

KINGSRIDGE CLEDDANS HOUSING ASSOCIATION

ANTI-SOCIAL BEHAVIOUR POLICY & NEIGHBOUR DISPUTES



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1. INTRODUCTION

- 1.1 Kingsridge Cleddans Housing Association is committed to helping tenants to maintain the quiet enjoyment of their homes by operating a policy and procedure, which endeavours to prevent situations arising that might lead to neighbour complaints.
- 1.2 It is the Association's aim to deal promptly and effectively with the complaints, which do arise, making full use of the available legal sanctions as necessary.
- 1.3 This policy on neighbour disputes and anti-social behaviour aims to clearly define behaviour which would be categorised as anti-social and in breach of the tenancy agreement and outlines the way in which neighbour complaints and neighbour disputes should be dealt with.

2. AIMS & OBJECTIVES

- 2.1 The aim of the policy is to provide a clear and consistent framework to ensure a quick, effective, and comprehensive approach to neighbour nuisance and anti-social behaviour. We want to achieve the appropriate balance between prevention and enforcement action. We will do this by:
- Recognise that neighbour nuisance and anti-social behaviour is a multi-tenure problem and have a range of mechanisms in place to manage the legal and practical issues associated with this;
 - Use best housing management practice to prevent and resolve anti-social behaviour quickly;
 - Develop and maintain a partnership approach with Police Scotland, Glasgow City Council, and other stakeholders;
 - Provide an accountable and transparent service that meets the needs of all our tenants and community.
- 2.2 To achieve this, the Association will develop joint working with Police Scotland and other statutory and voluntary agencies which might have a legal obligation or some other interest in specific cases or in preventative work. Joint operational protocols have been developed for information sharing with Police Scotland, Glasgow City Council, and the Association.

3 DEFINITION OF ANTI SOCIAL BEHAVIOUR

- 3.1 Anti-social behaviour can be difficult to define as it can mean different things to different things to different people, however there are statutory definitions of what constitutes anti- social behaviour;-
- **Part1 of Schedule 2 to the Housing (Scotland) Act 2001** defines anti-social behaviour as:
“action or course of conduct which causes or is likely to cause alarm, distress, nuisance or annoyance”.

- **Section 143 of the Anti-social Behaviour Act 2004** defines anti-social behaviour as: “acting in a manner which causes or is likely to cause alarm or distress.

or

pursue a course of conduct which causes or is likely to cause alarm or distress to at least one person who is not of the same household”.

- **Kingsridge Cleddans Housing Association Scottish secure tenancy agreement (SST), Section 3, “Respect for Others”** defines:

“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 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 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 the person’s **race, colour or ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief, or other status.**
- use or carry **offensive weapons.**
- Behave in an abusive or violent manner towards any of **our employees, agents or contractors** who have contact with you, those living with you and your visitors concerning any matter arising from your occupancy in terms of this Agreement.”

3.2 In many instances, conflicts between residents arise out of a clash of lifestyles and expectations, which cannot be readily resolved.

3.3 The type of action the Association decide to take will be affected by a range of factors, including, although not exclusively, the frequency and nature of the incident(s), the effect of the incident(s) on the victim and the intentions of the perpetrator.

