

Name of Policy: Antisocial Behaviour
(Ref: HM 03)

Purpose of Policy:

The purpose of this Policy is to ensure that:

- Tenants and other customers live in well managed estates, where they can feel safe and can live peaceful lives;
- The Association provides a prompt, efficient, consistent and fair response to complaints of antisocial behaviour; and
- The Association complies with relevant regulatory and legislative requirements.

| Policy Monitoring Details | |
|-------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Department | Housing Management |
| Author | Alasdair Fraser |
| Status | Association |
| Date SMT Approval | February 2024 |
| Planned Review Date | February 2027 |
| Regulatory Outcomes Being Achieved | Scottish Social Housing Charter Outcomes: 1 Equalities 2 Communication 6 Estate management, antisocial behaviour, neighbour nuisance and tenancy disputes 11 Tenancy sustainment |
| Tenant Consultation Required | Yes |
| Association Values | This Policy adheres to all the Association Values |
| Equalities Impact Assessment | Yes |

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| Terminology | |
|-------------------------------|--------------|
| Scottish Secure Tenancy | SST |
| Short Scottish Secure Tenancy | SSST |
| Housing (Scotland) Act 2001 | The 2001 Act |
| Housing (Scotland) Act 2014 | The 2014 Act |
| Antisocial Behaviour Order | ASBO |

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 antisocial behaviour, neighbour nuisance and breaches of tenancy involving its tenants.

2. Aim of Policy

- 2.1 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.

3. Equalities and Human Rights Statement

- 3.1 The Association is committed to equal opportunities.
- 3.2 A summary of this Policy can be made available in alternative formats and languages on request.
- 3.3 The Association has carried out an Equalities Impact Assessment of this Policy.
- 3.4 In developing this Policy, the Association has also taken account of the Human Rights Act 1998, and specifically Article 8, the right to respect for private life, family life and the home.
- 3.5 The Association will respond to complaints of antisocial behaviour timeously and will seek to ensure that all tenants have their private life, family life and home respected.

- 3.6 When considering action against a perpetrator of antisocial behaviour, particularly where this may result in eviction, the Association will assess whether the action is necessary and proportionate. In so doing, the Association will take into account the behaviour itself, how otherwise it might be addressed and the impact of the behaviour on individuals and the community.

4. Policy

Definition

- 4.1 The legal definition of antisocial behaviour in the Antisocial Behaviour Etc (Scotland) Act 2004 is:

Antisocial 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 conduct¹ that causes or is likely to cause alarm or distress,
to at least one person who is not of the same household.

The categories of complaints outlined in paragraph 4.3 further define what is meant by the term 'antisocial behaviour'.

Preventative Measures

- 4.2 The Association aims to prevent neighbour disputes and antisocial behaviour through:

- Sensitive allocations;
- Identification of support needs
- The Association's Tenancy Agreement clearly sets out the responsibilities of tenants in Section 3, 'Respect for Others';
- Provision of information about antisocial behaviour and what tenants and the Association can do about it;
- Early identification of, and response to, issues and incidents;
- Joint working with others when problems do arise.

Categories of Complaints

- 4.3 All allegations of antisocial behaviour are assessed and placed into one of 3 categories, according to the seriousness of the complaint and the level of intervention required. Initial contact timescales are noted below. We aim to resolve 90% of all cases within 30 working days.

Category A – Complaints of a very serious nature

¹ The term 'conduct' includes speech and a 'course of conduct' must involve conduct on at least two occasions.

Initial response within 24 hours

Examples would include: criminal behaviour; drug dealing; physical assault, threat of violence or harassment; harassment based on race, religion, sexual orientation, disability, transphobia or other hate behaviours; sexual harassment; serious damage to property.

Category B – Complaints of a serious nature Initial response within 72 hours

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; problems caused by drug/alcohol abuse.

Category C – Nuisance complaints Initial response within 5 working days

Examples would include: low level noise complaints or minor nuisance complaints where staff may have minimal involvement, however the complaint may require investigation.

We will also record complaints:

- That are outwith the remit of the Association, in which case the complainant will be signposted to the appropriate agency; or
- Are so minor that the Association would not become involved.

These records are for information only and will not be included in KPI reports.

- 4.4 The Association will publish target timescales for resolution of antisocial behaviour complaints, recognising that performance against targets may be affected by matters out with the Association's direct control.

Anonymous Complaints

- 4.5 The Association will not act on complaints that are received anonymously, unless:
- Further corroborative information is available; or
 - The complaint relates to a very serious matter and it is reasonable to accept that a complainant could have reasons to fear reprisals; or
 - The complaint alleges serious criminal behaviour.

The Association will liaise with Police Scotland and any other relevant agencies.

Investigation and Action

- 4.7 The Association recognises that antisocial behaviour cases vary considerably in severity and complexity, and responses are tailored accordingly.
- 4.8 The Association aims to respond to and investigate complaints promptly and works closely with other agencies such as Police Scotland, City of Edinburgh Council, mediation services and other agencies.
- 4.9 Possible action to resolve antisocial behaviour includes, but is not limited to, the following:
- Support agency or Social Work referrals;
 - Mediation;
 - Stair meetings;
 - Verbal and/or written warnings;
 - Acceptable behaviour contracts;
 - Management transfers.
- 4.10 The Association uses the ASB App for recording complaints, excluding those where there is information to suggest the case is sensitive or relating to children or vulnerable adults. Access to the App is only available to staff members who require the information for the purposes of their job and authorisation is required from senior staff prior to disclosure of information to a third party.

