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Trust Housing Association and Wishaw & District Housing

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Antisocial Behaviour Policy

Contents

1. Introduction
2. Aims & Objectives
3. Legislative background and compliance
4. Related Policies
5. ASB - A person centred approach
6. What Tenants can do to help resolve ASB
7. A Partnership approach
8. Categories of Antisocial Behaviour
9. Prevention and Enforcement
10. Malicious and Vexatious complaints
11. Staff Resources, Training and Support
12. Data Protection
13. Anti-Bribery
14. Equality, Diversity & Inclusion
15. Policy Review¹⁴
16. Document References

1. Introduction

- 1.1 Trust Housing Association Ltd, (Trust) is a registered non-profit making Housing Association operating throughout Scotland. A key objective of the Association is to provide quality, affordable homes with safe and attractive environments.
- 1.2 Trust is committed to working to ensure that our tenants should be able to live safely and peacefully in their own homes without fear, nuisance and harassment. We will not tolerate anti social behaviour and will take proactive action to manage the behaviour for the benefit of our tenants.
- 1.3 Tenants are responsible for their own actions and for the actions of their family, friends and visitors to their home.
- 1.4 Tenants should be able to feel safe in their homes and respect and enjoy the environment of their neighbourhood.
- 1.5 This policy describes how Trust will seek to resolve complaints made to us about anti social behaviour and the conduct of neighbours. The Association will always endeavour to manage and prevent antisocial and nuisance behaviour caused by its tenants.
- 1.6 This policy supported by working procedures which should be read in conjunction with the Policy .
- 1.7 We will not become involved in disputes which are not related to tenancy conditions and we cannot act against people who are not our tenants. We will, however, offer advice and assistance to any Trust tenant who is experiencing difficulty with anti-social behaviour and will further refer those tenants to support agencies that can be of assistance.
- 1.8 This policy covers all tenants of Trust Housing Association Ltd regardless of the type of tenure that they hold and replaces all previous Trust policies in relation to the management of Anti-social behaviour.

2. Aims & Objectives

- 2.1 Trust is committed to tackling antisocial behaviour in an effective manner, taking appropriate and proportionate action to create a balance between the prevention of antisocial behaviour and the enforcement of the tenancy agreement.

- 2.2 We will work in partnership with other agencies, involving all parties concerned wherever possible, assisting them to work towards resolving issues without the need of enforcement action, which will only be used as a last resort.
- 2.3 We will provide tenants with clear information about what we can do in response to a complaint or dispute and also to make information available regarding the assistance that can be provided by our partners such as the Council, the Police and other agencies and support organisations.
- 2.4 In instances where we cannot become involved in disputes as they do not fall under the tenancy conditions we will advise the tenant of this and reason we are unable to assist. We will also advise the tenant of any other support they could access to help them with their complaint.
- 2.5 We will encourage and support tenants to fulfil their contractual obligations in relation to their tenancy agreement or occupancy agreement.
- 2.6 Trust recognises the harmful effect that anti-social behaviour can have upon tenants and residents' lives and will act consistently, effectively and proportionately to address causes of anti-social behaviour within its neighbourhoods, while supporting victims and witnesses.

To achieve this, we will:

- Take effective action to assist those who are affected or who are victims of anti-social behaviour.
- Minimise the impact of anti-social behaviour through support for victims and witnesses, and by involving and empowering affected communities.
- Support victims and witnesses of anti-social behaviour and in appropriate circumstances extend support to perpetrators to positively influence behaviour and sustain tenancies.
- Assist tenants obtain the necessary support and assistance they require to establish and maintain their tenancies.
- Work preventatively to reduce anti-social behaviour at the beginning of tenancies through the promotion of the Tenancy Agreement and new tenant visits and in appropriate circumstances the provision of Short Scottish Secure Tenancies.
- Help prevent anti-social behaviour through education, community initiatives, and prevention measures.
- Investigate all reported incidents of anti-social behaviour in accordance within locally agreed target timescales, taking effective and

proportionate action, including legal remedies, where alternative interventions have not succeeded.

