

ANTI -SOCIAL BEHAVIOUR

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Department		Operations	

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Date Amended	
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Notes

This policy will be reviewed and updated again when guidance from Scottish Government is received in relation to the Housing (Scotland) Act 2014

1. POLICY FORMULATION

The policy conforms with the Housing (Scotland) Act 2001 and guidance from the Antisocial Behaviour (Scotland) Act 2004. It also follows best practice guidance issued by the Chartered Institute of Housing and the Scottish Federation of Housing Associations.

2. OTHER REFERENCES

We refer to anti-social behaviour in our Tenancy Agreement, Sections 3 (Respect for Others) and 6 (Ending the Tenancy). These sections are highlighted during the explanation of the Summary Tenancy Agreement when applicants sign their Tenancy Agreement with Abertay.

We also refer to anti-social behaviour in our estate management policy, our allocations policy and in our tenants handbook. Applicants who have been evicted for anti-social behaviour or where there is substantiated evidence of extreme or serious behaviour will not normally receive an offer of housing. Where an order of repossession due to anti-social behaviour or harassment has been served on the applicant or any joint applicant within the preceding three years or the prospective tenant, joint tenant or a person who it is proposed to reside with the prospective tenant is subject to an ASBO then applicants may be offered a Short SST.

3. POLICY AIMS and OBJECTIVES

Abertay is committed to providing a high quality housing service which allows all its tenants to live without undue disturbance or disruption from others and to enjoy the amenity of their home and surrounding area. Abertay will help tenants maintain the quiet enjoyment of their homes by responding to complaints made about their neighbours.

Our objective is to attempt to resolve complaints consistently, sensitively and to the reasonable satisfaction of all.

We aim to:

- Respond to complaints quickly, effectively, sensitively and consistently, investigating them and keeping accurate records
- Keep complainants informed of progress
- Advise and support victims of antisocial behaviour
- Ensure early action is taken to minimise the potential of escalation
- Recognise the importance of multi-agency working with our key partners
- Adopt a range of measures to deal with antisocial behaviour

We will encourage the reporting of incidents of antisocial behaviour which may be:

- Verbally to a member of staff
- By phone to the Customer Service Team or Housing Officer
- In writing
- On-line
- By the observation of a member of staff

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- Through a third party e.g. police.

4. DEFINITION

Under the Antisocial Behaviour etc. (Scotland) Act 2004, a person acts in an antisocial manner 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; "Conduct" includes speech and a course of conduct must involve conduct on at least two occasions.

Anti-social behaviour can be defined as any behaviour which affects a person's quality of life and the peaceful enjoyment of their home and surrounding area and which in Abertay's opinion constitutes an annoyance or nuisance. There are a wide range of issues that can be classified as neighbour disputes, and anti-social behaviour. These may include activities such as stairs / closes / bin recesses not being cleaned, untidy gardens, noise, pet fouling, threatening and/or abusive behaviour, disturbance, vandalism, drug dealing, assault, house-breaking, harassment. Abertay will define 3 categories of anti-social behaviour to reflect the severity of the complaint:

The following categories and response times are as follows:

Category A – Response within 3 working days

Includes racial harassment, domestic abuse, and drugs/violence. Serious or extreme behaviour, threatening behaviour and/or damage to the property.

Category B - Response within 5 working days

Includes noise complaints/nuisance/pets and other tenancy breaches

Category C – Response within 5 working days

Includes Estate Management issues such as:

- Dumped furniture/mattress etc.
- Dirty Close (unless complaint against cleaning Contractor – then log as stage 1 complaint in SDM)
- Dog fouling
- Vandalism
- Overgrown garden

Reports of Estate Management issues which fall into Category C will be handled by the Customer Service Team.

Target for completion

Abertay has a locally agreed target for completion and closure of cases which is within 28 days for categories **B and C**. Category **A** has a longer timescale for case closure and may not be closed for up to 122 days. This is because requesting police reports, starting legal action (NOP's), getting anti-social behaviour orders and a possible court order to evict can be an extremely lengthy process

5. OTHER AGENCIES

We will work in partnership with DCC's Anti-social Behaviour Team, the Night Time Noise Team, Community Safety Wardens, Police Scotland – in particular the Community Intelligence Unit, , residents groups, tenants and owners, Social Work and all other appropriate organisations.

