

# ***FORTH HOUSING ASSOCIATION LIMITED***

## ***ANTI-SOCIAL BEHAVIOUR POLICY***

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## **1.0 Introduction**

- 1.1 This Policy sets out what we will do to help prevent anti-social behaviour and how we will deal with complaints about anti-social behaviour. We understand our responsibility to make sure that tenants can enjoy their home. Our tenants also have a responsibility to make sure that their actions do not interfere with their neighbour's enjoyment of their home.
- 1.2 Complaints regarding harassment are addressed under the Harassment Policy and Procedure.
- 1.3 Complaints regarding pets are addressed under the Pets Policy and Procedure.

## **2.0 Aims and Objectives**

- 2.1 We wish to allow all tenants to live without undue disturbance or disruption from others. We recognise the importance in taking early and effective action to reduce the likelihood of legal action being needed, and to increase the chances of it being resolved successfully. We will take a lead in co-ordinating a multi agency response to tackling the causes and consequences, taking action against offenders and supporting and protecting victims. We recognise that anti-social behaviour is not just a landlord issue but also a social order issue that can require response and intervention by multi-agencies.

## **3.0 The Scottish Secure Tenancy**

- 3.1 The Scottish Secure Tenancy states at section 3:
- *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.*
  - *'Anti-social' means any conduct 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.*
  - *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-fi's, 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*

#### **4.0 Preventative Measures – Pre & Post Allocation**

4.1 In practice, anti-social behaviour can mean different things to different people. We will ensure that tenants understand their conditions of tenancy and understand the action we will take if they do behave in an anti-social manner. Refer to Appendix One for the types of behaviours that can be described as anti-social.

4.2 We may suspend applications for housing and transfer due to the conduct of applicants or tenants. This is to done to protect the interests of other tenants and residents. In deciding whether or not to suspend applications on conduct grounds, we consider three main factors:

- the nature and seriousness of the conduct;
- other options, for example, could a short Scottish secure tenancy be granted instead.

4.3 We may also suspend applications for housing or transfer if a legal order is in existence that prohibits someone living in a particular area. For example, such orders may apply in the case of matrimonial disputes, antisocial behaviour, and sex offenders.

4.4 We may also suspend applications for transfers if we are in the process of taking legal action against a tenant to remove them from the property as a result of anti-social behaviour.

4.5 We take several preventative measures in order to try and reduce the likelihood of and the impact of anti-social behaviour.

##### **a) Pre Allocation Action**

We will use office interviews/home visits to form good working relationships with potential tenants. During these interviews we will take the opportunity to discuss our approach to tenancy conditions such as anti-social behaviour.

##### **b) Point of Allocation Action**

We will carry out an accompanied viewing of the property with the new tenant. During the viewing, particularly if the property is a flat, we will discuss flooring types with the new tenant. The new tenant will be reminded to be considerate of their neighbours and that they should expect some noise in flatted dwellings.

We will also spend time explaining the conditions of the Scottish Secure Tenancy to new tenants to ensure that they are fully aware of their responsibilities. Moreover, to reinforce the likely action that will be taken, should the conditions of their tenancy be broken, before they sign their tenancy agreement. Similarly we will provide advice of what to do should they become the victim of anti-social behaviour.

We will complete a tenancy profile form with the new tenant. The information recorded will be used to assist in dealing with complaints regarding anti-social behaviour received from the tenant or made against the tenant e.g. particular communication needs such as difficulties in reading or translation services required, particular vulnerability or support requirement including details of the support provider/worker.

We provide all tenants with a Tenants Handbook which gives advice in relation to their responsibilities.

#### c) Post Allocation Action

We will carry out a home visit to new tenants within 6 weeks of signing their tenancy. This visit will be used to assess if the tenant has broken any conditions of their tenancy and to reinforce our approach to anti-social behaviour. Tenants receive regular newsletters which will be used to remind them of their responsibilities under the tenancy agreement and to focus on a particular estate wide problem which may have arisen.

#### d) Staff Training

Training will be made available to staff on non legal and legal measures. In particular, through our Internal Management Plan we are committed to training and developing staff to their full potential in order to deliver a high quality service to tenants and the public.

#### e) Mediation

Mediation is a well-established tool for dispute resolution. It deals with a wide range of anti-social behaviour including noise, use of common areas, vehicles, rubbish, pets and a wide variety of other issues. The disputes resolved by mediation range from the seemingly trivial and short-lived which can escalate to more serious complaints.

