.2 A summary of this Policy can be made available in alternative languages or formats on request.
- 3.3 Specific reference to how we will make sure that this policy does not discriminate against any tenant on the grounds of “*sex or marital status, or 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*”<sup>1</sup> is made throughout the policy.

### **4. Aim of Policy**

- 4.1 The key aim of this Policy is to ensure that all Manor Estates tenants and residents in the areas where we have stock have peaceful enjoyment of their homes.
- 4.2 Adoption of the following key objectives and general principles in our approach to dealing with anti-social behaviour will contribute to achievement of the overall aim of the Policy:
- 4.3 We undertake to ensure that all tenants recognise that they are required to comply with all terms of the Tenancy Agreement and that the Association will take appropriate action against those who do not.
- 4.4 We will implement a range of management and legal remedies to tackle anti-social behaviour.
- 4.5 We will take prompt action to prevent an escalation of complaints.
- 4.6 We recognise the need to adopt different approaches, depending on the specific circumstances of individual cases.
- 4.7 We will work in partnership with other agencies as appropriate.
- 4.8 We will publicise this Policy to our tenants, through our newsletters, tenants’ handbook and a range of information leaflets. We will also provide a copy of this Policy to anyone who requests it.

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<sup>1</sup> The Scotland Act 1998

## 5. Preventative Measures

- 5.1 The Association will seek to implement a range of measures which will either prevent anti-social behaviour occurring or prevent it escalating.

### Allocations

- 5.2 The Association recognises that the allocation of properties is key to ensuring the establishment of sustainable communities. We will allocate our properties on the basis of housing need and in accordance with our Allocation Policy; however, where appropriate we will develop lettings plans, which will aim to minimise conflicts arising from:

- Over-concentrations of particular household groups;
- High child densities;
- Potential lifestyle clashes.

Lettings plans may be developed where we are allocating new-build developments, or where there are specific identified problems in an area. In some cases, it may be appropriate to develop a lettings plan for an individual stair.

In accordance with our Allocation Policy, lettings plans require the prior approval of the Management Committee.

- 5.3 The Association's Suspensions Policy clarifies those circumstances in which an application will be suspended from the housing list on the grounds of anti-social behaviour. (See Appendix 1).
- 5.4 The Association's Tenancy Agreement clearly sets out the responsibilities of tenants in Section 3, "Respect for Others". (See Appendix 2).
- 5.5 As part of the allocation process, the Association will try to identify where prospective tenants may have particular vulnerabilities or support needs and will seek to assist such prospective tenants to access appropriate support.
- 5.6 The Association will ensure that the terms of the Tenancy Agreement relating to anti-social behaviour are explained fully to new tenants at sign-up. This will be reinforced during the post-allocation visit.
- 5.7 When allocating new schemes, the Association will arrange open days which will enable new tenants to meet each other and key staff in the Association. This will give a further opportunity to reinforce the Association's approach to dealing with anti-social behaviour. Where

appropriate, tenants and residents from neighbouring properties will also be invited to attend such events.

### **Routine Maintenance**

- 5.8 The Association will treat all reports of graffiti / damaged door entry systems as a matter of urgency. Where graffiti is of a racist or otherwise offensive nature, the Association undertakes to have this removed within 24 hours.
- 5.9 The Association will ensure that all void properties are effectively secured.

### **New Development and Planned Maintenance**

- 5.10 The Association will seek to minimise some of the effects of neighbour nuisance, both through the design and construction of new properties and through investment in existing stock. This includes the following measures:
- Adequate sound insulation within and between properties;
  - Secure external doors and windows;
  - Controlled entry systems to flats;
  - Overall layout of estates to “design out” crime’;
  - Adequate fencing and lighting in communal areas;
  - Designated play areas; and
  - Secure bin store areas.

### **Training**

- 5.11 The Association will ensure that staff have access to training to ensure that they have the knowledge and skills to offer the best possible service in respect of dealing with ant-social behaviour.

## Categories of Complaints

5.12 All complaints will be assessed and placed into one of four categories, according to seriousness and the level of intervention required. Such categorisation ensures that Manor Estates' response reflects the nature and complexity of the complaint and makes it clear to the complainant what they can expect and in what timescale. The categories are as follows:

5.13 **Category A - Complaints of a very serious nature.**

*Examples would include: criminal behaviour, including drug dealing; physical assault; threat of violence or harassment; racial or other harassment; serious damage to property.*

Response: immediate or within 1 working day.

