

# OPS006 - Anti-Social Behaviour Policy

<b>MONITORING FORM</b>	
Department	Housing
Department Director	Operations
This policy is applicable to	Housing Management
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Internal /external consultees (if required.	

## 1. INTRODUCTION

Weslo Housing Management (we) regard the occurrence of anti-social behaviour as extremely serious. There are obligations are outline in section 3.1 of your Scottish Secure Tenancy Agreement (SST) which states;

***“You, those living with you and your visitors must not harass or act in an antisocial way towards other people in the neighbourhood, including residents, visitors, our employees, agents, contractors and people who live in your house”***

This policy has been established to outline how we will tackle any form of anti-social behaviour. It will aim to meet the statutory requirements of the Scottish Social Housing Charter outcome six entitled “Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes”. It states that “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”.

This policy explains how we address anti-social behaviour. Staff procedures have been developed separately that detail how the policy is implemented.

## 2. OBJECTIVES OF THE POLICY

2.1 The policy complies with the law and good practice in minimising and dealing with anti-social behaviour. No action will be raised to recover possession of a property unless it is reasonable to do so.

2.2 We implement management and legal remedies for dealing with anti-social behaviour. Eviction action will be used only as a last resort. Section 5.2.7 summarises these actions.

2.3 We ensure that our policies minimise anti-social behaviour by, for example, ensuring the way in which we allocate properties assists in establishing sustainable communities.

2.4 The Anti-Social Behaviour Policy has been devised based on a strategy of prevention. Staff will tackle complaints promptly and within set timescales.

2.5 Wherever possible we work jointly with other agencies to tackle anti-social behaviour e.g. Police, Social Work, etc. Section 5.2.8 outlines these arrangements.

2.6 The investigation and management of all anti-social complaints will take account of staff and complainant health and safety as a primary objective.

2.7 We have implemented performance management systems to monitor the effectiveness and efficiency of current practice.

2.8 The procedure for handling complaints will vary depending on the category of the complaint.

### 3. LEGAL AND GOOD PRACTICE REQUIREMENTS

3.1 The provisions and implementing of the Antisocial Behaviour Policy aims to comply with the following legislation and statutory documents: -

- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2014
- Anti-Social Behaviour etc. (Scotland) Act 2004
- Criminal Justice Act 2003
- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2010
- Housing (Scotland) Act 2014
- Crime and Disorder Act 1998
- Protection from Harassment Act 1997
- Civic Government (Scotland) Act 1982
- Dangerous Dogs Act 1991
- Environmental Protection Act 1990

### 4. DEFINITION AND CAUSES OF ANTI-SOCIAL BEHAVIOUR

4.1 Anti-social behaviour is a term used to cover different types of behaviour. **The Crime and Disorder Act 1998** and **The Anti-Social Behaviour etc. (Scotland) Act 2004** considers a person to have engaged in anti-social behaviour if they act in a manner or pursue a course of conduct that causes or is likely to cause alarm or distress. This must be to at least one person who is not a member of their household. 'Conduct' includes speech and to be a 'course of conduct' requires it to have happened on at least 2 occasions. This definition mirrors under Section 3.2 of our SST.

Anti-social behaviour can be committed by;

- the tenants or any other joint tenant
- any person living with the tenant e.g. family members or friends
- lodgers or sub-tenants
- visitors to the property

Anti-social behaviour can affect;

- people living in or visiting the locality e.g. neighbours, relatives or friends
- people engaged in lawful activity in the locality e.g. housing staff or contractors carrying out their duties

The term 'locality' includes the overall neighbourhood which can extend beyond the house and adjacent properties to the local housing area.

Anti-social behaviour covers a wide range of issues such as noise, dog fouling, rubbish dumping / litter, drug dealing, graffiti, nuisance or threatening behaviour, fighting, shouting and swearing, harassment etc.