The mediation process gives both parties the opportunity to be fully heard, and to hear what the other side of the story is, in private. Both parties are encouraged to voluntarily take responsibility for finding a practical solution to their own problems. The mediator will assist in exploring whether all the issues have been covered and whether an agreement is likely to hold. The mediator will identify and help resolve the underlying causes of a conflict as well as the symptoms. Its main focus is on what is going to happen.

Following a dispute, if both parties are willing to take part in mediation, the case can be referred to a Mediation Service, where appropriate.

- 4.6 Victims of anti-social behaviour will be advised in what ways a tenant can help by collecting evidence (for example – a diary to record incidents of anti-social behaviour). Victims of anti-social behaviour need to be clear about options available for remedying anti-social behaviour. In some instances it may be appropriate for us to ask our Solicitor to take tenants through the options and to describe the legal processes. Given this assistance tenants can then make an informed decision e.g. on acting as a witness.

## 5.0 Categories of Anti-Social Behaviour

- 5.1 It is recognised that early categorisation and intervention of complaints, can prevent minor disputes from escalating. Therefore, complaints received will be categorised by their seriousness and such behaviour has been divided into 3 separate categories:

**Category A** - Very serious/acute anti-social behaviour involving personal attack – For example, violence, unprovoked assault, threatening and abusive behaviour and any form of harassment.

For Category A, we will investigate and initiate appropriate action within **one working day** of receipt of the complaint.

**Category B** – Serious anti-social behaviour involving other criminal activity – For example, drug dealing, vandalism and criminal damage to property, ongoing noise, and ongoing neighbour disputes.

For Category B, we will investigate and initiate appropriate action within **three working days** of receipt of the complaint.

**Category C** – Other complaints – For example, noise, neighbour disputes, rubbish dumping, dog fouling.

For Category C, we will investigate and initiate appropriate action within **five working days** of receipt of the complaint.

These categories are not exhaustive and other types of anti-social behaviour that are similar in nature maybe put in to the same category.

- 5.2 We will provide feedback to the complainant of the outcome or ongoing investigation, whatever the category, as quickly as possible, but no later than **ten working days** of receipt of the complaint.

- 5.3 We aim to achieve its target of 100% by responding to complaints of Anti-Social Behaviour within the appropriate timescales.

## 6.0 Recording of Anti-Social Behaviour

- 6.1 We will contact the Complainant to confirm full details of the complaint made e.g. date, times, description of incident, confirm details of attendance of Police (crime reference number) and/or Stirling Council's Anti-Social Behaviour Team and details

of any potential witnesses. All complaints should be in writing and signed by the complainant. If appropriate, our staff will help tenants to put their complaints in writing. Complaints received by telephone will be followed up by a home or office visit to obtain a signature.

- 6.2 Verbal complaints and anonymous letters will be acted upon; however the information will be noted and filed for information. We reserve the right to act on verbal complaints and anonymous letters if the matters described are considered sufficiently serious that action is merited. However, the Complainant will be advised that without witness statements it is unlikely to lead to further or legal action.
- 6.3 We will treat all complaints in the strictest confidence. Under no circumstances will the alleged offender be informed of the complainants name or address; however the Complainant will be advised that due to the nature of some complaints e.g. personal attack it will not always be possible to protect the Complainants identity.
- 6.4 The Complainant must be interviewed to obtain a signature where necessary and to confirm full details of the complaint made e.g. date, times, description of incident, confirm details of attendance of Police (crime reference number) and/or Stirling Council's Anti-Social Behaviour Team and details of any potential witnesses.
- 6.5 The alleged offender will be visited at their home and an interview will take place to establish the substance of the complaint, within the appropriate investigation period. If the tenant is not at home, a calling card will be left and a further home visit will be made. In the event that the tenant does not respond to the home visits carried out, we will write to the tenant detailing the complaint made and issue a letter of warning if appropriate. Any witnesses should also be interviewed during this period.
- 6.7 A written report must be recorded of each visit and an interview carried out. An investigation sheet will be completed with the alleged offender and signed by them to confirm the discussions held during the interview.
- 6.8 If anti-social behaviour persists and it is considered that the matter constitutes a breach of tenancy conditions by one or more parties we will send a warning letter informing the tenant of the consequences. Further justifiable complaints received about the tenant's behaviour will result in us serving a Notice of Proceedings (NOP). In extreme circumstances we may serve a NOP if the seriousness of the first complaint requires this form of action. Should we continue to receive justifiable complaints we could, apply to the Courts for an Anti-social Behaviour Order. Otherwise we will commence legal action to repossess the property.
- 6.9 If anti-social behaviour persists but it is not considered that harassment or a breach of tenancy conditions are involved we can give consideration to the use of mediation techniques using in-house skills if available (see 3.6 d Staff Training and e mediation). It may be considered appropriate to use external mediation services but only with the Housing Manager's approval.