5.14 **Category B - Complaints of a serious nature.**

*Examples would include: frequent and/or serious noise disturbance; allegations of threatening/aggressive/abusive behaviour; ongoing failure to control children; ongoing failure to control pets.*

Response: within 5 working days.

5.15 **Category C - Nuisance behaviour which is minor but is a breach of tenancy conditions.**

*Examples would include: one-off noise disturbance; pet nuisance; keeping pets without permission; untidy gardens; stairs not being cleaned.*

Response: within 10 working days.

5.16 **Category D - Complaints which will not be dealt with by Manor Estates.**

*Examples would include: "petty" neighbour disputes, such as arguments about issues that are not a breach of the tenancy agreement; issues that could be dealt with more appropriately by other agencies, such as the CEC Dog Wardens.*

Response: within 5 working days (tenant should be advised of appropriate agency to contact, or that we do not consider that the complaint is one in which the Association can become involved).

## 6. Making Complaints

- 6.1 The Association aims to make it easy for tenants to make complaints. To achieve this, the Association will accept complaints made in the following ways:
- 6.2 **Telephone.** The Association will accept and act on complaints made by telephone, however the complainant should be encouraged to confirm the complaint in writing.
- 6.3 **In writing.**
- 6.4 **In person at the office.** If a complainant is making a complaint in person, detailed notes should be taken of the discussion and the complainant should be encouraged to sign the note, as confirmation that it is a true record of what was discussed.
- 6.5 **In person outside the office.** If a complaint is made to a Housing Officer while they are out on an estate, again detailed notes should be taken and the complainant asked to sign the note.

## 7. Anonymous Complaints

- 7.1 In general, the Association will not act on complaints that are received anonymously, unless further corroborative information is available.
- 7.2 In exceptional circumstances, such complaints can be acted upon. For example, where the complaint relates to a serious problem and it is reasonable to accept that a complainant could have reasons to fear reprisals; or where the complaint alleges serious criminal behaviour. However, we need to take account of the level of evidence available to enable us to pursue action, and it is likely that we would have to liaise with the Police and any other relevant agencies before proceeding.
- 7.3 Where there is any doubt about whether an anonymous complaint should be acted upon, the case will be referred to the Senior Housing Officer or Housing Manager.

## **8. Owners**

- 8.1 Where an owner is complaining about the antisocial behaviour of a tenant, the Housing Officer should investigate in accordance with this Policy and accompanying procedure and take action as appropriate.
- 8.2 Where a Manor Estates HA tenant is complaining about the antisocial behaviour of an owner, we recognise that our options are more limited in this area.
- 8.3 We will offer tenants advice on how to seek appropriate advice from other agencies, such as the Local Authority, the Police, or the Social Work Department.

## **9. Confidentiality**

- 9.1 The confidentiality of the complainant will be maintained wherever possible, although it has to be recognised - and made clear to the complainant - that the nature of the complaint itself will sometimes mean that it will be obvious who has made the complaint.
- 9.2 We will seek to obtain the explicit agreement of the complainant to follow up any complaints where it may not be possible to maintain confidentiality.
- 9.3 The only exception to paragraph 10.2 is where there is clear evidence of criminal activity which must be reported to the Police.
- 9.4 The complainant will be kept advised as appropriate of the action being taken, although this will not necessarily include every detail. We will also respect the confidentiality of issues that may affect the alleged perpetrator (e.g. social work involvement, child protection issues).

## 10. Investigation and Action

10.1 Where the Association receives any complaint of nuisance or anti-social behaviour, the Association will respond in accordance with the timescales outlined in Section 5 to address, manage and resolve the reported problems.

10.2 Investigation and action will include:

- Interviewing the complainant and the tenant complained about;
- Interviewing others who may have witnessed the behaviour complained of;
- Where appropriate, taking witness statements;
- Offering support to tenants/householders affected by the nuisance or anti-social behaviour;
- Responding to the physical effects of nuisance or anti-social behaviour;
- Examining all the options available to remedy the problem; and
- Working with other agencies, where appropriate.

Association staff will not solicit complaints.

