



ANTI-SOCIAL BEHAVIOUR POLICY

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1. Introduction

- 1.1 This policy sets out how Orkney Housing Association manages its tenancies and neighbourhoods to minimise the impact and occurrence of Anti-Social Behaviour (ASB).
- 1.2 It is the Association's aim to deal promptly and effectively with complaints which do arise. We recognise the detrimental impact ASB can have on both individuals and the community at large. The Association is committed to ensuring that its tenants can enjoy quiet and peaceful occupation of their homes. Tenants also have a responsibility for making sure they keep to the terms of their tenancy agreement, to treat others with respect and to be a good neighbour.
- 1.3 The Association believes that the effective management of ASB is vital to our success in maintaining strong, effective and attractive communities. This also assists with two of our three Corporate Outcomes, Great Customer Service and making a Great Contribution to Community and Society.
- 1.4 Where the ASB is alleged to have been committed by someone who is not a tenant, household member, or a visitor to one of our tenancies, we are generally unable to take action. In these instances, we will advise the complainant to contact the relevant agency such as Police Scotland or Orkney Islands Council. Where emergency situations occur, complainants should dial 999.
- 1.5 In the event that an incident of ASB is subject to an ongoing police enquiry or criminal investigation we will only take action, where appropriate, on completion of such investigations.

2. Legislative and Regulatory Context

- 2.1 This Policy, and accompanying procedures, will be informed and takes account of all relevant Legislation and Regulatory Standards and Guidance.
- 2.2 The Scottish Housing Regulator has seven standards of Governance and Financial Management for RSLs. This policy complies with the following:
 - **Standard 1:** The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users
 - **Standard 2:** The RSL is open and accountable for what it does. It understands and takes account of the needs and priorities of its tenants,

service users and stakeholders. Its primary focus is the sustainable achievement of these priorities.

2.3 Whilst meeting with all relevant Legislation and Regulatory Standards and Guidance, this ASB policy meets with the following legislation and good practice requirements:

- The Scottish Secure Tenancy (SST)
- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2014
- Antisocial Behaviour etc (Scotland) Act 2004
- Misuse of Drugs Act 1971
- Race Relations Act 1978 & 2000 (Amendment)
- Data Protection Act and General Data Protection Regulations 2018
- Human Rights Act 1998
- Equalities Act 2010

2.4 This policy seeks to achieve the following regulatory requirement contained within the Scottish Social Housing Charter:

Charter Outcome 6 – Estate management, ASB neighbour nuisance and tenancy disputes.

“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.

3. Objectives

3.1 Orkney Housing Association aims to:

- Provide an environment where everyone (including diverse groups, children and families) accepts their role in recognising, responding to and addressing ASB when it occurs;
- Respond promptly and appropriately to neighbour complaints and incidents of ASB within locally agreed time limits appropriate for different types of ASB complaints;
- Take effective action to assist and support those who are affected by or are the victims of ASB, keeping them informed of developments or progress;
- Take a non-judgemental approach at the initial stages of an investigation;
- Deal promptly, effectively, consistently, confidentially and robustly with the perpetrators of ASB by using appropriate enforcement remedies where necessary;
- Provide support to victims, and where appropriate perpetrators, to assist with positively changing behaviours and sustaining tenancies;
- Work in partnership with relevant local agencies to reduce incidents of ASB. In particular, maximising prevention and intervention along with any relevant engagement and communication activities.

4. Definition

- 4.1 ASB can be difficult to define and can mean different things to different people. It can involve incidents ranging from minor nuisance, noise and neighbour disputes through to serious violence, crime and intimidation. Behaviour which may be upsetting and cause offence to one individual may not be a problem to someone else.
- 4.2 The Antisocial Behaviour etc (Scotland) Act 2004 provides that a person engages in antisocial behaviour if they:
“act in a manner that causes or is likely to cause alarm or distress, or pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household as them.”

A ‘course of conduct’ includes speech and is defined as involving conduct on two or more occasions.

