



RESPONDING TO NEIGHBOUR NUISANCE AND ANTI-SOCIAL BEHAVIOUR POLICY

Policy Classification: Management

Status: Approved

Policy Lead:	Director of Housing & Care Services
Date Approved:	January 2015
Last Review Date:	January 2015
Review Due Date:	January 2018
Review Period:	3 years unless required earlier due to changes in the law, regulation, best practice or requirement of the Association

REFERENCE PAGE

Document Title:	
Aim:	
Objective:	Choose an item.
Scope of Policy:	Choose an item.
Nominated Officer:	
Approval Source:	Choose an item.
Legal and Regulatory References:	
Procedural References:	
Consultation Completed:	Choose an item.
Risk Implications:	Choose an item.
Equalities Assessment:	All Eildon policies and key documents are developed with the clear objective of ensuring that they do not discriminate against any person and have negative impacts for equality groups. We will always welcome comments on the impact of a policy on particular groups of people in respect of, but not limited to, age, disability, gender reassignment, race, religion, sex or sexual orientation, being pregnant or on maternity leave and children's rights and wellbeing.
Accessibility:	Accessible electronically/online and in print. All documents can be translated and made available in audio, braille and large print versions upon request.

This Policy is in line with Charter Outcomes: 1, 2 & 6

STANDARD	OUTCOME
The Customer / Landlord Relationship	
<p>1 Equalities Social landlords manage their businesses so that:</p> <ul style="list-style-type: none"> <i>Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.</i> 	<p>This outcome describes what social landlords, by complying with equalities legislation, should achieve for all tenants and other customers regardless of age, disability gender reassignment, marriage and civil partnership, race, religion or belief, sex, or sexual orientation. It includes landlords' responsibility for finding ways of understanding the needs of different customers and delivering services that recognise and meet those needs.</p>
<p>2 Communication Social landlords manage their businesses so that:</p> <ul style="list-style-type: none"> <i>Tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.</i> 	<p>This outcome covers all aspects of landlords' communication with tenants and other customers. It is not just about how clearly and effectively a landlord gives information to those who want it. It also covers making it easy for tenants and other customers to make complaints and provide feedback on services, using that information to improve services and performance, and letting people know what they have done in response to complaints and feedback. It does not require landlords to provide legally protected, personal or commercial information.</p>
Neighbourhood and community	
<p>6 Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes Social landlords, working in partnership with other agencies, help to ensure that:</p> <ul style="list-style-type: none"> <i>Tenants and other customers live in well-maintained neighbourhoods where they feel safe.</i> 	<p>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.</p>

Background

The Antisocial Behaviour etc (Scotland) Act 2004 remains the most recent piece of legislation that places duties on local authorities and other agencies to tackle antisocial behaviour. It made it mandatory for local authorities and chief constables to work in partnership with other interested stakeholders to produce a strategy for preventing and tackling antisocial behaviour within their authorities.

In 2009 the Scottish Government published a national strategy 'Promoting Positive Outcomes' which placed prevention and early and effective intervention at the heart of action to tackle antisocial behaviour.

Purpose

The purpose of this policy document is to clearly describe principles on which we base our action, as a landlord, to both prevent and respond to nuisance and anti-social behaviour.

Aims

- To allow all Association tenants to have quiet enjoyment of their homes in safe and secure environments. We aim to achieve this as far as is possible within our powers as a landlord and by joint working with other organisations.
- To develop and manage our properties and services in a way which helps prevent neighbour nuisance and anti-social behaviour.
- To help tenants and communities to find their own peaceful solutions to problems of neighbour nuisance whenever possible. We will provide tenants with information on ways of addressing neighbour problems. This will include services provided by other agencies.
- To take firm action against the tenancy of a tenant who persistently breaches tenancy conditions or commits a serious breach of tenancy conditions. This action may result in legal action for repossession of the tenancy and eviction.

Definition of nuisance and anti-social behaviour

Anti-social and nuisance behaviour is behaviour that disrupts other residents normal use of their home and neighbourhood.

