

CASTLEHILL HOUSING ASSOCIATION
ANTI SOCIAL BEHAVIOUR AND HARASSMENT POLICY



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1. Introduction

Anti-Social Behaviour and Harassment can impact on individuals, families and communities and the Association recognises the detrimental effects that can be caused by both low level and serious Anti-Social Behaviour and Harassment. This Policy sets out how Castlehill Housing Association (“the Association”) will manage its tenancies to minimise the impact and occurrence of anti-social behaviour. Staff procedures have been developed separately that detail how the policy is implemented.

2. Policy Aim

This policy aims to ensure that the Association sets down guidance for staff and interested parties which will allow the effective management of any Anti-Social Behaviour or Harassment and will bring the Anti-Social Behaviour to a satisfactory resolution for the parties involved.

It aims to comply with the Scottish Social Housing Charter and specifically Charter outcome 6 which covers Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes. The Charter states:

“Social landlords, working in partnership with other agencies, help to ensure that: tenants and other customers live in well-maintained neighbourhoods where they feel safe”

In addition the policy aims to:

- Resolve problems speedily without recourse to legal action wherever possible.
- Encourage people to initially sort out the problems themselves in an amicable way and to explore mediation and the use of acceptable behaviour contracts where appropriate
- Allow reports of Anti-Social Behaviour or Harassment to be made using a variety of methods.
- Promote a safe environment for complainants to live in
- provide an environment where everyone (including diverse groups, children and families) accepts their role in recognising, responding to and addressing anti-social behaviour when it occurs
- Support victims of Anti-Social Behaviour, both directly and by liaising with other agencies and by keeping them informed of action.
- respond promptly and appropriately to neighbour complaints and incidents of anti-social behaviour within agreed targets for different types of complaint agreed with Castlehill tenants.
- Take appropriate action based on the nature, seriousness, frequency and complexity of the problem
- deal effectively and robustly with the perpetrators of anti-social behaviour by using appropriate enforcement remedies where necessary.

- Promote partnerships with statutory and voluntary agencies to build a diverse pool of resources to tackle Anti-Social Behaviour and Harassment and to work with our partner agencies to tackle anti-social behaviour

3. Related Polices/Documents

This policy should be viewed in conjunction with the Scottish Secure Tenancy Agreement, Promoting Positive Outcomes, ASB Framework, Scottish Government and the following policies:

Estate Management Policy
Allocations Policy
Tenant Participation Strategy
Equal Opportunities Policy
Data Protection Policy
Complaints Policy
Health and Safety Policy

4. Legal Context

Anti-Social Behaviour

This policy takes account of several pieces of legislation relating to Anti-Social Behaviour. The Anti-Social Behaviour Etc. (Scotland) Act 2004 primarily gives powers to the Police, Local Authorities and Registered Social Landlords to tackle ongoing anti-social behaviour while the Housing (Scotland) Act 2001 concentrates specifically on tenancy rights and obligations.

There is a raft legislation based which can also be used by individuals or where by the Association necessary in partnership with the Police and Local Authorities to deal with harassment including the Human Rights Act 1998
Race Relations (Amendment) Act 2000 Matrimonial Homes (Family Protection)(Scotland) Act 1981
Protection from Harassment Act 1997 and the Equality Act 2010.

In addition there are clear obligations prohibiting any form of harassment contained within the Scottish Secure Tenancy Agreement used by the Association.

5. Definitions of Anti-Social Behaviour and Harassment

The definition of anti-social behaviour is set out in Section 143 of the Anti-Social Behaviour etc. (Scotland) Act 2004 in the following terms:-

*Acting in a manner that causes or is likely to cause alarm or distress; or
Pursuing 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. "Conduct" includes speech and a course of conduct must involve conduct on at least two occasions.*

Harassment is defined in the Protection from Harassment Act 1997 as:

"Every individual has a right to be free from harassment and, accordingly, a person must not pursue a course of conduct which amounts to harassment of another and –

- a) is intended to amount to harassment of that person; or
- b) occurs in circumstances where it would appear to be a reasonable person that it would amount to harassment of that person

For the purpose of this section conduct includes speech, harassment of a person includes causing the person alarm or distress and a course of conduct must involve conduct on at least two occasions."