5. Complaint Handling

- 5.1 All reports of ASB will be taken seriously and individuals will be provided with the opportunity to discuss their concerns with the Association
- 5.2 It is not necessary for complaints of ASB to be made in writing. Reports of ASB can be made to the Association in person, by phone, by email or by letter. We will ensure that all reports are recorded accurately on our integrated housing management system.
- 5.3 The Association will seek corroborated evidence in order to take action against those acting anti-socially. Complainants may be requested to record details of what has been seen or heard. In some serious cases, complainants may be requested to give evidence in Court.
- 5.4 The Association acknowledges that anonymous complaints are sometimes an indication of a fear of reprisal or intimidation. All anonymous reports of ASB received will be recorded and fully investigated based on the information provided. In some cases, due to the nature of these complaints, it may not be possible for the Association to take enforcement action.
- 5.5 If a tenant, service user or customer of the Association feels we have failed to correctly apply this Policy, they may submit a complaint using the complaints handling procedure.

6. Supporting Victims of Anti-Social Behaviour

- 6.1 The Association has a victim led approach to dealing with complaints of ASB and will look to offer support in the following areas:
- Providing a number of methods to report incidents of ASB.
 - Responding to the complainants promptly and suggesting possible solutions.

- Agreeing a plan of action with the victim as soon as reasonably practicable and reviewing this with them throughout the duration of the case.
- Keeping the victim informed of any material changes throughout the course of the investigation. Feedback at this point may include advice on the limitations of the Associations powers to deal with specific incidents or circumstances and referrals to the most appropriate alternate agency.
- Identifying and referring victims to other agencies which may be able to assist them with support.
- If appropriate, providing professional witnesses to assist in the gathering of evidence.

7. Categorisation of Neighbour Disputes/Anti-Social Behaviour

7.1 ASB is categorised as being either extreme, serious or a nuisance/breach of tenancy. The nature of these incidences can mean that a complaint may move between categories if factors in the dispute change, or the dispute escalates. ASB will be categorised as follows:

➤ **Category A – Extreme Behaviour**

This category covers complaints which are of a criminal nature and will be referred to Police Scotland and will, by definition, take a longer period to finalise. Examples include but are not limited to:

- Drug dealing
- Assault
- Harassment
- Racial harassment

➤ **Category B – Serious Anti-Social Behaviour**

This category covers complaints which are considered to be of a serious nature. Examples include but are not limited to:

- Threatening or abusive behaviour
- Frequent serious disturbance
- Vandalism to Association property

➤ **Category C – Nuisance Cases/Other Breaches of Tenancy**

This category includes complaints which clearly breach the tenancy conditions but are of a relatively minor nature. Examples include but are not limited to:

- Noise
- Neighbours disputes
- Dog/pet control
- Behaviour of visitors or children
- Infrequent disturbance

7.2 Regardless of the ultimate categorisation of disputes, all reports of ASB made to us will be subject to an initial investigation to determine how they should be dealt with and this will define the group they are placed in.

8. Timescales for Dealing with Neighbour Disputes/Anti-Social Behaviour

- 8.1 On being made aware of anti-social behaviour we will, in all cases:
- acknowledge the complaint within one working day;
 - where necessary, aim to interview both the complainer and the alleged perpetrator within 5 working days;
 - aim to report back to the complainer and resolve the case within a total of 10 working days.
- 8.2 It must be recognised that some cases will require a longer timescale to reach a resolution and an extension to the above timescales will be required. Any extension to the timescales as at 8.1 above will be:
- approved by the Head of Housing & Customer Services and a review of any such case undertaken on a weekly basis;
 - reported back to the complainant on either a weekly, 2 weekly or 4 weekly cycle as agreed with the complainant.

9. Approach and Method

9.1 Prevention

The Association will pursue initiatives designed to avert potential problems and to make it harder to commit ASB. Properties, tenancies and estates will be proactively managed by Housing Officers. Any incidents of ASB will be identified as early as possible and addressed in a timely and effective manner. To assist with this the Association will carry out the following:

- Follow our Estate Management Policy.
- Ensure that the allocation of void properties assists in establishing sustainable communities.
- Making new tenants aware of their right to live peacefully, explaining at tenancy sign up our policy on ASB and the potential consequences of failing to conduct themselves in an appropriate manner.
- Carry out Settling In Visits to all new tenants within six weeks to discuss and deal with any difficulties.

9.2 Intervention

The Association will take appropriate and prompt action where ASB 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 and investigating complaints efficiently and effectively, in confidence and within stated timescales.
- Appropriate use of warnings.
- Working in partnership with partners such as Orkney Islands Council (OIC) in the use of noise monitoring equipment.
- Joint visits between Association staff and partner agency staff such as OIC and Police Scotland.
- Offering tenancy support to both victims and perpetrators.