The definition of antisocial behavior outlined in the Antisocial Behaviour etc (Scotland) Act 2004 is:

- *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.*

The clauses within the Association's Scottish Secure Tenancy Agreement which refer to nuisance and anti-social behaviour are contained in Appendix A.

Categories of Behaviour

There are different types of neighbour nuisance and anti-social behaviour. We classify neighbour nuisance and anti-social behaviour into categories which then influence the way in which we respond to complaints.

Nuisance Behaviour is low level annoying behavior that causes concern to other people and if not dealt with effectively can develop into disputes that are extremely difficult to resolve and very time consuming. Differences of 'lifestyle' may mean that what is acceptable to some people is not acceptable to others.

Antisocial behavior is behavior that clearly falls into the definition in the Antisocial Behaviour Etc (Scotland) Act 2004 but which falls short of criminal behavior.

Criminal behavior is behavior that clearly contravenes the criminal law and could be dealt with in the criminal courts.

We also categorise complaints in terms of the nature of the nuisance or antisocial behaviour. These categories are contained in Appendix B.

Prevention

The powers of a landlord

The Association recognizes that prevention is the most effective form of action. We cannot completely prevent anti-social behaviour, but we can however work as a landlord to try to minimize the circumstances which may give rise to anti-social behaviour.

Design of Housing Developments

The Association takes a 'Project Team' approach to the design of new developments. The involvement of housing management staff in the design process is an effective way of ensuring that the design of developments will take account of future potential problems in both living in and managing the housing development. In particular we will pay attention to the following factors which can prevent problems of nuisance and anti-social behaviour:

- sound insulation
- stair and development lighting
- provision of door entry systems
- adequate fencing
- clear distinction between public and private space
- creating natural supervision of common areas
- natural supervision of parking
- security by design

Pre-allocation home visits

Prior to offering a tenancy, applicants will normally have received a home visit. This provides an opportunity to advise applicants of the Association's policies and procedures in relation to tenancies including how it deals with nuisance behaviour.

Allocations

The Association's allocation policy requires that written references are sought from previous landlords where the applicant holds or has held a tenancy. The purpose is to learn whether there is documented evidence of previous tenancy problems which suggest that the applicant would not conduct the tenancy according to the terms of the tenancy agreement. If there is evidence that the applicant or any member of their proposed household has seriously breached their tenancy agreement in the last 12 months or is the subject of current legal action by their landlord for a breach of the tenancy agreement, we may not consider that applicant for a tenancy. In such cases we will also consider whether the applicant would require support to sustain a tenancy.

Similarly we will consider an existing tenant's tenancy record when assessing applications for transfers and mutual exchanges. If there is documented evidence of a

breach of tenancy conditions in the last 12 months, we will not normally allow the transfer or mutual exchange. There may however be occasions when a transfer or exchange may help to resolve an issue of antisocial behavior for example where there are other factors such as overcrowding which are contributing to difficulties.

The Association will offer a short Scottish Secure Tenancy (sSST) if allocating a tenancy to an applicant who has been evicted for anti-social behaviour in the last 3 years, or where the applicant or a member of the applicant's household is the subject of an Anti-social Behaviour Order granted on or after 30 September 2002.

The rights under an SST are identical to the full SST except that there is no right to buy, there is no provision for succession and the security of tenure is limited.

Sign Up Meeting

The tenancy agreement forms a legal agreement between the Association and the tenant, and sets out the rights and responsibilities of the Association and the tenant. The tenancy agreement clauses relating to nuisance and anti-social behaviour are detailed at Appendix A. The Housing Officer explains the conditions of the tenancy before the new tenant signs the tenancy agreement.

Post Allocation Visits

We will carry out 'settling in' visits to all new tenants. This allows both the tenant and the Association an opportunity to discuss any aspect of the tenancy which may not have been fully appreciated at the point of allocation. The purpose of the visit will include checking how the tenant is getting on with neighbours, and re-emphasising the tenant's obligations under the tenancy agreement.

Tenant Handbook and Information Leaflet

The Tenants' Handbook gives advice on dealing with neighbour problems, and explains what the Association can do to help. This is supplemented by a specific multi-agency information leaflet detailing what tenants should do if they have a complaint about a neighbour.