10.3 Where appropriate the Association will liaise with other relevant agencies to gather evidence and agree action. This includes, but is not exclusive to:

- Lothian & Borders Police
- CEC's Community Safety Team
- CEC's Community Concierges
- CEC's Environmental Wardens
- Other landlords with stock in the vicinity
- Relevant support agencies
- Social Work staff
- CEC's Neighbourhood Support Teams
- Local schools

10.4 The Association participates in Edinburgh's Anti-Social Behaviour Directory, which outlines the range of services that are available in Edinburgh and includes relevant contact details.

10.5 The Association has in place a formal protocol for sharing of information with Lothian & Borders Police.

10.6 Complainants will also be given clear advice about the importance of contacting the Police and other relevant agencies to report all instances of antisocial behaviour.

10.7 Housing Officers will maintain regular contact with complainants and keep them advised of progress on the case.

## **11. Management Actions**

### **Warning Letter**

- 11.1 Where the case being investigated is a new complaint against a tenant and the outcome of our investigation is that there is sufficient evidence to support the complaint, a warning letter will be issued.

### **Mediation**

- 11.2 Where appropriate, all parties involved in the complaint will be referred to mediation services to try to resolve the matter.

### **Support**

- 11.3 Association staff will seek to identify tenants who are acting in an anti-social manner due to their own vulnerabilities or support needs.
- 11.4 Where it becomes apparent that the perpetrator of the anti-social behaviour would benefit from external support, the Association will make every effort to refer him/her to an appropriate agency.

### **Management Transfer**

- 11.5 Where it is evident that problems are due to irretrievable breakdown in the relationship between the parties, the Association will consider giving one party a transfer to another property.
- 11.6 A management transfer in this context is considered to be a voluntary move by one party. Such action will only be considered where there is confidence that this will resolve the matter, and not create a situation where the problem is simply moved elsewhere or where it will continue with any new tenant moving into the area.
- 11.7 Management transfers to deal with antisocial behaviour will only be considered in exceptional circumstances and require the prior approval of the Housing Manager.
- 11.8 Management transfers will also be considered in situations where a tenant is in danger.
- 11.9 Where a management transfer is considered to be the most appropriate method of dealing with a particular situation, the Association will try to offer a suitable vacancy. Where no such vacancy exists, the Association will contact other housing providers.

11.10 Where it is not safe for a tenant to remain or return to their home, they may be advised to apply to City of Edinburgh Council in accordance with homelessness legislation.

### **Acceptable Behaviour Contract (ABCs)**

11.11 ABCs are contracts, usually drawn up jointly with the Police, the aim of which is to clearly identify what behaviour the perpetrator is to address.

11.12 The Association will consider the use of ABCs where there is potential for this to get the perpetrator of anti-social behaviour to acknowledge the behaviour and its impact on other people with the aim of stopping it.

11.13 Where the anti-social behaviour is being caused by a child under the age of 16, the Association will consider using Acceptable Behaviour Contracts. The contracts are drawn up by the Association and the Police and are designed to encourage the young person to take responsibility for his or her own actions.

11.14 The use of ABCs for children under 16 does not, however, alter the fact that the parents are ultimately held responsible for their children's behaviour and where necessary we will pursue legal action if the anti-social behaviour continues.

11.15 Where an ABC has been put in place, we will ensure that this is reviewed in accordance with timescales identified in the contract and that any breach of the contract is clearly communicated to the perpetrator.

## **12. Legal Action**

- 12.1 Where management methods of resolving a situation prove to be unsuccessful, the Association will consider legal action.
- 12.2 The Association will also consider immediate legal action where the nature of the allegations is of an extremely serious nature.
- 12.3 All cases where legal action is being considered must be the subject of detailed discussions involving the Housing Officer, Senior Housing Officer, Housing Manager and representatives of other agencies, if appropriate. The Association's Solicitor should also be involved at the earliest stages of legal action.
- 12.4 The main legal remedies that the Association will consider are outlined below. The course pursued will very much depend on the nature of the problem to be addressed, the availability of reliable evidence and legal advice obtained from the Association's Solicitor.

### **Anti-Social Behaviour Order (ASBO)**

- 12.5 We may apply for an ASBO where there is reason to believe that this will be effective in stopping the perpetrator continuing the behaviour that is resulting in complaints of anti-social behaviour. We will only apply for an ASBO where there is a clear breach of tenancy, or there is evidence that the behaviour is having a detrimental impact on our tenants.
- 12.6 Further, we may apply for an ASBO where it is considered inappropriate to seek repossession of the property before doing so.
- 12.7 Where we are successful in obtaining an ASBO, the tenancy may be converted to a Short Scottish Secure Tenancy, in accordance with Section 35 of the Housing (Scotland) Act 2001.