These definitions are replicated in the Association's Scottish Secure Tenancy Agreement

6. Types of ASB and Harassment

There can be many types of Anti-Social Behaviour however the following list details those most prevalent in complaints received by the Association and the target for resolving each of the three categories.

NUISANCE	SERIOUS	EXTREME
Vandalism	Vandalism	Vandalism
	Music Noise i.e./ parties	
Household Noise le / domestic appliances -flooring - children	DIY out of Hours	
Vehicle Noise	Verbal Abuse	Physical Abuse
Pets	Racial Abuse	Threats of Violence
	Damage to Property	Racial Harassment – Hate Crime
Drugs abuse – in the property	Drugs – Growing, using Comings and goings, visitors,	Drugs Dealing - buzzing neighbours, noisy and disruptive visitors, vandalism, threatening , abusive behaviour,
Fly tipping	Escalate if Fire Risk	
Alcohol - Buzzing Neighbours Sickness in communal areas	Parties + Visitors	Regular complaints regarding alcohol abuse - buzzing neighbours, noisy and disruptive visitors, vandalism, threatening , abusive behaviour,
Prostitution		
Behaviour of Children		
Target For Resolution	Target For Resolution	Target For Resolution
30 days	15 days	10 days

7. Pre Tenancy Information on Anti-Social Behaviour and Harassment

When an applicant becomes a tenant of the Association, attention is drawn to the obligations that the tenant has to be a good neighbour. This is done face to face when the Housing Officer and the tenant cover all aspects of the Scottish Secure Tenancy Agreement (or short SST). The Association has introduced a New Tenancy DVD which is available in Polish and Russian as well as English. A copy of which will be given to the tenant at their sign-up appointment. The Housing Officer also makes it clear what the Association's obligations are to investigate and to resolve the issue. Attention is also drawn to the

tenant's handbook which covers aspects of Anti-Social Behaviour and Harassment. Anti-Social Behaviour is one of the aspects that is discussed at the Post Allocation Visits shortly after the tenant has moved in.

8. The Scottish Secure Tenancy Agreement and Short Scottish Secure Tenancy Agreement

The SST and Short SST set out the obligations for both tenants and CHA in relation to Anti-Social Behaviour. In summary:

Tenants must not use or allow the house to be used for illegal or immoral purposes which includes dealing in controlled drugs, running a brothel, dealing in stolen goods, illegal betting and illegal gambling.

Tenants must ensure that they do not harass or act in an anti-social manner towards anyone in the neighbourhood or anyone acting on our behalf. This also applies to visitors to a tenant's home and they are held responsible for their visitors' conduct.

Tenants are made aware in the tenancy agreement that they must not:

- make excessive noise
- allow visitors to be noisy or disruptive
- use the house for immoral or illegal purposes
- vandalise or damage any common parts
- leave rubbish in unauthorised places
- allow children to cause nuisance or annoyance to others and should exercise reasonable control over them
- harass or assault any person in the house or neighbourhood due to that person's race, colour or ethnic origin, nationality, gender, sexuality, disability, age, religion or belief
- carry or use offensive weapons
- use or sell unlawful drugs or sell alcohol
- fail to control pets

In terms of this policy the Association will take appropriate steps to stop any breach of the tenancy agreement as set out in Section 14 below.

The Scottish Secure Tenancy Agreement also states that if a tenant has a complaint about nuisance, annoyance or harassment from a neighbour, the Association will respond to and investigate the complaint and, when appropriate, will take reasonable steps to try to prevent the behaviour happening again.

9. Dealing with Complaints and Resolving Anti-Social Behaviour and Harassment

It is important to acknowledge that although complaints received are likely to be made by CHA tenants, any member of the public may make a complaint about a CHA tenant. Complaints could be received from owner-occupiers, other RSL's, Police or from the wider community. As a result complainants can contact the Association by phone, letter or using email. Complaints will be directed to the relevant Housing Officer to investigate.