Multi-agency Approach

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. The Association recognises the importance of working with other agencies to make sure we all take a co-ordinated approach.

The Scottish Borders Anti-social Behaviour Partnership Group has the overall objective to develop a corporate strategy for tackling anti-social behaviour within the Scottish Borders. The Association works with Police Scotland, Scottish Borders Council, Waverley Housing, Berwickshire Housing Association and Scottish Borders Housing Association to implement and review the agreed multi-agency strategy.

The Association also participates in the Scottish Borders Antisocial Behaviour Core Group. This is a practitioner-level partnership group at which all relevant agencies meet to manage cases of antisocial behavior with a view to dealing with the root causes of these cases in an integrated manner.

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.

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.

We will consult tenants and tenants' 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.

General principles in responding to complaints of nuisance and anti-social behaviour

Making a complaint

Tenants can make complaints in the way that suits them best: written, verbal, accompanied by a friend or advisor. They will however be encouraged and/or assisted to also put the complaint in writing in the interests of any possible later court action.

Anonymous Complaints

We will use our discretion in deciding whether to investigate anonymous complaints. We will log anonymous complaints in order to monitor any patterns developing which may require us to take action.

Decision Making

All action on alleged recurring or serious anti-social behaviour will be subject to joint decision making involving more than one member of staff.

Response Times

We will respond quickly, sensitively and objectively to complaints of nuisance and anti-social behaviour. The response may be in the form of a telephone call, a home visit or an interview within the office. Our target timescales for responding to complaints are contained within Appendix B.

Investigation

The normal timescale for investigating a complaint will be 10 working days. If it is not possible to meet this timescale we will inform the complainant and tell them the revised timescale and reasons for the delay. We will take account of all the circumstances of the complaint. This will include information from the complainant, any other witnesses and the tenant responsible for the behaviour. We will review information objectively to decide on any action to be taken.

Our Powers

We are able to take action against a tenant on grounds of nuisance caused by the tenant/member of the household/visitor to the tenancy. We can only take action where the behaviour has taken place in the immediate locality of the tenant's house.

Acceptable Behaviour Contract

If early intervention is not effective we may request the tenant to sign an Acceptable Behaviour Contract which will detail the unacceptable behaviour and the consequences should this behavior continue.

Mediation

Where appropriate, we will refer cases to Scottish Borders Mediation Service which helps people to find ways to resolve their disputes.

Legal Action

In the case of serious anti-social behaviour or persistent nuisance behaviour and breach of tenancy we will consider either taking, or requesting the local authority or police to take the following legal action.

Interdict and Interim Interdict

An interdict is an order of the court requiring the person to whom it is addressed to stop doing something legally wrong. In order for an interdict to be granted by the court, the defender must have done something, or be about to do something, that infringes the pursuer's legal rights.

Specific Implement

Specific implement is an order of the court requiring a person to perform his or her legal obligations for example obligations under a tenancy agreement.

Anti-social Behaviour Order

The anti-social behaviour order (ASBO) or interim ASBO is a remedy introduced by sections 19, 21 and 22 of the Crime and Disorder Act 1998 and amended in Part 2 of the Anti-social Behaviour etc.(Scotland) Act 2004. The Order can be granted against an individual aged over 12 years following an application from a local authority or RSL. The court may only make an order if three conditions are satisfied:

- The person has acted in an anti-social manner, or pursued a course of anti-social conduct
- Alarm or distress must have been caused, or have been likely to be caused, to one or more persons who are not members of the same household as the person against whom the order is made
- The order is necessary to protect persons in the authority's area from further anti-social acts

Landlords can demote the related tenancies to a Short Scottish Secure Tenancy (SSST) through powers passed in the Housing (Scotland) Act 2001 if an antisocial behavior order is granted.

The Association has an agreed protocol with the local authority in relation to the procedures for ASBO applications.

Closure Order

The Antisocial Behaviour etc (Scotland) Act 2004 gave the police powers to close premises where there is problematic antisocial behavior. This sends a clear message to the community that action is being taken against the premises and informs those who live in or frequent the premises that their activities will no longer be tolerated.