4 POLICY METHODS

- 4.1 The Key elements of the Neighbour Disputes and Anti-social behaviour policy methods are summarised below:
- 4.2 The Association will provide comprehensive information on conditions of tenancy at the start of tenancy and will adhere to the following:-
- a) All new tenants will be advised what constitutes anti-social behaviour.
 - b) All new tenants will be visited within six weeks of start of tenancy and reminded of their responsibilities to respect their neighbours and not cause undue disturbance or disruption to other residents
 - c) Through effective management and maintenance of our properties reduce the risk of such behaviour occurring.
 - d) Adopting the best housing management policies and procedures to prevent nuisance and anti-social behaviour occurring.
 - e) By building good partnerships with the Police Scotland, Glasgow City Council and any other relevant agencies who could assist.
 - f) By encouraging effective participation to reduce the potential for neighbour disputes and relevant anti-social behaviour
 - g) By adopting a zero tolerance approach to anti-social behaviour affecting Kingsridge Cleddans Housing Association tenants.
 - h) By recognising that neighbour nuisance and anti-social behaviour is a multi-tenure issue and to ensure that appropriate mechanisms are in place to deal with the complex legal and practical issues.
 - i) Recording and responding to all complaints made timeously.
 - j) Encourage residents to resolve their disputes by mutual agreement.
 - k) Encourage group meeting/mediation for tenants in conflict.
 - l) Ensure tenants are given the best advice possible in relation to their complaint.
 - m) Ensure that other relevant agencies such as Police Scotland, Social Work, Environmental Health and Glasgow City Council play a full role in resolving behaviour or taking action, particularly where it is more appropriate for them to do so.
 - n) Where serious problems occur (especially of a criminal nature) the Association will engage Police Scotland in working towards a solution.
 - o) Where this fails the Association will take swift action to try to resolve the problem, involving a structured approach and the use of incremental sanctions. Only pursue court action for eviction as a last resort (where behaviour is categorised as serious and/or persistent).
 - p) Where problems persist (and there is no clear criminal justice solution) the Association will take appropriate enforcement action under its Tenancy Agreement, or by otherwise using any legal means at its disposal, up to and including the use of ASBO's and/or eviction.

5 LEGISLATIVE & REGULATORY FRAMEWORK

- 5.1 This policy has been developed within a framework that ensures compliance with legislation, regulatory advice, and good practice.
- 5.2 The main legislative provisions relevant to this policy are:
- Housing (Scotland) Act 2001
 - Anti-social Behaviour etc. (Scotland) Act 2004
 - Housing (Scotland) Act 2014
 - Equality Act 2010

- Crime & Disorder Act 1998
- Misuse of Drugs Act 1971
- Protection from Harassment Act 1997
- The Scottish Secure Tenancy (SST)
- The short Scottish Secure Tenancy (sSST)

5.3 This policy takes into consideration the Scottish Housing Charter outcomes
Neighbourhood and Community;

➤ **“6: Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes;**

Social landlords, working in partnership with other agencies, help to ensure as far as reasonably possible that:

- *tenants and other customers live in well-maintained neighbourhoods where they feel safe.*

This **outcome** covers a range of actions that social landlords can take on their own and in partnership with others. It covers action to enforce tenancy conditions on estate management and neighbour nuisance, to resolve neighbour disputes, and to arrange or provide tenancy support where this is needed. It also covers the role of landlords in working with others to tackle anti-social behaviour.”

6 EQUAL OPPORTUNITIES

- 6.1 No person will be discriminated against during the implementation of this policy on the grounds of sex, marital status, family circumstances, race, ethnic or national origins, disability, age, religion, political or sexual orientation.
- 6.2 The policy can be made available in a variety of different formats including large print or alternative languages.

7 REPORTING ANTI-SOCIAL BEHAVIOUR

- 7.1 The first responsibility for resolving a neighbour dispute rests with the tenants concerned who will be advised to consider approaching their neighbour(s) and try to resolve the problem in a friendly way.
- 7.2 The Association will provide as much assistance as possible to any tenant experiencing anti-social behaviour. Before investigating a complaint of anti-social behaviour the Association will ensure that tenants have:
- Considered whether their neighbour’s different lifestyle is really unreasonable;
 - Talked to the neighbour;
 - Listened to their neighbour’s point of view;
- 7.3 If the problem persists or tenants are worried about approaching their neighbour directly, then the Association will look to get involved.
- 7.4 Reporting a complaint of anti-social behaviour can be made in writing, by email, phone call or by calling into the office in person. Initial complaints do not have to be in writing although.

complainants may be asked to sign a statement of the complaint confirming the statement to be an accurate record of the complaint. This is especially so for evidential purposes should the complaint warrant serious action which could result in a tenant losing their home.

8 CATEGORISATION OF DISPUTES

8.1 It is useful to categorise complaint to encourage consistency of approach and to clarify to all concerned the likely response of the Association. It should be recognised however that not all cases will be easily categorised.