Legal Action

- 4.10 Where action taken has failed to resolve an antisocial behaviour situation, the Association will consider taking legal action. The Association may consider immediate legal action where the nature of the allegations is of an extremely serious nature.
- 4.11 The type of legal action to be 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.
- 4.12 **Antisocial Behaviour Order**

The Association 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 antisocial behaviour. Where an ASBO is obtained, the Association may also

convert the tenancy to an SSST, in accordance with Section 35 of the Housing (Scotland) Act 2001.

4.13 Interdict

An interdict is an order of the Court which requires the person to whom it is addressed to stop doing something. 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 directly.

4.14 Action for Specific Implement

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. 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 give a clear warning to the tenant that the breach of the tenancy is being taken seriously.

4.15 Repossession Action

Where serious and persistent antisocial behaviour has continued despite action taken to resolve it, the Association will serve Notice of Proceeding and seek to repossess the property.

4.16 Streamlined Eviction Process

The 2014 Act allows the Association to use a streamlined process for eviction where a tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of, the tenant or a person visiting the house has been convicted of:

- a) Using the house or allowing it to be used for immoral or illegal purposes; or
- b) An offence punishable by imprisonment² committed in, or in the locality of the house.

4.17 Short Scottish Secure Tenancy – New Tenants

In accordance with the 2001 and 2014 Acts, the Association can give an SSST to a prospective tenant in the following circumstances:

² The offence must carry imprisonment as a possible penalty but there is no requirement that a custodial sentence was imposed as the penalty in the particular case.

- A prospective or existing tenant or anyone who would live with them is subject to an ASBO; or
- An eviction order has been made against a prospective tenant (or any one of prospective joint tenants) by the courts in the previous 3 years because of antisocial behaviour; or
- Where a person³ within the past 3 years has:
 - (a) Acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant; or
 - (b) Pursued a course of conduct which is otherwise antisocial conduct in relation to such other person.

4.18 Short Scottish Secure Tenancy – Existing Tenants

In accordance with the 2001 and 2014 Acts, the Association can give an SSST to an existing tenant in the following circumstances:

- The existing tenant or anyone who would live with them is subject to an ASBO; or
- The tenant (or any of joint tenants), a person residing or lodging with, or a subtenant of, the tenant or a person visiting the house, has, within the period of 3 years preceding the date of service of notice:
 - (a) Acted in an antisocial behaviour manner in relation to another person residing in, visiting, or otherwise engaged in lawful activity in the locality of a house occupied by the person, or
 - (b) Pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person.

5. Reporting and Monitoring

5.1 KPI reports are submitted to senior staff monthly

5.2 Case checking is carried out in respect of 10% of monthly cases.

6. Publicising this Policy

6.1 All tenants will made aware of this Policy through:

³ Persons are defined as:

- The prospective tenant
- Any one of prospective joint tenants
- A person visiting a house occupied by the prospective tenant or by a person who it is proposed will reside with the prospective tenant
- A person who it is proposed will reside with the prospective tenant

- Tenant newsletter;
- Association website;
- Antisocial behaviour information leaflet.

New tenants will be given information about the Policy at sign-up.

- 6.2 The Policy can be made available in alternative formats and languages on request.

Factors the Association will take into account when considering use of streamlined eviction on grounds of antisocial behaviour

▪ **The nature and seriousness of the criminal offence**

The following list is not exhaustive, however the types of offence that will result in the Association considering streamlined eviction include:

- Breach of ASBO, closure order or dispersal order;
- Threatening and/or abusive behaviour;
- Murder;
- Rape;
- Other violent offences;
- Offences related to domestic abuse;
- Offences related to the use of offensive weapons; and
- Serious drug-related offences.

▪ **Who has been convicted and their connection to the property**

If the person convicted is not the tenant, the Association will take into account:

- How frequently the person visits or lives in the property;
- Any action the tenant is taking to stop the person returning to the property;
- Whether it is reasonable in the circumstances for the tenant to try to prevent the person returning to the property.

▪ **Where the offence was committed**

The offence must have been committed in the property or in the locality of the property.

▪ **Whether and to what extent the offence has affected household members, neighbours or others in the community**

The Association will only consider streamlined eviction where there is evidence that the behaviour leading to the conviction has had, or is likely to have had, as serious impact on other household members, neighbours or others in the community.

▪ **Positive change**

Where the person who has been convicted has:

- Stopped the behaviour, e.g. no repeat offence, convictions, disturbances or complaints;
- Engaged in training/employment;
- Participated or is taking part in a rehabilitation programme for drug/alcohol dependency or treatment for mental health issues; or
- Engaged with support services to change behaviour in a positive way

and

- the Association is satisfied that the positive change in behaviour is sufficient and is likely to be maintained in the long term,

the Association may consider not using the streamlined eviction approach.

▪ **Impact of eviction on household members**

As with all eviction action, the Association will consider the impact on other household members, however this has to be balanced against the impact of the behaviour on the wellbeing of neighbours and the local community.

▪ **Other steps taken or which could be taken to address the antisocial or criminal behaviour**

Before deciding to proceed with streamlined eviction, the Association will consider what other measures could potentially be used to address the situation. Again, consideration of alternative solutions has to take into account the impact of the behaviour on the wellbeing of neighbours and the local community.

Factors the Association will take into account when considering use of SSST on antisocial behaviour grounds

- Who has behaved antisocially and their connection to the property;
- How long the antisocial behaviour has been going on and the persistence of the behaviour;
- The person affected by the antisocial behaviour and their connection to housing;
- Whether and to what extent the behaviour has affected household members, neighbours or others in the community;
- The impact on neighbours and communities over time and the impact on the stability of the community;
- What action, if any, the person behaving antisocially is taking to make positive change;
- Any issues around the vulnerability of the tenant, members of their household or those directly affected by the antisocial behaviour;
- Other steps which have been taken/which could be taken by the landlord or partner agencies to address the antisocial behaviour.