- Acceptable Behaviour Contracts (ABCs) - written agreements between an individual involved in ASB and relevant partner agencies to prevent ASB. It sets out the behaviour the person has agreed to stop.
- Management transfers - can be considered, in line with our Rented Allocations Policy, where moving a Tenant to another property might resolve a problem.

9.3 Enforcement

Where it has not been possible to prevent or stop ASB 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:

- **Anti Social Behaviour Orders (ASBOs):** ASBOs are preventative Court orders intended to protect people affected by ASB from further acts or conduct that would cause them alarm or distress either indefinitely or for a specified period. Breach of an ASBO is a criminal offence
- **Interim ASBOs:** Interim ASBOs are available to provide immediate protection from ASB and can be granted at an initial court hearing before the hearing for a full ASBO. The Association must still provide evidence of the ASB and the sheriff must still be satisfied that the measure is 'necessary'.
- **Interdicts:** An interdict is another type of civil court order that directs a person not to do something or to stay away from a specific person or place. They can apply to any type of behaviour, not just ASB. Both residents and the Association alike have the power to apply to the court for an interdict, but these are only granted at the discretion of the Sheriff.
- **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.
- **Short Scottish Secure Tenancy (SSST):** A SSST can be used where appropriate to reduce or remove the potential for ASB in certain circumstances. Under current provisions within the Housing (Scotland) Act 2001, if a full ASBO is granted against a tenant, anyone residing or lodging at the property, any subtenant or visitor to the property, the Association has the legal right to transfer that tenant to a SSST.

The Association will provide or ensure the provision of housing support services to enable the SSST to convert back to a full Scottish Secure Tenancy. The Association is also now able to offer an initial SSST to a new tenant (or to convert the existing tenancy of an existing tenant to a SSST) where there has been antisocial behaviour within the previous 3

years. This is to allow support services to have an effect and prevent the need for eviction action at a later stage. A SSST given under any of the antisocial grounds must be for a minimum term of 12 months

- **Eviction:** Eviction may be an available option, but the Association aims to avoid eviction and homelessness by intervening where necessary to achieve a positive outcome. 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.

The Association will use the streamlined eviction process for ASB and Criminal Behaviour to help speed up eviction in cases where:

- There has been a conviction in a criminal court involving serious antisocial or criminal behaviour has already been proven in Court.
- the behaviour which led to the conviction was committed in the house or in the locality of the tenant's house; and
- The Association considers that eviction action is appropriate to protect neighbours and other people living or working in or near the property from harm.

The Association will also make appropriate use of the mandatory ground for eviction based on criminal behaviour, where:

- A Tenant, joint Tenant or someone living in or visiting the property has been convicted of either using or allowing the house to be used for immoral or illegal purposes or convicted of an offence punishable by imprisonment in, or in the locality of the house;
- We have served a valid notice of proceedings on the tenant within 12 months of the conviction;
- Seeking automatic eviction is justifiable and proportionate.

10. Tenant Consultation

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

10.2 Feedback will be sought via the following methods:

- Monitoring and reporting on cases which are ongoing and not closed
- Information provision (Newsletters, Facebook posts etc.)
- Residents Panel
- Complaints about our service
- Satisfaction surveys after cases are closed

11. Equalities Implications

11.1 The Association aims to treat all customers with respect and professionalism and will ensure that its 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 we can to ensure that our services are tailored to these needs.

- 11.2 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 and our Equality and Diversity Policy.
- 11.3 When considering action in respect of any form of ASB, 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.

12. Performance Measurement and Reporting

- 12.1 The Association will ensure its performance management and reporting systems show how well it is achieving the outcome set out in the Scottish Social Housing Charter (as detailed at 2.4).
- 12.2 We will report quarterly to the Performance and Resources Committee on the percentage of cases resolved within the timescales detailed at 8.1.
- 12.3 We will report annually to Management Committee through the Annual Return on the Charter on the total numbers of:
- ASB cases reported within the reporting year;
 - Total number of cases resolved within the reporting year; and
 - Total number of cases resolved with the timescales as detailed at 8.1 above.
- 12.4 This Policy will be reviewed every 5 years, or sooner as required by best practice or changes in legislation.