8.2 Complaints will be categorised into one of the following three categories: -

a) Extreme (Category A)

Complaints of a very serious anti-social nature e.g. drug dealing – reports of this may be channelled through the Police instead of contacting the tenant/resident directly, un-provoked assault and physical assault, racial/other harassment, and serious damage to property, including fire raising Category B behaviour, which is not only persistent, but has not changed despite warnings.

b) Serious (Category B)

Complaints which indicate serious anti-social behaviour, e.g. frequent disturbances, excessive and persistent noise, vandalism/damage to Association property, misuse of drugs, harassment, and verbal abuse

c) Nuisance/Disputes (Category C)

Complaints which clearly breach the tenancy conditions but are of a relatively minor nature e.g. stair cleaning, rubbish dumping, infrequent disturbance, noise complaints, running a business, Behaviour of visitors/children, Basic breaches (i.e.) pet nuisance, boundary disputes, family disputes affecting neighbours.

The above lists are not intended to be exhaustive.

9 POLICE INVOLVEMENT - DRUG DEALING

9.1 Introduction

It is the view of the Association that drug dealing in particular will not be tolerated in its locality and that special initiatives will be in place in order to effectively deal with this issue, including regularly publicising the action which will be taken when drug dealing occurs.

9.2 Dealing from the Property

Any situation whereby a tenant, household member or visitor, who was convicted of being concerned in the supply of drugs from the property, would result in the Association seeking repossession of the property.

9.3 Dealing in the Locality

(DEFINITION: "Locality" to be treated as the whole of the G15 postcode, i.e. Drumchapel/Blairdardie.

- Any situation whereby a tenant or their partner (whether officially resident or not) was convicted of being concerned in the supply of drugs in the locality (even if the other partner claimed to have no knowledge of the situation), would result in the Association seeking repossession of the property.
- Any situation whereby a household member (whether officially resident or not) or visitor was convicted of being concerned in the supply of drugs in the locality, would result in a First and Final Warning letter being issued to the tenant. The Association would also apply for an ASBO in respect of the convicted person. Should that same person be convicted of being concerned in the supply of drugs in the locality for a second time, then this would result in the Association seeking repossession of the property.
- Any other incidents involving drugs would be considered individually, within general anti-social behaviour criteria, e.g. no conviction for dealing, but some evidence that there may be dealing taking place.

10 HARASSMENT

10.1 Introduction

Harassment is arguably the most serious of all neighbour and neighbourhood nuisance and is given a separate section within the policy in order to ensure that residents are left in no doubt as to the seriousness in which harassment is viewed by the Association and that staff are made aware of the particular procedures to be followed when a case of harassment occurs. This section will deal with harassment in general.

10.2 Definition of Harassment

Protection from Harassment Act 1997 states:

- “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 a reasonable person that it would amount to harassment of that person.”

10.2.1 Behaviour that can Constitute Harassment;

- Bullying
- Unwelcome attention
- Subjecting someone to insults or ridicule because of their disability, HIV status, race, sex, sexuality, etc.
- Displays of material such as pornographic pictures, offensive literature, etc.
- Insensitive jokes or pranks
- Physical violence
- Verbal abuse
- Incitement by means such as petitions, leaflets etc. Damage to property such as graffiti, bricks through windows, etc.
- Threat to life such as lighted materials through the letter box
- Lewd, suggestive, or over familiar behaviour
- Deliberate interference with another person’s peace, comfort, and safety

Although harassment comes in many forms, particular attention is drawn to the definitions contained within the aforementioned Equal Opportunities Policy and are as follows:

10.2.2 **Harassment Grounds**

- Race
- Ethnic Origin
- Nationality
- Religion
- Cultural Background
- Gender
- Political or Sexual Orientation
- Family Circumstances
- Marital Status
- Disability
- Illness
- Age
- Ex-offenders

10.2.3 The Association will pay due regard to the above and to any other situations which it considers to constitute harassment.

10.3 **Definition of Racial Harassment**

Under the Equality Act 2010 (EqA 2010) people are legally protected against discrimination due to their race. This includes their skin colour, nationality, or ethnic origins.