Repossession of the tenancy and eviction of the tenant / rehousing of the tenant in suitable alternative accommodation

The termination of Scottish Secure tenancies is controlled by Section 14 of the Housing (Scotland) Act 2001. Appendix D details the grounds on which we will base legal action for recovery of possession.

If we are granted decree by the court to evict, we will carry out that eviction as soon as possible. If we are intending to evict we will notify the local authority of the tenant's impending homelessness.

The decision to take legal action for recovery of possession of tenancy is delegated by the Board to the Director of Housing and Care Services, and the decision to evict is taken by the Board.

Tenants with Particular Needs

We will make every attempt to make sure tenants with particular needs have appropriate assistance and support to maintain their tenancies.

If a tenant with particular needs is causing or has been the victim of nuisance or anti-social behaviour we will work together with the tenant's support agencies to help them keep to their tenancy conditions.

If there is repeated nuisance or anti-social behaviour, the Association will convene a case conference to explore what solutions are available

Ultimately if a tenant with particular needs persistently breaches the tenancy agreement and we can find no other acceptable solution we will take legal action for recovery of possession or compulsory transfer. We will work closely with the tenant's support agencies and other statutory agencies during the process of legal action and in preparing for eviction.

Professional Witnesses

The term "professional witnesses" refers to someone who witnesses anti-social behaviour in the line of their work as opposed to a neighbour (eg housing officers, police officers, private investigators, community wardens). Where possible the Association will use professional witnesses to prove the facts necessary to take action when neighbours are reluctant to give evidence.

Support for Victims of Anti-Social Behaviour

We will keep complainants informed of the outcome of any investigation by staff. We will not disclose personal information about another person.

We will give advice to complainants on support agencies and make referrals where appropriate. We will consider linking victims of anti-social behaviour to a community alarm system, or issuing personal alarms.

We will prioritise repairs to damage caused by perpetrators of anti-social behaviour (such as forced stair doors) where appropriate, and we will remove racist or obscene graffiti within 48 hours.

Timescales for resolving complaints

We consider antisocial behavior cases to be 'resolved' when

- We have taken appropriate measures, as set out in our policy and procedures to address the cause of the antisocial behavior; or
- Where we do not have the authority or powers to resolve, we have provided a full explanation of our position to the complainant.
- In consultation with tenants and other local housing providers we have developed target timescales for resolving complaints. Our target timescales for resolving antisocial behavior cases are contained in Appendix C.

Confidentiality

- We will treat all complaints in confidence, with the following exceptions:
- The details of anonymous complaints about serious and very serious anti-social behaviour may also be passed on to the appropriate agency.
- If the complaint concerns criminal behaviour and we are obliged to inform the police.
- If there is risk to the health, welfare or safety of an individual. In this case we will inform the relevant agency, usually Social Work.

Procedures

Guidance and procedures on receiving, recording, investigating and taking action in relation to neighbour complaints will be provided for staff to use when dealing with complaints of nuisance and anti-social behaviour (Procedure Register).

Training

We will provide training and support for our staff on:

- This policy and related procedures
- Legal remedies
- The services available from other agencies
- Related personal skills, such as interviewing, negotiating, dealing with conflict etc.

Monitoring and Review

Staff will keep accurate records of complaints and subsequent action using a standardised format.

Quarterly key performance indicators and an annual overview of the implementation of this policy will be provided to Board. Board will also receive reports on any cases where legal action to seek decree is being pursued.

This policy will be subject to regular review.

Appendix A - Eildon Housing Association Scottish Secure Tenancy Agreement Clauses relating to nuisance and anti-social behaviour

Respect for Others

- 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, 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;
 - allow your children or children of visitors to your property to play within the common close or landing
 - 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;
 - 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 of the house in terms of this Agreement.
 - use or carry offensive weapons;
 - park any vehicle, caravan or trailer inconsiderately;
 - carry out work to any type of vehicle, caravan or trailer in a way or place that causes nuisance or annoyance
 - Sell alcohol or use or sell controlled drugs.
 - The particular prohibitions on behaviour listed in paragraph 3.3 are not exhaustive and do not in any way restrict the general responsibilities contained in paragraph 3.1 above.