We will take appropriate and prompt action where anti-social behaviour is being experienced and use relevant resources with a view to stopping or changing the behaviour. We will take into account the effect of the behaviour on the victims and those reporting the behaviour. We will use our professional judgement to assess the seriousness of the behaviour and will take the appropriate course of action including:

- Acknowledging, recording and investigating complaints efficiently and effectively, in terms of our procedures, in confidence and within stated timescales
- appropriate use of verbal and written warnings
- 'face to face' warnings – where the perpetrator is a Tenant and previous warnings have not resolved the anti-social behaviour, face to face meetings will be held with the perpetrator and in some instances may be conducted jointly by the Housing Officer and the Police.
- working in partnership with our partners and those affected by anti-social behaviour
- offering tenancy support by the Key Project or other agencies to both victims and perpetrators
- mediation – this can help neighbours understand more about each other and their needs and assist in making them more tolerant and co-operative and prevent neighbour disputes escalating into a more protracted conflict
- noise monitoring
- Acceptable Behaviour Contracts (ABCs) - written agreements between an individual involved in anti-social behaviour and relevant partner agencies to prevent anti-social behaviour. It sets out the behaviour the person has agreed to stop.
- ending the tenancy by written agreement – The tenancy of the perpetrator can be ended without the requirement of a notice period, as long as the tenant, any joint tenant and the Association agree to this by way of written agreement that details the conditions of both parties agreeing to the tenancy ending.
- management transfers - can be considered in less serious cases where moving a tenant to another property might resolve a problem but can only be carried out with the agreement of the tenant.

10. Supporting Victims of Anti-Social Behaviour

The Association will offer support to victims of anti-social behaviour in a number of ways including:-

- Providing a number of methods to report incidents of anti-social behaviour including the Associations' anti-social behaviour complaint record sheet
- Responding to the complainants promptly and suggesting positive solutions with the victim.
- Keeping the victim informed of any material changes throughout the course of the investigation. This feedback may include advice on the limitations of the Association's powers to deal with specific incidents or circumstances and referrals to the most appropriate alternative agency to be contacted or involved.
- Identifying and referring victims to other agencies which may be able to assist them with support including e.g. the Key Project or Victim Support.
- If appropriate, providing professional witnesses to assist in the gathering of evidence however encourage the use of diary evidence in persistent cases.

11. Progression to Legal Action

Whilst this policy aims to promote the use of non-legal remedies to anti-social behaviour, the policy allows for a staged progression to legal remedy. Where it has not been possible to prevent or stop anti-social behaviour and attempts at intervention have been unsuccessful or the behaviour is serious we will use our powers effectively and quickly, either with our partners or on our own, especially if there is a need to protect the wider community including:

- ASBOs – where there is a need to protect individuals from Anti-Social Behaviour of a serious nature such as violence or intimidation
- Interim ASBOs - where immediate protection from Anti-Social Behaviour is required
- ASBOs for under 16's
- Conversion to a Short SST on an ASBO being granted
- Eviction, Interdict, Specific Implement
- Compulsory Transfer

The Association has the ability to implement the last two actions without liaison with the relevant local authority however moving to seek an ASBO requires liaison with the local authority and the police before representation to the court as they may involve the Procurator Fiscal, the Reporter to the Children's Panel or both.

The Local Authority and Police have the power to enforce the following actions which may benefit the Association in particular circumstances:

- Closure of Premises Orders
- Dispersal of Groups
- Fixed Penalty Notices for excessive noise
- Seizure of noise making equipment
- Fixed Penalty Notices for Litter, Fly tipping and removal of graffiti notices
- Parenting Notices
- Vehicles Nuisance Powers

12. Anti-Social Behaviour Orders (ASBOs)

Anti-Social Behaviour Orders, including interim ASBOs are used to prevent a person from carrying out the anti-social behaviour listed . ASBOs are used to provide necessary protection of various people including neighbours, the Association’s staff and the wider community from the anti-social behaviour listed. The action is raised in the Sheriff Court and is a civil action. Liaison would take place with the Police, Local Authority, Solicitors and the Procurator Fiscal before the action was raised. If the tenant was to continue with the anti-social behaviour prohibited by the ASBO, breach of the ASBO is a criminal offence and could lead to imprisonment.