- Practice early intervention to prevent situations escalating and where appropriate, the use of alternative approaches to conflict resolution, such as mediation and referrals for support.
- Maintain accurate records relating to anti-social behaviour and monitor case progress and outcomes, and regularly review our anti-social processes, learning from our experiences and customer feedback.
- Develop information sharing and joint working protocols between other agencies concerned with the management of anti-social behaviour, including Police Scotland, Scottish Fire and Rescue and the Council.

3. Legislative background and compliance.

3.1 This policy adheres to the Housing (Scotland) Act 2014. It also meets with the following additional legislative and good practice requirements:

- Housing (Scotland) Act 2001
- Antisocial Behaviour etc (Scotland) Act 2004
- Crime and Disorder Act 1998
- Equalities Act 2010
- Environmental Protection Act 1990
- Civic Government (Scotland) Act 1982
- Dangerous Dogs Act 1991
- Data Protection Act 1988
- The Scottish Secure Tenancy (SST)
- The Short Scottish Secure Tenancy (SSST)

3.2 Section 143 of the Antisocial Behaviour etc (Scotland) Act 2004 states that “a person engages in antisocial behaviour if they

- act in an antisocial 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 who is not of the same household. Conduct includes speech and a course of conduct must involve conduct on at least two occasions”.

3.3 The Tenancy Agreement covers “Respect for Others”. The leaflet entitled, “Respect your neighbours: dealing with Anti-social behaviour is included in the “What You Need to Know About Living Here” folder available at all staffed developments.

3.4 The Scottish Housing Regulator has identified several key indicators relevant to anti-social behaviour by which it will measure landlord performance, including the following:

- Estate Management – tenants and other customer live in well-maintained neighbourhoods where they feel safe;
- Participation – tenants and other customers find it easy to participate and influence their landlord's decisions at a level that they feel comfortable with; and
- Tenancy Sustainment – tenants get the information they need on how to obtain support to remain in their home; and ensure suitable is available, including services provided directly by the landlord and other organisations.

4. Related Policies

4.1 The following policies should be read in conjunction with the Anti-Social Behaviour Policy

- The Health and Safety at Work Policy
- Violence and Aggression - Zero Tolerance Policy.
- The Lone Working Policy
- Risk Assessment guidance
- Health and Safety Control Manual
- Section 3.3 - Accidents
- Section 3.4 - Risk Assessments
- Section 3.5 - Staff Safety and Violence
- Working with Behaviours that Challenge Policy
- Employee Code of Conduct
- Dignity at Work Policy
- Disciplinary Procedure
- Grievance Procedure

5. Antisocial Behaviour - A Person Centred Approach

5.1 Tenants are entitled to live in their home free from fear and disruption from others. We will respond promptly to all complaints about breaches of tenancy conditions involving antisocial behaviour.

- 5.2 We will take a strategic approach to the management of Antisocial Behaviour; where appropriate we will contribute to, and take part in, partnership and multi-agency working to prevent and manage antisocial behaviour.
- 5.3 We aim to resolve complaints about antisocial behaviour as quickly as possible. We will try to resolve them at an early stage to avoid them escalating into more serious problems. We will be positive and supportive in our approach and tenants will be treated with courtesy, respect and fairness.
- 5.4 We will assume in the first instance, that a complaint is justified and will, where appropriate, support those involved including:
- ensuring support needs and / or the need for protection is identified and is accessed by working in partnership with other specialist agencies;
 - being sensitive to the diverse needs of those involved irrespective of gender, race, religion, age, disability, or sexual orientation;
 - respecting the complainant's wish to remain anonymous wherever possible
 - providing advice and assistance and a supportive environment, which encourages people to report ASB to us, police and other relevant agencies;
 - advising complainant that Trust will pass the matter to the Police where the complaint involves allegations of criminality
 - commencing an investigation into a complaint as soon as is reasonably possible and in accordance with the ASB policy and procedure;
 - communicating regularly with complainants to keep them informed of progress;
 - supporting complainants and witnesses is paramount as successful potential legal action requires good evidence
 - ASB can seriously impact on an individual's health and wellbeing. In some local authority areas, the stress management and home security services provided by the LA, to victims and complainants of ASB, may be promoted and such individuals will be referred to and encouraged to use these services.
 - ensuring that perpetrators receive advice and support to assist them in either modifying their behaviour, or assisting them to deal with any underlying cause of ASB
 - responding to ASB issues at an early stage by communicating with the perpetrator about their behaviour and explaining their responsibilities. This may include accessing a specialist support service to help the perpetrator to understand and adhere to the tenancy obligations;