Examples of some of the main causes of anti-social behaviour are;

- concentration of households living in poverty
- people with incompatible lifestyles living in close proximity to one another
- older properties with inadequate insulation
- sustainability issues with people who lack or have turned down support considered necessary to assist them to sustain their tenancy
- cultural differences amongst households

## **5. CATEGORIES OF COMPLAINT**

Response to complaints will vary depending on the nature and seriousness of the particular issues involved. Tenants should be encouraged to resolve minor complaints themselves whereas complaints of a more serious nature will require a response from the Housing Officer. Where appropriate staff should draw on the experience of agencies including, the Police, Support Providers, Social Work Department, Health Services, Environmental Health, Cleansing Departments and Mediation Services.

Targets associated with each category are interim, based on the initial information received or as a result of investigations.

### **5.1 Category A – Threat to Life (5 days)**

We may have a lead role to play in dealing with complaints of this nature, however in most cases they should be referred directly to the Police or Fire service, Local Authority or Health Service.

### **5.2 Category B – Criminal Behaviour (10 days)**

Complaints which concern allegations of drug dealing, criminal behaviour involving threats of violence towards any member of the public, including members of staff, housebreaking, assault, criminal threats, serious harassment, racial harassment, and serious damage to property, including fire raising.

### **5.3 Category C – Major Nuisance (25 extending to 180 days if court action is necessary)**

Complaints which concern allegations of aggressive / abusive behaviour, frequent disturbances, vandalism, drug / solvent / alcohol abuse, verbal written harassment and frequent and persistent noise.

#### **5.4 Category D – Minor Nuisance (10 days)**

Litter dumping, excessive noise, control of pets, boundary disputes, untidy gardens, children causing a disturbance, noisy party.

Persistent Category D cases will be re-classified as Category C cases and investigated in accordance with the procedures for Category C.

#### **5.5 Category E – No involvement (1 day)**

This category is used where a complaint is made but the complainant does not want the complaint pursued. It is recorded for monitoring purposes.

### **6. REMEDIES FOR TACKLING ANTI-SOCIAL BEHAVIOUR**

We recognise that in order to tackle anti-social behaviour we must tackle the offending behaviour. The main way to resolve complaints of anti-social behaviour is through effective management. This involves working jointly with other agencies that also have a responsibility for this matter. These include local authority departments such as The Local Authorities anti-social behaviour teams, other housing providers, education, environmental health, planning and social work etc. We will work in partnership with a variety of organisations to achieve an acceptable solution. Legal action will be considered only where management actions (non-legal remedies) have been ineffective or considered inappropriate.

In order to tackle anti-social behaviour effectively, we have introduced a comprehensive approach using both non-legal and legal remedies. This section details the remedies we may use.

#### **6.1 MANAGEMENT ACTIONS (NON-LEGAL)**

##### **6.1.1 Contact / Advice**

Making contact and providing advice to tenants can be effective in resolving some minor disputes / nuisance complaints. For example, a one-off incident such as a party could be resolved by visiting those involved. In cases like this staff may offer advice or issue a breach of tenancy letter.

##### **6.1.2. Breach of Tenancy Letter / (Warning Letter)**

This can be issued following an interview with the perpetrator regarding their behaviour. The letter will detail how the tenancy has been breached and the consequences if the breach occurs again.

##### **6.1.3. Mediation**

Mediation is a remedy which can be considered where there is recurring anti-social behaviour and the relationship between the parties involved has broken down. Mediation can be provided by, or in partnership with the Local Authorities anti-social behaviour teams.

#### **6.1.4. Acceptable Behaviour Contracts**

An Acceptable Behaviour Contract (ABC) is a written agreement between the perpetrator (child or adult), Weslo and Police Scotland. The contract specifies a list of anti-social acts in which the person has been involved and which they agree not to continue. The contract usually lasts for 6 months but can be renewed if necessary. Although the ABC is not legally binding, it can be used at court to support eviction action or an application for an Anti-Social Behaviour Order (ASBO).

If an individual fails to sign an ABC, an Unacceptable Behaviour Notice (UBN) can be issued. The UBN makes a person aware of their behaviour and the consequences if their behaviour continues. Again, it is not legally binding but can be used to support legal remedies.