### **Interdict**

- 12.8 An interdict is an order of the Court which requires the person to whom it is addressed to stop doing something.
- 12.9 An application for interdict can be made at any stage in the process of investigating and seeking to resolve a complaint. There is a requirement to demonstrate to the Court that the applicant for the interdict has an interest in the matter. In some circumstances, it may be more appropriate for the complainant to make the application themselves.

### **Action for Specific Implement**

- 12.10 This is an order of the Court requiring a person to perform actions that they are legally required to do and can be a useful approach for matters such as garden maintenance or common area responsibilities.
- 12.11 Action for specific implement can be useful where the behaviour is not deemed to be serious enough to merit eviction action (or where eviction action would be unlikely to succeed) but where the Association needs to take action to give a clear warning to the tenant that the breach of tenancy is being taken seriously.

### **Repossession Action**

- 12.12 Where the perpetrator is a tenant of the Association and all other means of resolving the situation have failed, the Housing Officer should seek the approval of the Senior Housing Officer/Housing Manager to serve a Notice of Proceedings.
- 12.13 There may be some instances of extremely serious or criminal behaviour where we consider it appropriate to serve Notice of Proceedings immediately, without first attempting to resolve the situation through other means. Any cases considered serious enough to merit this approach must be discussed with the Senior Housing Officer and Housing Manager.
- 12.14 All cases where such Notices are served will be reported to the Association's Management Committee with appropriate recommendations regarding referral to Court and potential eviction.
- 12.15 Where Management Committee approval has been given to proceed with Court action, there will be no requirement to seek further approval to proceed with eviction action if a decree is awarded. The Housing Manager should, however, discuss the case with another senior member of staff before proceeding with eviction action.
- 12.16 The Management Committee will receive reports on the outcome of all cases referred to Court.

### **13. Monitoring and Reporting**

- 13.1 The Senior Housing Officer will maintain a central record of all complaints of anti-social behaviour. This will detail the number and category of all complaints and will monitor performance in terms of responding to complaints within the appropriate timescales.
- 13.2 Reports of anti-social behaviour should include equalities information in respect of both the complainant and the alleged perpetrator.
- 13.3 Monitoring reports will be submitted to the Housing Manager on a monthly basis for the first 6 months of the operation of this Policy and thereafter on a timescale to be agreed.
- 13.4 The Housing Manager will report to Management Committee bi-annually at its February and September meetings. This report will detail the number and category of complaints received, a summary of actions taken and a commentary on performance in relation to timescales and targets.

### **14. References**

- Housing (Scotland) Act 2001
- Anti-Social Behaviour Etc (Scotland) Act 2004
- Performance Standards (See Appendix 3)
- Raising Standards
- Manor Estates HA Suspensions Policy (See Appendix 1)
- Manor Estates HA Tenancy Agreement (See Appendix 2)
- Manor Estates HA Estate Management Policy
- Manor Estates HA Allocation Policy
- Scottish Executive ASB Website
- EAHP Anti-Social Behaviour Directory

### **15. Implementation and Review**

- 15.1 This Policy will be implemented from 1 April 2010 and reviewed by April 2013.
- 15.2 The Policy will be reviewed prior to the date outlined above, if regular monitoring reports identify any areas that require further development or if future legislative changes necessitate further change.

### **16. Appendices**

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| <b>Appendix 1</b> | <b>Extract from Manor Estates HA Suspensions Policy</b> |
| <b>Appendix 2</b> | <b>Extract from Manor Estates HA Tenancy Agreement</b>  |
| <b>Appendix 3</b> | <b>Performance Standards</b>                            |