6. WHO IS AFFECTED?

Abertay's policy is applicable to Abertay tenants, their families, other occupants living with them, their visitors, together with owner occupiers and other residents in and within the vicinity of their homes in any of our estates.

Whereas often the complaint will be from a tenant against another tenant there will be times when owners are involved.

Owner v Tenant

Complaints made by owner-occupiers against Abertay tenants will be investigated under the same procedures as complaints made by tenants with any appropriate action being taken.

Tenant v Owner

When complaints are made by a tenant against an owner-occupier these will be forwarded to Dundee City Council's ASB Team to investigate.

Where the complaint is in connection with a breach of the Title Conditions we will write to the owner making clear the clauses in the Deed of Conditions that have been breached.

An interdict could be raised in relation to the behaviour contravening the obligation. If this is ignored; further action can be taken for breach of interdict.

Recovery of possession of the house could be taken to the Court of Session or Sheriff Court. This remedy is only available if a specific clause is included in the Deed, which imposes the conditions concerned, and the breach of conditions is having substantial consequences. This action is not appropriate except in the most severe and rare occasions and is not really a practical proposition.

Should the Operations Director recommend this course of action, then the Chief Executive must also approve the action and will be responsible for obtaining the approval of the Management Committee.

Owner v Owner

Where a dispute is between two owners they will be advised that they should contact their solicitors, as Abertay will not get involved. If applicable we will advise them of other agencies that may be able to assist them.

Advice

The Housing Officer will liaise with the Operations Manager and seek advice from Abertay's solicitors when considering legal action against an owner.

7. TYPES OF ACTION

We will take early positive and decisive action to deal with cases of anti-social behaviour which proves detrimental to our tenants' rights to the peaceful enjoyment of their homes. This will include visits, letters, and liaising with other agencies where appropriate, mediation, and legal action.

As a last resort Abertay will pursue Anti-Social Behaviour Orders (ASBOs) against the perpetrators (applicable to all residents and non - residents) and/or we will seek to end the tenancy of those tenants that are the source of persistent and substantiated complaints against their neighbours.

We will also be prepared to instruct actions of interdict and specific implement where appropriate.

Legal action

The Operations Manager will decide whether and what form of legal action will be taken seeking advice where required from Abertay's solicitors. We will be prepared to use professional witnesses in certain circumstances such as persistent, extreme and serious cases where residents are reluctant to give evidence in court or in addition to verbal or written evidence from residents. Professional witnesses may include the Police, Social Work and housing staff.

The decision to use professional witnesses will rest with the Operations Manager.

Notice of Proceeding (NOP)

We will raise proceedings by serving an NOP on the tenant for recovery of possession where there is a breach of tenancy conditions.

Eviction

It is recognised that securing a Decree for Repossession for anti-social behaviour can be extremely difficult and time consuming, particularly when firstly an ASBO may have to be obtained.

In order to convince the Sheriff of the 'reasonableness' of the case means that all other avenues will have been tried and rejected or proven to be unsuccessful or unworkable. Our case must be comprehensive and substantiated.

When Decree is obtained, in accordance with our Delegated Authority, the

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authorisation of the Chief Executive (or the Operations Director in the absence of the Chief Executive) must be obtained before the eviction can proceed.

Antisocial Behaviour Orders (ASBOs)

An ASBO is a civil Court order that tells someone to stop behaving in an anti-social way – for example an ASBO can order someone not to play loud music, or swear or shout at their neighbours, or prevent a person from entering a particular area.

Breach of an ASBO is a criminal offence and carries a statutory power of arrest.

An ASBO can be sought against any person irrespective of their housing tenure.

We will liaise fully with Dundee City Council's ASB team and CIU before seeking an ASBO. This is particularly relevant should the person be aged between 12 and 15 when it is necessary to work alongside support services in addition to Police Scotland.