It covers employment, education, housing, advertising, the provision of goods and services, and any activity carried out by a public authority such as the police, prisons, the NHS, local authorities, and government departments.

Harassment is where someone behaves in such a way that makes a person feel humiliated, offended, or degraded because of their race.

11 **Dealing with Harassment**

The Association will attempt to prevent harassment occurring in the first place by taking opportunities to promote the unacceptability of harassment, via policies, newsletters, handbooks, training, allocations and the lettings process.

The Association will also assist victims of harassment in accessing counselling and support services.

12 **PROCEDURE AND RESPONSIBILITY**

12.1 The Association's procedure for dealing with neighbour disputes is outlined in this Policy.

- 12.2 The Housing Officer has responsibility for accepting, actioning, and monitoring cases in accordance with this Policy. Final Warning prior to issue of NOP will be approved by Director. Approval for instigating court proceedings will be following approval by the Director and the Management Committee.
- 12.3 Any eviction or reduction of SST to a Short SST will be approved by the Director and the Management Committee of the Association.

13 THE ROLES OF THE PARTIES INVOLVED IN COMPLAINTS

13.1 Tenants

The Association believes that, in general, the most effective way in achieving a favourable outcome at any stage in a neighbour complaint is for the complainant to become directly involved in the case and this will therefore be encouraged, but with due regard to personal safety issues.

13.2 Non-Association Tenants and Others

- 13.2.1 If a complaint is received against an Association tenant from persons other than another Association tenant, e.g. tenant of another landlord, visitor, sharing owner, owner, shopkeeper, and then such complaints will still be dealt with under the terms of this policy.
- 13.2.2 If a complaint is received from an Association tenant against, an owner or sharing owner, or the tenant of another landlord, then the Association will become directly involved where appropriate and provide advice and assistance, where it cannot do so, a tenant may require to raise their own interdict against an owner who is, say, harassing them, but the Association can liaise with the other Landlord where the case involves a non-Association tenant. The Association will, however, take direct action wherever possible.

13.3 THE ASSOCIATION

- 13.3.1 In recognition of policy objectives, the Association will respond in a positive manner to all complaints received.
- 13.3.2 On receipt of a complaint, the Association will determine if the complaint is valid and correctly categorise the complaint A, B or C.
- 13.3.3 If the complaint concerns a neighbour, the complainant will be encouraged to approach their neighbour in the first instance in an attempt to rectify the situation, unless it is obvious that they may endanger themselves by doing so.
- 13.3.4 Where action is also required from the complainant and/or other tenants in order to corroborate or progress the complaint, then this will be made clear to the complainant at the outset, otherwise a positive resolution to the case may not be possible by Association acting alone and an early withdrawal will then take place.

13.3.5 The complainant will be kept informed of progress except where there are legal restrictions.

13.4 **OTHER AGENCIES**

13.5 **MEDIATION**

The Association may also consider the use of external agencies such as Glasgow City Council who could provide a mediation service using their trained mediators where appropriate.

Mediation will only be effective where the disputing parties:

- voluntarily choose it
- are willing to be reasonable
- are willing for the other party to be contacted.
- are able to communicate.

13.5.1 Where direct agency contact by the tenant is appropriate, the tenant will be requested to inform the Association of outcomes, for monitoring purposes.

13.5.2 Glasgow City Council Social Work Service, particularly where elderly, children or vulnerable adults are concerned.

13.5.3 Homeless and Support Services Support needs could range from drug/alcohol related problems/ family support needs /welfare services/ money advice/parenting skills, etc.

13.5.4 Victim support service - People who suffer anti-social behaviour can feel vulnerable from the moment they report an incident. Often, they need an independent person to talk to for reassurance and emotional support. It is therefore essential that in appropriate circumstances, officers should advise victims of anti-social behaviour of "Victim Support".