## **7.0 Multi-agency Working**

- 7.1 As a landlord our responsibilities and our potential actions are limited to housing related matters. Other agencies also have an important role to play in helping residents to create a decent and safe environment. We recognise the importance of working with other agencies to make sure we all take a co-ordinated approach. The Complainant will be encouraged to contact the relevant authorities (e.g. Police, Anti-Social Behaviour Team, and Social Work Services); particularly out with our hours of operation. Without corroborating evidence from official sources and neighbouring tenants, the Complainant will be advised that it will be difficult to pursue legal action against a tenant for anti-social behaviour.
- 7.2 The Stirling Anti-social Behaviour Strategy Working Group has been set up to develop a strategy for tackling anti-social behaviour throughout the Stirling Council area. We will continue to work with the other partners (including Stirling Council, Central Scotland Police, and other RSL's working in the local area to implement and review the agreed multi-agency strategy.
- 7.3 We will also work with the other agencies, for example, police, social work, and other support agencies e.g. Stirling District Association of Mental Health (SDAMH) to attempt to establish good and effective joint working arrangements and protocols. We will write any such agreements into our procedures and make sure that all staff are properly trained in them. We will also tell tenants about the agreements.
- 7.4 We recognise that some people have particular needs which mean they need support to live independently in the community. We assist tenants to get access to the support and assistance they need to establish and maintain their tenancies.
- 7.5 The behaviour of children and young people is a common subject of complaint. We recognise the need for young children to play together and for young people to gather in peer groups. We also recognise the potential for annoyance from their behaviour at times. Where possible, we will work with agencies to try to improve facilities for children and young people.
- 7.6 We will consult tenants and tenant organisations about the living conditions in their housing development and work with tenants to resolve problems and encourage them to form tenants groups. We will encourage tenants to work with other agencies to set up other community groups, for example Neighbourhood Watch.

## **8.0 Monitoring and Reporting**

- 8.1 Details of all complaints of anti-social behaviour are recorded on SDM and are used to plan the course of action that is effective and appropriate to both the tenant and their particular circumstance.
- 8.2 The Housing Officer initiates the Complaint Form on receipt of the complaint and ensures that it is completed at each stage and when investigations are completed.

On completion the Complaint Form is filed centrally in the Anti-Social Complaints file.

8.3 This information is used as follows:-

- To categorise the types and number of complaints received e.g. A, B, C.
- To evaluate numbers of complaints received and investigated within target times and to measure performance against Performance Indicators.
- To report to Management Committee on a quarterly basis.

## **9.0 Legal Remedies**

9.1 We are committed to using a wide range of approaches to tackle anti-social behaviour issues and to keep up to date on current best practice.

9.2 Only when preventative and management approaches have failed to resolve the problem will we consider using legal remedies. This is not only because of the seriousness of taking away someone's home but also because eviction may not in itself resolve the problem: it may simply move it elsewhere.

9.3 There is no standard approach to when certain legal remedies will be applied but we shall consider the options available and those that are most likely to be appropriate and effective in the circumstances of each case.

9.4 The following is a list of the legal options available. Appendix Two provides detailed information on each topic.

- Interdicts
- Anti-Social Behaviour Orders (ASBO)
- Interim Anti-Social Behaviour Orders
- Eviction

## **10.0 Action Against Non-Tenants And Owner Occupiers**

10.1 There is an increase in dealing with issues with mixed tenures, leading to anti-social cases involving non-tenants. The Association will make every attempt to resolve the problem through informal, non-legal remedies such as mediation and will give support and assistance to its tenants who are experiencing anti-social behaviour from an owner-occupier.

10.2 Conversely, there are times when complaints are made by people who are not tenants about experiencing anti-social behaviour, such as level of noise, from a tenant. In such situations the Association will ensure that the tenant is dealt with through the terms of this policy and through informal, non-legal remedies as highlighted above.

## **11.0 Complaints**

- 11.1 Any tenant who is dissatisfied with the management of their case will be advised of our Complaints policy.

## **12.0 Data Protection**

- 12.1 When implementing the policies and procedures of Forth Housing Association all staff and committee members must adhere to and be aware of the requirements of the our approved Confidentiality Policy and the Data Protection Act 1998. In situations where there may be any doubt about the requirements of the Data Protection Act 1998 it is recommended that we seek the views of our legal advisors.