### **6.2 LEGAL REMEDIES**

In cases of serious or extreme anti-social behaviour, it may be necessary to pursue legal action including the following;

#### **6.2.1.Fixed Penalty Notices**

Local authority's anti-social behaviour teams can issue a Warning Notice to a neighbour requiring them to reduce the noise or face a fixed penalty notice if the noise is actionable under their powers. Community Enforcement Officers can also issue a fixed penalty notice in relation to dog fouling offences.

#### **6.2.2.Notice of Proceedings (NOP)**

When dealing with a complaint of anti-social behaviour where the subject of the complaint is a Weslo tenant, we may raise proceedings by serving a NOP on the tenant for recovery of possession of the house where there is a breach of the tenancy conditions. A NOP is the first stage of legal action that can be considered to address a breach of tenancy conditions

#### **6.2.3.Interdict**

This is a court order to prevent someone from doing something, for example, dumping rubbish in common areas, playing loud music, swearing, shouting, damage to property etc. The interdict / interim interdict can be a quick method of intervention.

#### **6.2.4.Specific Implement**

This is a court order requiring someone to do something which is their responsibility e.g. maintain their garden as specified in the tenancy agreement.

### **6.2.5. Anti-Social Behaviour Order (ASBO)**

This is a court order preventing someone (aged 12 or over) from pursuing a certain course of conduct that is causing alarm or distress to the community, or behaviour that is likely to escalate to criminal level if not stopped. Applying for an ASBO is a civil action and is not a substitute for criminal proceedings; therefore, we can apply for an ASBO and attempt to recover possession of the house at the same time. ASBO applications should be done in consultation with the Police.

We can apply for an Interim ASBO / ASBO for anyone over the age of 12. They do not need to be a tenants, resident or owner etc. However, we would have to demonstrate to the Sheriff that it would be 'reasonable' to grant the order bearing in mind the behaviour of the person concerned. Examples of when an ASBO may be necessary include;

- racial harassment or homophobic behaviour
- persistent anti-social behaviour as a result of noise nuisance/ drug / alcohol misuse
- intimidation by threats and / or violence

The Scottish Executive publication '*Guidance on Antisocial Behaviour Orders – Antisocial Behaviour etc. (Scotland) Act 2004*' provides comprehensive information on ASBO's and the procedure for applications.

### **6.2.6. Short Scottish Secure Tenancy Agreement (SSST)**

A SSST is based on the Scottish Secure Tenancy introduced by the Housing (Scotland) act 2001. A SSST is a short term or probationary tenancy agreement that can be given to tenants. The Housing (Scotland) Act 2014 section 7 sets out new grounds for granting a SSST. The grounds are :

- Where a tenant or existing tenant or anyone who is part of the household is subject to an Antisocial Behaviour Order (ASBO) or
- A prospective tenant has had an eviction order granted against them in the previous 3 years as a result of antisocial behaviour

The new grounds for a SSST are:

- Where a tenant or prospective tenant has pursued a course of antisocial behaviour in the previous 3 years.

There is no requirement for the matter to have gone to court or the person to have any conviction for antisocial behaviour. In granting a SSST for any of the reasons above consideration will be given to the following

- the nature, frequency and duration of the anti-social behaviour
- the effect that the anti-social behaviour is having or is likely to have on the person
- action taken by Weslo before raising ASBO proceedings
- support requirements of the household
- any other relevant factors

We will include the behaviour of any tenant, joint tenant, anyone residing at the property, any sub tenant or any visitors to the property when considering the granting of a SSST or conversion from a SST

When granting an SSST on any antisocial grounds it must be for a minimum period of 12 months.

Where the tenancy has been converted to a SSST, there is a duty to provide or ensure the provision of housing support services to enable the tenancy to convert to a SSST. A SSST will revert back to an SST after 12 months unless action is taken to recover the tenancy or Weslo seek to continue the SSST for a further period of 6 months.

If antisocial behaviour recurs after conversion to a full SST, Weslo can seek repossession through the courts or a further ASBO can be sought, and if granted the tenancy may be converted to a SSST.

### **6.2.7. Repossession**

Whenever anti-social behaviour is extremely serious, we may consider seeking a court order for eviction and repossession of the property. This action will only be taken when all other appropriate remedies have failed to resolve the problem and it is deemed reasonable to seek eviction. This will always be a last resort. There are situations when an eviction decree should be our first option, for example, drug dealing, using the property to cultivate drugs or serious incidents of violence and intimidation.