It will normally be the case that an interim ASBO will be applied for as it can impose the same prohibitions on a person as a full order and carries the same penalties as a breach of a full order. It can be obtained more quickly than a full ASBO and can provide more immediate protection in the interim prior to the full order.

Short Scottish Secure Tenancy (SSST)

Where an ASBO is awarded against an Abertay tenant, then the Operations Manager will consider if it is appropriate to convert the SST into a SSST. This will last for a minimum of 6 months and a maximum of 12 months. During the period of the SSST and depending on the behaviour of the tenant/tenant's family, the tenancy may be ended, the SSST continued for a further 6 months or the tenancy will be converted back to a SST.

Closure Orders

These are essentially police powers where the police have the power to close premises for a period of 3 months initially which can be extended.

Tenancy Warnings

We will normally issue a 1st tenancy warning and make the tenant aware that further complaints could affect their tenancy. If no improvement then a final warning may have to be given. Serving an NOP should only be considered once previous written warnings have been given or if the behaviour was extreme. The NOP will allow the Housing Officer to monitor the anti-social behaviour over a 6 month period

Acceptable Behaviour Contracts (ABC)

An ABC is a written agreement between a 5 to 18 year old, their parents, Police Scotland and the Landlord. The agreement normally requires that the young person must not continue with certain identifiable acts, which could be considered to be anti-social behaviour. The contract is not legally binding but can be referred to in court proceedings as evidence that the police and HO have attempted to amend the young person's behaviour. In some cases it may be beneficial to enter into an acceptable behaviour contract, a voluntary agreement lasting for six months, to ensure the person understands the impact their behaviour is having on their neighbours/community.

Victim Support

Our key aim is to minimise the impact of antisocial behaviour on victims. We will provide information and support to victims either directly or through liaison with our key partners

8. PREVENTION

We will aim to minimise effects of antisocial behaviour through design (in new developments) or through upgrading and replacement where it is practical to do so.

These may include:

- Secure external doors and windows
- Secure controlled entry systems to flats
- Adequate fencing and lighting
- Security in empty properties
- Layout design of new developments

We will raise awareness of our commitment to dealing with anti-social behaviour by, for example, raising the issues at residents meetings and articles in our newsletter, providing a leaflet and guidance on our website, stating that antisocial behaviour is not acceptable, that the consequences are understood and that we take robust action to deal with it.

9. EXCHANGE OF INFORMATION

The need to exchange information should not be seen as a barrier to implementing successful anti-social behaviour action. Section 139 of the Antisocial Behaviour etc. (Scotland) Act 2004 provides the legal protection to persons disclosing information where the disclosure is necessary for the purposes of dealing with antisocial behaviour or its effects.

Abertay has information sharing protocols between Police Scotland and Dundee City Council which facilitates the sharing of information to be carried out quickly and efficiently. This is usually between Abertay and the Council's ASB Team and The Community Intelligence Unit of Police Scotland.

In addition, surveillance equipment may be used to help progress an investigation or to gather evidence. The Housing Officer will seek approval from the Operations Manager before placing surveillance or sound recording equipment in properties. This will only be used where it is agreed that such use may be beneficial for preventing/detecting crime, ensuring public safety or protecting public health.

10. RECORDING COMPLAINTS

We will record all details of complaints received by registering them in the Complaints module in SDM, ensuring that they are logged against the appropriate category.

11. MONITORING COMPLAINTS/FEEDBACK ANALYSIS

SDM will measure the timescale for completion of ASB complaints based on the target timescales set by Category. All ASB recorded in Categories A and B will be reported as

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part of the Annual Charter Returns (ARC) to the Scottish Housing Regulator.

Quarterly, the SHO will carry out a quality assurance check of a random 20% sample of ASB cases to ensure they have been logged in the correct Category and that attachments, correspondence etc. have been attached.

12. GENERAL

Abertay will review its policy and procedures on dealing with neighbour disputes and anti-social behaviour to determine whether amendments are required within 4 years or earlier if it becomes necessary due to legislative or good practice requirements.

We will monitor our policy by seeking the views of tenants by, for example, satisfaction surveys, questionnaires to those who have made a complaint and by monitoring trends in the numbers and categories of complaints.