13. Short Scottish Secure Tenancy (“SSST”)

A SSST can be used where appropriate to reduce or remove the potential for anti-social behaviour in certain circumstances. If a full ASBO is granted against a tenant the Association has the legal right to transfer that tenant to a SSST. We will provide or ensure the provision of housing support services to enable the SSST to convert back to a full Scottish Secure Tenancy. The SSST gives the Tenant a 6 month tenancy at the end of which the tenancy can be ended and the Tenant evicted after obtaining a court order. At the end of the 6 month period where no further incidents or reports of anti-social have been received the Tenant may be granted a full Scottish Secure Tenancy. A SSST will automatically convert to a Scottish Secure Tenancy after 12 months.

14. Eviction

Whilst eviction is never considered lightly, the Association is prepared, where appropriate, to pursue an action to repossess in cases of anti social behaviour or harassment. Eviction will, therefore, normally only be used as a last resort when other appropriate remedies to stop the anti-social behaviour have been considered or have failed.

15. Interdict

A civil interdict is a Court order prohibiting a person from carrying out a wrongful act such as a breach of contract. The Association may be able to use this remedy to compel a tenant to comply with the conditions of their Tenancy Agreement such as not to cause nuisance to neighbours or others in the locality of the property. An interdict is granted at the discretion of the Sheriff.

16. Specific Implement

Specific implement is a Court order requiring a tenant in breach of their tenancy agreement to perform the positive obligations under the tenancy. The Association as a landlord may apply to the Court for such an order. Failure to comply may lead to a Court imposed sanction.

17. Compulsory Transfer

The Association can apply to the Court for an order to recover possession of a tenancy and move the tenant elsewhere if it can be established that the tenant, or someone living with them, has been guilty of conduct which is a nuisance or annoyance in the vicinity of the house, or has harassed someone living in or visiting the local area. Before the Court can grant an order for recovery of possession for this reason, it must be satisfied that other suitable accommodation will be available for the tenant.

18. Tenant consultation and involvement

The Association has consulted with Tenants and staff when formulating this Policy in accordance with the regulatory and legislative requirements of the Housing (Scotland) Act 2001 and Scottish Social Housing Charter.

An Anti-social Behaviour Focus Group involving Tenants and staff will review the policy and agreed targets for resolution of the anti-social behaviour categories.

We will seek feedback via the following methods:

- monitoring and reporting on cases which are ongoing and not closed
- information provision (Newsletters etc)
- through tenant panels and focus groups
- public meetings
- complaints about our service
- liaison with tenant groups and interested parties made up of local residents
- satisfaction surveys after cases are closed

19. Partnerships

The Association acknowledges that its ability to achieve a successful outcome will be limited if it works in isolation therefore the Association is committed to working with other agencies to ensure successful outcome to issues of anti-social behaviour and harassment.

Castlehill Housing Association will work with Aberdeen City Council, Aberdeenshire Council, The Moray Council and Police Scotland to implement and review local Anti-Social Behaviour Strategies.

Due to variations in approach and funding, services made available to the association and tenants in one area may not be available in a neighbouring local authority area therefore it is important that staff are trained and aware of local services and that the approach to each case considers the services that can be accessed.

The Association will also work with and support the work of voluntary agencies such as Victim Support and Grampian Racial Equality Council. The Association is also a member of the Aberdeenshire Anti-social Behaviour Tasking and Co-ordinating Group.

Guidance has been produced to assist Elected Members in Aberdeenshire to report Anti Social Behaviour. The guidance provides them with the contact details of relevant organisations within Aberdeenshire, including all Registered Social Landlords

20. Data Protection and Information Sharing

The Data Protection Act 1998 regulates the handling of personal data, which has been lawfully obtained. Information can be disclosed legitimately for a number of purposes if the information is required:

- for the prevention, detection or investigation of a crime or suspected crime. (This applies to agencies other than the Police and does not necessarily have to result in police action);
- for the purpose of discharging statutory functions; or
- in connection with legal proceedings or prospective legal proceedings.