14 **SUPPORT TO TENANTS**

14.1 **Types of Support**

The Association can support tenants in many ways in order to maximise enjoyment of their homes:-

- a) Advice on options and agree course for action (which includes advice on legal options such as interdicts, non-harassment orders, ASBO's, ABC's etc.).
- b) Advice on action the police can take and refer to the police with victim's consent.
- c) Keep victims informed of progress of action taken.
- d) Treat damage by perpetrators as emergency repairs, where appropriate.
- e) Remove racist or obscene graffiti within 24 hours.
- g) Improve home security.
- h) Ensure estate/scheme security is adequate – i.e. lighting, fencing, entry phones, etc.
- i) Install surveillance cameras in communal areas.

- j) Where there is a real risk of violence, arrange a temporary move or provide permanent rehousing. As our housing stock is in the same location re-housing by the Association may not be the solution.
- k) The Association will endeavour to supply as much of the above support as it is able to, either individually or in partnership with other agencies.

15 REMEDIES – LEGAL AND NON-LEGAL

15.1 In general, the approach favoured by the Association is to resolve the problem as quickly and harmoniously as possible. Although in most, if not all, Category A Disputes need to be dealt with legally and/or by the Police. Other disputes should initially be dealt with using other remedies than simply legal ones. These remedies and techniques may be informal or formal, but Housing Management staff should explore them prior to instructing legal proceedings.

15.2 Mediation

In appropriate cases the Association may offer Mediation service. The Mediation process is not always suitable for disputes; however this will be explored where appropriate.

15.3 Notice of Proceedings & Possession

- a) Should a tenant be guilty of committing anti-social behaviour or other forms of neighbour nuisance, it is likely that they are in breach of their tenancy agreement which is in accordance with the Housing (Scotland) Act 2001. If this is the case a Notice of Proceedings may be served to alert the tenant and the “qualifying occupiers” within the household that the Association may instruct court proceedings against their tenancy.
- b) Further breaches of tenancy may result in the Association instructing a solicitor to proceed to the Sheriff Court to request action against the tenancy in favour of the Association.
- c) Schedule 2, Part 1 of the Housing (Scotland) Act 2001 sets out the grounds in which a landlord has the right to take action to recover possession. In the case of anti-social behaviour the specific grounds could be:
 - **Ground 7(1)** The tenant (or any one of joint tenants), a person residing or lodging in the house with, or any subtenant of, the tenant, or a person visiting the house has—
 - (a) acted in an anti-social manner in relation to a person residing in, visiting or otherwise engaged in lawful activity in the locality, or
 - (b) pursued a course of conduct amounting to harassment of such a person, or a course of conduct which is otherwise anti-social conduct in relation to such a person, and it is not reasonable in all the circumstances that the landlord should be required to make other accommodation available to the tenant.

- **Ground 7(2)** In sub-paragraph (1)—
 - “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,
 - “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions,
 - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).

- **Ground 8(1)** The tenant (or any one of joint tenants) or any person residing or lodging with, or any subtenant of, the tenant—
 - (a) has been guilty of conduct in or in the vicinity of the house, which is a nuisance or annoyance, or

 - (b) has pursued a course of conduct amounting to harassment of a person residing in, visiting, or otherwise engaged in lawful activity in the locality, and in the opinion of the landlord it is appropriate in the circumstances to require the tenant to move to other accommodation.

- **Ground 8(2)** In sub-paragraph (1), “conduct” and “harassment” have the same meanings as in paragraph 7.
 - d) In all cases a Sheriff may only grant a decree for eviction if it would be reasonable to do so. The main criteria for any test of reasonableness are:
 - The extent to which the conduct is or was a consequence of acts or omissions of persons other than the tenant member.
 - The effect that the conduct had, is having and is likely to have on any person other than the tenant member; and
 - Any action taken by the landlord, before raising proceedings, with a view to securing the cessation of that conduct.

15.4 Interdict/ Interim Interdict

- a) An interdict is a legal remedy to restrain wrongful behaviour, which is either occurring or is likely to occur. The behaviour could include a breach of tenancy agreement, threat of violence or a pattern of ongoing nuisance. An application for an Interdict or Interim Interdict can be made by either the Association or the tenant.