## **13.0 Equal Opportunities**

- 13.1 We believe that certain sectors of the population are disadvantaged by individual and group values, as well as by organisational structures. We seek to avoid all such forms of discrimination by ensuring that there will be no discrimination on the grounds of race, colour, nationality (including citizenship), ethnic or national origins, religion, social background, disability, marital status, responsibility for children or dependants, gender, age or sexual orientation.

## **14.0 Policy Review and Period**

- 14.1 This Policy/Procedure will be reviewed no later than three years from the date of approval.
- 14.2 Consideration will be given to any changes in legislation, good practice or operational changes which may affect the content.

## APPENDIX 1

### TYPES OF BEHAVIOURS THAT CAN BE DESCRIBED AS ANTI-SOCIAL

<b>DISREGARD FOR COMMUNITY/PERSONAL WELLBEING</b>	<b>ENVIRONMENTAL DAMAGE</b>	<b>MISUSE OF PUBLIC SPACE</b>
<p><b>Noise</b></p> <ul style="list-style-type: none"> <li>Noisy neighbours</li> <li>Noisy cars/motorbikes</li> <li>Loud music</li> <li>Alarms (persistent ringing/malfunction)</li> <li>Noise from pubs/clubs</li> <li>Noise from business/industry</li> <li>Dogs barking</li> </ul> <p><b>Rowdy behaviour</b></p> <ul style="list-style-type: none"> <li>Shouting &amp; swearing</li> <li>Fighting</li> <li>Drunken behaviour</li> <li>Hooliganism/loutish behaviour</li> </ul> <p><b>Nuisance behaviour</b></p> <ul style="list-style-type: none"> <li>Urinating in public</li> <li>Setting fires (not directed at specific persons or property)</li> <li>Inappropriate use of fireworks</li> <li>Throwing missiles</li> <li>Climbing on buildings</li> <li>Impeding access to communal areas</li> <li>Misuse of air guns</li> <li>Letting down tyres</li> </ul> <p><b>Hoax calls</b></p> <ul style="list-style-type: none"> <li>False calls in emergency services</li> </ul> <p><b>Animal related problems</b></p> <ul style="list-style-type: none"> <li>Dog fouling</li> </ul>	<p><b>Criminal damage/vandalism</b></p> <ul style="list-style-type: none"> <li>Graffiti</li> <li>Damage to bus shelters</li> <li>Damage to phone kiosks</li> <li>Damage to street furniture</li> <li>Damage to buildings</li> <li>Damage to trees/plants/hedges</li> </ul> <p><b>Litter/rubbish</b></p> <ul style="list-style-type: none"> <li>Dropping litter</li> <li>Dumping rubbish</li> <li>Fly-tipping</li> <li>Fly-posting</li> </ul>	<p><b>Drugs/substance misuse and dealing</b></p> <ul style="list-style-type: none"> <li>Taking drugs</li> <li>Sniffing volatile substances</li> <li>Discarding needles/drug paraphernalia</li> <li>Presence of dealers or users</li> </ul> <p><b>Street Drinking</b></p> <p><b>Prostitution</b></p> <ul style="list-style-type: none"> <li>Soliciting</li> <li>Discarded condoms</li> </ul> <p><b>Kerb crawling</b></p> <ul style="list-style-type: none"> <li>Loitering</li> <li>Pestering residents</li> </ul> <p><b>Abandoned cars</b></p> <p><b>Vehicle related nuisance &amp; inappropriate vehicle use</b></p> <ul style="list-style-type: none"> <li>Setting vehicles alight</li> <li>Racing cars</li> <li>Off road motorcycling/quad bikes</li> </ul>

(Consultation on Draft Guidance on Anti-social Behaviour Strategies – Scottish Executive)

## APPENDIX 2

### Legal Remedies

#### 1.0 Interdicts

- 1.1 Interim interdicts can be obtained quickly compared with other legal remedies. They can be applied to anyone over 8 years. For an interdict to be granted by the court the defender must have done something, or about to do something, that infringes the pursuer's legal rights. We might, for example, seek an interdict against anti-social behaviour that was a breach of the Tenancy agreement or caused damage to our property. An interdict is usually granted on an interim basis pending final determination of the merits of the case. Interdicts are recommended for reasons of initial prevention and are recommended as a deterrent and as a means to show, if court action proves necessary at a later stage, that efforts have been made by us to stop anti-social behaviour occurring. Interdict action has generally been superseded by the use of Anti-Social Behaviour Orders (ASBOs). ASBOs cannot presently be applied for under-12s in Scotland.
- 1.2 The children's hearing system should continue to be the primary forum for dealing with anti-social or offending behaviour by under 16s. A court-based order should only be pursued for a small number of persistently anti-social young people for whom alternative approaches have not been effective in protecting the community.