**EXTRACT FROM MANOR ESTATES HA SUSPENSIONS POLICY**

**Anti-social behaviour**

- 4.6 Manor Estates will suspend an applicant from the housing list where he or she (or a member of his or her household) has (a) been evicted on the grounds of anti-social behaviour or (b) been the subject of an anti-social behaviour order within the last 3 years.
- 4.7 Manor Estates will suspend an applicant from the housing list where he or she has been convicted of a criminal offence that is relevant to a current or previous tenancy. Examples would include drug-dealing or prostitution from a tenancy. Where the applicant was not the tenant of the property where the offence took place, the circumstances will be investigated fully to determine the extent of their involvement in the criminal behaviour.
- 4.8 Where the criteria outlined in paragraph 4.6 or 4.7 are not met, Manor Estates will still suspend an applicant on the grounds of anti-social behaviour if there is supporting evidence, for example from police reports or other official sources.
- 4.9 Manor Estates will not suspend an applicant on the grounds of anti-social behaviour where there is only hearsay evidence available.
- 4.10 Manor Estates will suspend an applicant where he or she has threatened or been violent towards a member of staff. Cases in this category will be considered on an individual basis, however in general the applicant's conduct should have been at a level of seriousness which could or should lead to him or her being charged.
- 4.11 A suspension on the grounds of anti-social behaviour will be removed only when the applicant can demonstrate that action has been taken to address the behaviour that led to the suspension. It is likely that this would require supporting evidence or information from official sources.

**EXTRACT FROM MANOR ESTATES HA TENANCY AGREEMENT**

**3. Respect for Others**

- 3.1 You, those living with you, and your visitors, must not harass or act in an anti-social manner to, or pursue a course of anti-social conduct against, any person in the neighbourhood. Such people include residents, visitors, our employees, agents and contractors and those in your house.
- 3.2 'Anti-social' means causing or likely to cause alarm, distress, nuisance or annoyance to any person or causing damage to anyone's property. Harassment of a person includes causing the person alarm or distress. Conduct includes speech. A course of conduct must involve conduct on at least two occasions.
- 3.3 In particular, you, those living with you, and your visitors must not:
- Make excessive noise. This includes, but is not limited to, the use of televisions, hi-fis, radios and musical instruments and DIY tools;
  - Fail to control your pets properly or allow them to foul or cause damage to other people's property;
  - Allow visitors to your house to be noisy or disruptive;
  - Use your house, or allow it to be used, for illegal or immoral purposes;
  - Vandalise or damage our property or any part of the common parts or neighbourhood;
  - Leave rubbish in unauthorised places;
  - Allow your children to cause nuisance or annoyance to other people by failing to exercise reasonable control over them;
  - Harass or assault any person in the house, or neighbourhood, for whatever reason. This includes that person's race, colour or ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief, or other status;
  - Use or carry offensive weapons;
  - Use or sell unlawful drugs or sell alcohol.

3.4 In addition, you, those living with you, and your visitors must not do the following in an anti-social way:

- Run a business from your house;
- Park any vehicle, caravan or trailer;
- Carry out work to any type of vehicle, caravan or trailer;
- Use alcohol.

The particular prohibitions on behaviour listed in paragraphs 3.3 and 3.4 do not in any way restrict the general responsibilities contained in paragraph 3.1 above.

3.5 You, those living with you, and your visitors, must not bring into the house or store in the house any type of firearm or firearm ammunition unless you have a permit.

3.6 You will be in breach of this Agreement if you, those living with you, or your visitors do anything which is prohibited in this part of the Agreement.

3.7 We will act fairly to you in all matters connected with your tenancy. We will not unfairly or unlawfully discriminate against you in any way on the grounds of your race, colour, ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief or other status. If you believe we have acted unfairly to you in any way, you may wish to use our complaints procedure. You may also wish to take independent advice.

## **Performance Standards**

This Policy relates to the Association's compliance with the Performance Standards noted below. Guiding Standards also apply but are not listed separately here as they are fundamental to the way we approach achievement of the Activity Standards noted.

### **AS1.2 Lettings**

We let houses in a way that gives reasonable preference to those in greatest housing need; makes best use of available stock; maximises choice; and helps to sustain communities.

### **AS1.3 Tenancies**

We offer the most secure form of tenancy compatible with the purpose of the housing. The agreement makes clear the rights and duties of the tenant and landlord. We act to uphold these rights and duties in a fair and responsible manner.

### **AS1.4 Housing support needs**

We are responsive to people's individual housing support needs.

### **AS1.9 Anti-social behaviour**

**We deal appropriately with anti-social behaviour. Where appropriate, we work in partnership with others to manage such behaviour.**

### **AS1.10 Estate management**

We manage the environment around our properties and any common areas effectively, to ensure that the neighbourhood is an attractive, well-maintained and safe place to live.