- b) Where an interdict is granted and the behaviour has not improved, then action can be taken for Breach of Interdict. For a “breach of interdict” the proof needed is comparable to that of a criminal prosecution, i.e. beyond all reasonable doubt and the penalty is either a fine or imprisonment.

- c) Examples of typical cases where Interdict/Interim Interdict have been granted are: -
 - i) Playing of loud music
 - ii) Swearing/shouting

- iii) Noise
- iv) Harassment of neighbours
- v) Verbal abuse/threats to staff
- vi) Wilful fire damage
- vii) Flooding of neighbours
- viii) Damage to property

d) The main advantages of using Interim/Interdict are: -

- i) Interim interdicts do not require witnesses to attend court.
- ii) Speed of action sends a message to both parties that steps are being taken.
- iii) Immediate protection
- iv) Prevents behaviour of offender without need to evict.

15.5 Specific Implement

- a) The remedy of specific implement is an order of the court requiring a person to perform his or her legal obligations for example, obligations under a contract. It can be used by social landlords to require a tenant to take positive action.
- b) An action for a specific implement is more usual where a tenant fails to maintain their own garden, dumping rubbish and other behaviour affecting the amenity of communal areas such as common closes and drying greens.

16 Anti-social Behaviour Order (ASBO)

- 16.1 Anti-social behaviour order (ASBO) was first introduced via the Crime and Disorder Act 1998. The legislation was then updated by the Anti-Social Behaviour etc (Scotland) Act 2004. This Act introduced an extension of powers to use an ASBO from the age of 12 years old. An ASBO is part of a range of available responses to anti-social behaviour and is not intended to replace existing measures nor is it a substitute for criminal proceedings.
- 16.2 The ASBO is an order, which would be made by a Sheriff Court on application by a local authority or Registered Social Landlord and seeks to restrain individuals from engaging in unreasonable conduct, which adversely affects members of the community. It is an order which can be made against any person aged 12 or over in any housing tenure, which prohibits, indefinitely or for a period, the offender from doing anything prescribed in the order.
- 16.3 **ASBO FOR 12-15 YEAR OLDS**
Use of ASBOs for 12-15 year olds, should complement the children's hearings system which should continue to be the primary forum for dealing with behaviour beyond parental control or offending behaviour by under 16s. A wide range of interventions are available to support young people and address troublesome behaviour before an application for an ASBO is considered. In most, if not all, cases when an ASBO is being considered we expect that a young person will already be well known to the hearings system. There must be

flexibility to allow for use of an ASBO before the full range of options has been exhausted where there is a pressing need to protect the community - which will be a key concern of local agencies. The views of the Principal Reporter will be particularly important in such a case.

- 16.4 An ASBO is intended to tackle both behaviour that is likely to escalate to a criminal level, and patterns of behaviour which cumulatively cause considerable alarm or distress to the community, but which do not consist of single acts which are sufficiently serious or sufficiently clear-cut to be prosecuted individually as criminal offences.
- 16.5 Examples of Anti-social Behaviour for which an ASBO may be sought include:
- a) Individuals who intimidate neighbours and others through threats or violence.
 - b) Persistent unruly behaviour by a small group of individuals on an estate who perhaps dominate others by intimidation through violence or unpleasant actions and use minor damage to property and fear of retaliation as a means of intimidating other people.
 - c) Families whose anti-social behaviour when challenged leads to verbal abuse, vandalism, threats and graffiti.
 - d) Persistent racial harassment or homophobic behaviour.
 - e) Persistent anti-social behaviour as a result of drugs or alcohol misuse.
- 16.6 The order is not a sentence for a crime but a civil order to protect a community from future conduct. It is therefore in the hands of the Sheriff to determine its duration.
- 16.7 Breach of the Order is a criminal offence and the maximum penalty on indictment for the offence would be 5 years imprisonment, and/or an unlimited fine. The proof required for this purpose is that of a criminal prosecution i.e. corroboration is required and proof beyond reasonable doubt to secure conviction.
- 16.8 Section 44 of the Criminal Justice (Scotland) Act 2003 amended the Crime and Disorder Act to introduce interim ASBO's. Interim ASBO's 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.
- 16.9 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 any appeal.