- You, those living with you and your visitors must not bring into the house or store in the house or any of the common parts, areas or facilities of your house any type of firearm ammunition without our prior written permission. See paragraph 10.3 for more details. Before we grant permission of this type we will require to see sight of a permit for storage and using the firearm or ammunition involved. We will also require details of where the firearms and ammunition will be stored.
- You will be in breach of this Agreement if you, those living with you, or your visitors do anything which is prohibited in this part of the Agreement.
- If you have a complaint about nuisance, annoyance or harassment being caused by a neighbour (or anyone living with him/her or his/her visitors), you may report it to us. We will respond in accordance with our Neighbour Complaints policy and procedures, a copy of which is available from us on request.
- We will act fairly to you in all matters connected with your tenancy. We will not unfairly or unlawfully discriminate against you in any way on the grounds of your race, colour, ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief or other status. If you believe we have acted unfairly to you in any way, you may wish to use our complaint procedure. You may also wish to take independent advice.

Appendix B - Categories of Behaviour & Target Response Times

Type of behaviour	Response time (working days)
Nuisance behaviour	10 days
Antisocial behaviour	5 days
Criminal behaviour	1 day

In addition to the above categories, we also further classify complaints into one of the following groups (which are also used by the local authority) for analysis purposes.

Group A - Disregard for Community and Personal Wellbeing

- A1 Noise** – Noisy neighbours, noisy cars/bikes, loud music, persistent alarms.
- A2 Rowdy Behaviour** - Shouting and swearing, fighting, drunken behaviour, hooliganism or loutish behaviour.
- A3 Nuisance Behaviour** - Urinating in public, fire raising, inappropriate use of fireworks, throwing missiles, climbing on buildings, impeding access to communal areas, playing games in restricted or inappropriate areas.
- A4 Hoax Calls** - False calls to the emergency services
- A5 Animal Related Problems** - Dog fouling, nuisance pets etc.

Group B - Acts Directed At People

- B1 Intimidation and Harassment** - Groups or individuals making threats, verbal abuse, nasty or offensive letters, obscene or nuisance 'phone calls or text messages, menacing gestures. This type of behaviour may be motivated by race, age, culture, sex, sexual orientation, disability or religion.

Group C - Environmental Damage

- C1 Criminal Damage/Vandalism** – Graffiti, damage to street furniture, bus shelters, telephone kiosks, buildings, trees, plants or hedges.
- C2 Litter and Rubbish** – Dropping litter, dumping rubbish, fly-tipping, fly posting.

Group D - Misuse of Public Space

- D1 Drugs and Substance Misuse/Dealing** - Taking illegal drugs, solvent abuse, discarding needles and drug paraphernalia, presence of dealers or users.
- D2 Street drinking.**
- D3 Prostitution** –Soliciting, discarded condoms.
- D4 Kerb Crawling**, loitering for the purposes of prostitution, pestering residents.
- D5 Vehicle Related Nuisance and Inappropriate Vehicle Use** – Abandoned vehicles, setting vehicles alight, racing cars, off-road motorcycling, using quad bikes inappropriately.

Appendix C – Timescales for Resolving Cases of Antisocial Behaviour

We have consulted with tenants and other local housing providers to develop the following targets for resolving cases of anti-social behavior.

We aim to resolve cases of antisocial behavior within the following timescales.

Cases where intervention required	6 months
Cases where enforcement (legal action) required	12 months

Appendix D - Housing (Scotland) Act 2001, Scottish Secure Tenancy: Grounds for recovery of possession relating to nuisance or anti-social behaviour

2 The tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant or, the tenant, or a person visiting the house has been convicted of –

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

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.

(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).

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.

(2) In sub-paragraph (1), “conduct” and “harassment” have the same meanings as in paragraph 7.

REVIEW

This policy should be reviewed within three years unless required earlier due to changes in the law, regulation, best practice or requirements of the Association.