### **6.2.8. Streamlined eviction process**

In addition to 6.2.7. we may make use of the streamlined eviction process outlined in Section 16 of the Housing (Scotland) Act 2014. We must be able to confirm that a tenant, joint tenant, or someone living in or visiting the property has been convicted of a criminal offence punishable by imprisonment within the previous 12 months.

We can only use this process when:

- Where paragraph 2 of Schedule 2 of the Housing (Scotland) Act 2001 exists: - using the house or allowing the house to be used for immoral or illegal purposes or an offence punishable by imprisonment committed in, or in, the locality of the house
- It is a serious antisocial behaviour/criminal conviction
- The conviction is connected to the tenant's property
- It is necessary to protect the local community
- Where other measures to manage/improve behaviour have been tried where appropriate

We will only use this process where we believe the action to be justifiable and proportionate and take into consideration the following:

- The nature and seriousness of the offence
- Who has /could have been convicted?
- Any connection to the property
- Where the offence was committed
- Impact on the household
- Impact on the neighbourhood/community
- Impact on neighbourhood/community over time and on community stability

We will also consider the actions taken by a convicted person to address their behaviour before considering this process, such as repeat behaviour, engagement in training/employment, accessing and attending rehabilitation programmes or engaging with support services.

### **6.2.9. Other Agencies**

Other agencies have an important role to play in the implementation of this policy by using the powers available to them. For example, most neighbour nuisance constitutes an offence and the police should therefore be involved and, in some instances, take a lead role.

Legal remedies available to Registered Social Landlords are not always the most effective means of tackling anti-social behaviour. As a result, we will endeavour establish close links as follows;

- Work with the police to use their legal powers to remove noise making equipment.

- Liaising with the police to use their powers to arrest people breaching legal orders.
- Work in partnership, where possible, with environmental wardens to tackle problems relating to rubbish, stair cleaning and dog fouling etc.
- Work in partnership with the Local Authorities anti-social behaviour teams.

## **7. EQUALITY & DIVERSITY**

7.1 This Policy will always be carried out in accordance with Weslo's Policy of Equality & Diversity which aims to promote diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures.

## **8. PUBLICISING AND AVAILABILITY**

8.1 This policy is available on the Weslo website, to Board and staff members and any other key stakeholders. Copies are available free of charge. A summary of this policy can be made available in other formats and languages.

## **9. MONITORING AND REPORTING**

9.1. Performance management is extremely important in order to assess whether the policy objectives and statutory obligations are being met. In line with the introduction of the Scottish Social Housing Charter we aim to involve tenants in the decision making process with regards to anti-social behaviour policies and procedures through planned reviews.

We will seek feedback via the following methods:

- Monitoring and reporting on cases which are ongoing and not closed
- Information (Newsletters etc.)
- Social Media
- Complaints about our service
- Satisfaction surveys after cases are closed off
- Tenant Participation Committee

9.2. It is a requirement to meet the Scottish Housing Regulator's activity standards. The specific indicators to monitor the policy are detailed below

- Number of anti-social behaviour complaints received and, by category, broken down by community.
- Update of cases which are outstanding by category of complaint .

- Number and types of legal actions e.g. interdict specific implement, ASBO and eviction.
- Household data of people against whom actions are raised including age, disability, gender and race.
- Time taken (compared with targets set) to issue acknowledgement letters, conduct interviews, Investigate complaints and issue letters where complaints are unjustified.

## **10. COMPLAINTS (if applicable within the Policy)**

10.1. Anyone wishing to make a formal complaint about the services provided by the organisation should do so as per our complaints procedure.

## **11. OTHER RELEVANT POLICIES AND PROCECURES**

11.1 This Policy also relates to:

- Complaints Policy and procedures
- Estate Management Policy and procedures
- Allocation Policy and procedures
- Equal Opportunities Policy and procedures
- Recharge Policy and Procedures

## **12. POLICY REVIEW**

12.1. This policy will be reviewed every three years, or sooner if legislative or best practice changes requires it.