16.10 **When to apply for an ASBO**

Preventative measures such as negotiations, mediations, warnings and enforcement of tenancy agreements will normally be exhausted before considering applying for an ASBO.

16.11 **Acceptable Behaviour Contracts/Agreements**

- a) An Acceptable Behaviour Contract (ABC) sometimes known as an Acceptable Behaviour Agreement (ABA) is an early intervention designed to get an individual involved in unacceptable or anti-social behaviour to acknowledge this behaviour and its impact on other people, with the aim of stopping it.
- b) An ABC is a written agreement between a person who has been involved in anti-social behaviour and one or more agencies that are involved in tackling such behaviour. The contract is agreed and signed at a meeting with the individual and the lead agencies.
- c) The contract specifies a list of anti-social acts in which the person has been involved in and which they agree not to continue. The contract also states the consequences should it be breached. Signing the contract is voluntary.
- d) It can also be used with parents who do not take action to prevent their children acting anti socially. It is a voluntary written agreement between the perpetrators and in the case of a young person his or her parent or guardian, and the Association and possibly other agencies. It places responsibility on the individual and his or her family to work towards an agreement, rather than having one imposed. ABC can be used on adults and could be used in cases of excessive loud music, noisy parties etc.
- e) Where an individual refuses to enter into an ABC and they continue in what is considered anti-social behaviour, the Association in partnership with Police Scotland may issue an Unacceptable Behaviour Notice (UBN). The UBN will detail the behaviour that is deemed unacceptable. This gives a clear indication to the individual that if their behaviour is not rectified, they may face legal action.
- f) In cases where behaviour is serious, persistent, or criminal an ASBO or other legal remedies may be more effective.

17 **SHORT SECURE TENANCIES**

- 17.1 The Housing (Scotland) Act 2001 introduced provisions for landlords to grant Short Scottish Secure Tenancies (SSST's) and as amended by the Housing (Scotland) Act 2014. If a tenant has previously been evicted for

anti-social behaviour in the last 3 years, or the tenant or a member of their household are subject to an ASBO, then a Short SST can be used.

- 17.2 As well as new tenancies, existing tenancies can be converted from a Scottish secure tenancy (SST) to a short Scottish secure tenancy (SSST).
- 17.3 The Housing (Scotland) Act 2001, Section 34(7) requires landlords (where the tenant is on a short SST because of previous anti-social behaviour or an ASBO) to provide or ensure the provision of such housing support services as it considers appropriate to enable the tenancy to convert to a Scottish Secure Tenancy. (SST).
- 17.4 The Housing (Scotland) Act 2001, Section 35 allows landlords to convert a SST to a short SST where a tenant or someone residing with the tenant is subject to an ASBO or where tenants have previously been evicted for anti-social behaviour anywhere in the UK within the past 3 years.

18 NOISE DISPUTE

18.1 Description

- a) Under Section 80 of the Environmental Protection Act 1990 Glasgow City Council must take all reasonable steps to investigate complaints about noise. Section 82 of this act gives Glasgow City Council powers to deal with people who allow noise above a certain level to emanate from their premises. The appropriate officials to deal with noise complaints are environmental Health Officers, who will visit premises wherever the noise is excessive, and if so, take action by issuing a Noise Abatement Notice. Failure to comply with a Noise Abatement Notice is dealt with by the Criminal courts.
- b) The Anti-Social Behaviour etc., (Scotland) Act 2004 also gives Glasgow City Council optional powers to deal with unreasonable noise within housing at the time of occurrence.
- c) Noise from neighbours is a common source of disturbance. The most frequent complaints are about barking dogs, loud music or TV, shouting, banging doors and DIY activities. The way tenants should approach this is to consider, in the first instance to approach their neighbour and explain politely that they are being troubled by noise. If they think the neighbour might react angrily to a complaint tenants should contact the Association who will write to the tenant to inform them to stop the noise nuisance
- d) Noise disputes are often resolved informally however, if the problem persists the tenant should be advised to keep a diary recording dates, times and cause of the noise and the effect it is having on them.