If information is disclosed for one of the above purposes, then the individual who is the subject of the information does not need to be advised that this information is being processed.

The Anti-Social Behaviour (Scotland) Act 2004 lays down an explicit requirement for Information Sharing between the Police, Local Authority and Registered Social Landlords. The Association will ensure compliance with the requirements of information sharing by training staff on the Protocols for information sharing in each area and by having a designated officer to implement, train and review the protocol.

21. Confidentiality

Subject to any legal requirements, any information received by the Association will be treated with the utmost of confidence. In any particular case of anti-social behaviour, disclosure of information by the Association to any other party (subject to any legal requirements) will not occur without the permission of the person who provided the information unless required to do so by law. It is recognised, however, that parties involved in cases can often be identified from the nature of the complaints made

As detailed in the Data Protection & Information Sharing section above, information may be shared with other agencies for the purpose of crime prevention, prosecution of offenders and legal proceedings.

22. Equalities implications

The Association aims to treat all customers with respect and professionalism and we will ensure that our service is fair and accessible to all. We will publish information that is easy to read and understand in a range of appropriate languages and formats. Where Tenants

have any particular needs or requirements, we will do all that it can to ensure that its services are tailored to these needs.

This Policy will not be used to discriminate against any individual or household on grounds of race, religion, marital status, disability, age, sexual orientation, gender reassignment, political opinion, pregnancy or maternity. The Association aims to promote equal opportunities and comply with the requirements of the Equality Act 2010.

When considering action in respect of any form of anti-social behaviour, Association staff will satisfy themselves that the complaint has not been motivated maliciously or because of discrimination or stigmatisation against a person because they fall into one of the groups mentioned in the previous paragraph. All action will be legal, proportionate and justified.

23. Training

Staff will receive training on this policy and its operational procedures and on the three Anti-Social Behaviour Strategies belonging to the Local Authorities, Aberdeen City Council, Aberdeenshire Council and Moray Council Staff will also receive training on conflict resolution and personal safety. The knowledge and ability of the Housing Management staff are fundamental to the successful operation of this policy and ongoing training will be carried out.

24. Monitoring, Performance Measurement and Reporting

We will ensure our performance management and reporting systems show how well we are achieving the outcome set out in the Scottish Social Housing Charter (as detailed in Section 2);

Performance under this Policy will be monitored against the following statutory and local performance indicators:-

(a) Statutory Indicators (Scottish Social Housing Charter)

- Percentage of tenants satisfied with the management of the neighbourhood they live in (annual performance indicator)
- Percentage of anti-social behaviour cases reported which were resolved within the agreed targets
- The number of the following actions taken as a result of anti-social behaviour:
 - notices of proceedings issued
 - court actions initiated
 - orders for recovery of possession granted
 - evictions carried out
 - short SSTs granted

(b) Local Indicators

- Number of anti-social behaviour complaints received, by category broken down and by area
- Number and types of intervention actions and number of complaints resolved at this stage
- Number and types of enforcement actions e.g. interdict, specific implement, ASBO and eviction and number of complaints resolved at this stage.
- Number of suspensions from the housing list due to history of anti-social behaviour.
- Household data of people against whom actions are raised including age, disability, gender and race.

The Housing Manager is responsible for such monitoring and reporting to the Housing Services Sub Committee on a quarterly basis. The Housing Services Sub Committee is responsible for monitoring performance against these indicators to ensure the aims of this Policy are being achieved.

25. Complaints Procedure

If a Tenant or customer of the Association feels we failed to correctly apply this Policy, they may submit a complaint under the Association's Complaints Policy.

26. Policy Review

The Director of Housing Services is responsible for ensuring that this Policy is reviewed every 2 years or earlier if legislative, performance or other changes necessitate this. Any necessary amendments will be made following full consultation with Tenants and other service users. The date of the next review is June 2018.