#### 2.0 Anti-Social Behaviour Orders (ASBO)

- 2.1 ASBOs are civil orders that exist to protect the public from behaviour that causes, or is likely to cause, alarm or distress. An order contains conditions prohibiting the person named in it from doing anything specified in the order such as verbally abusing named persons or entering defined areas. The orders are not criminal penalties and are not intended to punish the offender. The minimum age at which a person may be subject to an ASBO in Scotland is 12.

Where there is insufficient evidence to obtain a decree for recovery of possession and after all other options have been considered an alternative option is to apply for an ASBO.

- 2.2 ASBOs for adults are intended to tackle both behaviour which is likely to escalate to the criminal level, and patterns of behaviour which cumulatively cause considerable alarm or distress to the community. An ASBO is not intended to be a substitute for criminal proceedings where these are appropriate, and is intended to be complementary to other civil procedures such as interdict (where use of these is appropriate).
- 2.3 Introduced in the Crime and Disorder Act 1998, ASBOs apply to all residential properties. The Criminal Justice (Scotland) Act 2003 gives us the power to raise an action in the Sheriff Court to seek an ASBO. Registered Social Landlords and local authorities, in consultation with the police, can apply to the Sheriff court for an order where there is evidence that a person (aged at least 12 years) has behaved in an

anti-social manner and that an order is necessary for the protection of persons from further anti-social behaviour. Once we have taken the decision to apply for an ASBO, a detailed report will be submitted to our solicitor, who will then proceed with the case through court.

2.4 An ASBO, once it has been awarded, can be for an indefinite period and it will be specific about the acts which the offender is prohibited from carrying out. A breach of an ASBO is a criminal offence and is punishable by a fine and/or imprisonment up to five years.

2.5 ASBOs can be a useful tool to target anti-social behaviour as

- they can be targeted at the individual perpetrator rather than penalising the household (as in eviction);
- they are not tenure specific;
- if they are not breached then they attract no sanction;
- in cases where eviction subsequently becomes necessary they show the Court that other remedies have been tried and that eviction is a last resort;
- most importantly they show that anti-social behaviour is not a landlord issue but a social order issue and is not merely confined to council estates.

### **3.0 Interim Anti-Social Behaviour Orders**

3.1 Section 44 of the Criminal Justice (Scotland) Act amends the Crime and Disorder Act 1998 to introduce interim Anti-Social Behaviour Orders. These can be applied for by both local authorities and RSLs. Interim ASBOs are intended to provide more immediate protection from anti-social behaviour and can be applied for pending the application for a full ASBO. The Sheriff may grant an interim order provided that they are satisfied that the anti-social behaviour cited would be established when a full hearing takes place. The Sheriff must also be satisfied that an interim order is necessary to protect the affected people from further anti-social acts or conduct by the person.

3.2 The person whom an order is made against may appeal the order. Where an appeal is made the interim ASBO will continue to have effect pending the outcome of the appeal.

3.3 We will continue to forge good relationships with Central Scotland Police. The Association must consult the police and notify the local authority before applying for an ASBO or interim ASBO.

## **4.0 Eviction**

- 4.1 For an eviction to be successful the crucial legal issue is one of reasonableness. Within the Housing (Scotland) Act 2001 this means that courts, in deciding whether to evict, must have regard to the nature, frequency and duration of the conduct in question. Additionally, in the case of recovery action for anti-social behaviour the court must have regard to the extent to which the conduct relates to persons other than the tenant, the effect the conduct has on persons other than the tenant and any action taken by the landlord (prior to raising proceedings) to try to stop the conduct in question.
- 4.2 There are provisions under the Act for the court to have due regard for the points listed below before granting decree for eviction in anti-social cases:
- a. the nature, frequency and duration of the alleged conduct
  - b. the extent to which the conduct is or was conduct or, a consequence of the act or omissions of, persons other than the tenant
  - c. the effect that the conduct had had, is having and is likely to have on any person other than the tenant, and
  - d. any action taken by the landlord, before raising proceedings, with a view to securing the cessation of that conduct.
- 4.3 The above points have always been part of the legal criteria for establishing reasonableness and the Act will make the grounds above covered by statute. Consequently the Sheriffs will have to ensure that all the grounds are satisfied in order for decree to be granted for eviction for anti-social behaviour. It thus makes the process of preventative action (gathering evidence and recording incidents etc) even more important in terms of arguing the case of reasonableness in Court.