- e) The Association and the tenant may also contact the Environmental Health Service. Legal action should be the last resort.

19 DIFFERENT TENURES

19.1 Complaints may be forthcoming from tenants and/or owners about one another. These complaints will be dealt with in the same way regardless of tenure, however the legal action which is relevant to owners is more limited. The following though, do apply –

- a) An application for ASBO
- b) Interdict
- c) Act for Specific Implement
- d) Notification to a lender of breach of legal obligations

19.2 It should be borne in mind that Community Safety Glasgow can also intervene and manage cases specifically involving owners or private tenants, at no cost to the Association.

20 COMPLAINTS

Complaints against neighbours will be dealt with under this Neighbour Disputes & anti-Social Behaviour Policy. Complaints about the way neighbour disputes have been dealt with will be considered under the Complaints Procedure.

21 OTHER ISSUES

21.1 Staff Safety

Staff security and safety must be considered at all times with regard to the interviewing of complainants and offenders particularly with regard to complaints in Categories A and B. Accompanied visits will be carried out in these instances. Staff will also carry mobile phones at all times.

21.2 Housing Allocations and Anti-Social Behaviour

In particular circumstances the Association will have discretion to suspend an internal transfer, housing list or nomination applicant for rehousing where there is clear and recent evidence of anti- social behaviour.

21.3 Special Needs

- a) The Association will assist all residents who are involved in complaints of anti-social behaviour (victims and perpetrators) to obtain or receive relevant support from other agencies (e.g. Social Work, SAMH, drug and alcohol abuse support networks).
- b) It should be noted however, that any perpetrator of anti- social behaviour with support needs as described above will not be precluded from court

action being taken against them, particularly where support has been rejected or withdrawn.

21.4 Racial Harassment

Where complaints of anti-social behaviour involve an element of racial abuse or harassment the policy and procedures outlined in the Association's Racial Harassment Policy should be strictly adhered to.

21.5 Information

Leaflets on Neighbour Complaints and Good Neighbour Guide have been developed and are available from the Association's offices. All neighbour complaints will be recorded on the day they are made on the SDM Housing Management system to ensure accurate and adequate recording of incidents.

22 ANTI SOCIAL BEHAVIOUR COMPLAINTS AND COMMITTEE MEMBERS

22.1 If an anti-social complaint is made by or about a Committee member or a member of their immediate family it will be treated as any other complaint with the exception noted below: -

- a) Any Committee members directly involved in such a complaint must not be in attendance at a Committee meeting during discussion of a specific case or discussion of a policy matter which has a direct bearing on the Association's response to the complaint.
- b) Management Committee members who have an indirect involvement in a specific case e.g. if they are resident in a close where a dispute or incident occurred will consider their attendance during any relevant discussion at a Committee Meeting.
- c) If upon investigation it is revealed that a committee member is behaving in an anti-social manner they will be removed from Committee.

23 REPORTING AND MONITORING AND REVIEWING NEIGHBOUR COMPLAINTS & ANTI-SOCIAL BEHAVIOUR

23.1 The Housing Officer will update the SDM Housing Management system when neighbour disputes/anti-social behaviour occur and detailed updates at the 1-2-1 meetings.

23.2 Management Committee will monitor on a quarterly basis all complaints received. The Management Committee will receive a report from the Director which will list the total number of complaints according to the categories described in this policy, with further analysis on response, type of complaint, location etc.

23.3 **PERFORMANCE MONITORING**

The Association will monitor performance in relation to anti-social complaints in respect of the following.

- Number of anti-social behaviour complaints received by category and response time against timescales.
- Number of verbal warning issued.
- Number of written warning issued.
- Number of final warning issued.
- Number of NPRP's issued.
- Number of actions which resulted in court action.
- Number of decrees granted.
- Number of ASBO's applied for
- Number of ASBO's granted.
- Number of cases referred to mediation.

Summary reports will be presented to the Management Committee monthly and an annual report prepared and presented at the April Management Committee meeting.

- 23.4 The Policy will be reviewed every 3 years by the Management Committee or earlier in the event of any legislative amendments.