- explaining to the perpetrator the potential actions which may be taken against them and the possible outcomes of such actions;
- making all reasonable attempts to engage with perpetrators to improve their behaviour or increase their consideration for other tenants;
- continuing to liaise with agencies supporting a perpetrator
- ensuring any action taken against a perpetrator is necessary and proportionate

6. What Tenants Can Do to Help Resolve Anti-Social Behaviour

6.1 Trust cannot tackle anti-social behaviour alone. There are several things that we will expect our tenants to do to help us. These are:

- Being aware of the mixed society we live in and show tolerance to other people who may have a different background or lifestyle, be of a different race, ethnicity, disability, sexual orientation, gender, age, cultural or religious beliefs.
- Realising that your enjoyment of life at home should not cause a neighbour any distress.
- Speaking to neighbours when a problem arises-using a friendly approach. Discussing the problem may resolve it much quicker and with less ill feeling than involving Trust..
- Read and understand the terms of your tenancy agreement and ensure that all behaviour complies with this.
- Make children and visitors aware of the need for good, neighbourly behaviour.
- Reporting incidents to us and other relevant agencies such as the Police or the Council.
- Keep us informed of details of ongoing problems;
- Assist us with keeping records of nuisance and anti-social behaviour;
- Do not make malicious or vexatious complaints which are complaints without basis;
- Understand that we will use a range of measures to try and tackle ASB and resolve problems depending on the severity of the case. Legal Action is not appropriate in all cases and if we do decide to take such action it will be a last resort.
- Understand the limitations we have as a Landlord when trying to deal with cases of anti- social behaviour;
- Co-operate with Trust in trying to resolve anti-social behaviour, including attempting mediation.

7. Our Partnership Approach

7.1 Partnership and close multi-agency working can be utilised to enable Trust to successfully manage more serious cases of Antisocial Behaviour. We will contribute to and work in partnership with other agencies to prevent and manage ASB including:

- forming and maintaining links with statutory and other agencies to work towards preventing and managing ASB;
- taking a multi-agency approach and working with perpetrators to improve their behaviour;
- being part of formal information sharing protocols to facilitate the exchange of relevant information;

7.2 We recognises that in some instances of ASB, one or either party may fall under the terms of the ASP Act, therefore, when appropriate, staff should also refer to our Adult Support and Protection Policy and Procedure.

8. Categories of Anti-Social Behaviour Complaints

8.1 ASB can be a complex issue. Often what feels like a nuisance to some can have a negative impact on another. The range of ASB can be from relatively minor disputes to serious and extreme cases of harassment and violence.

8.2 The definition of what constitutes ASB is based upon what is viewed as reasonable and unreasonable, this often requires judgement to be made.

8.3 The initial step on receipt of a complaint is the analyse the categorise it to ensure an appropriate response. We will take a course action appropriate to the nature of the complaint. To assist we have agreed three complaint categories as follows:

Category A – very serious complaints which, if proved, will result in eviction proceedings being commenced and which include drug dealing; assault and violence, criminal behaviour involving threats of violence serious harassment, racial harassment and serious damage to property including fire raising.

Category B – serious complaints which may result in the commencement of eviction proceedings including threatening or abusive behaviour, frequent serious disturbances, vandalism, frequent and persistent noise.

Category C – less serious cases and other breaches of tenancy which are unlikely to result in eviction proceedings including family disputes affecting neighbours, control of pets, behaviour of visitors/family members, infrequent disturbances, garden upkeep, litter and bulk waste disposal.

8.4 Further information on the type of cases which are likely to fall into these categories is provided to staff within the associated procedure.

9. Prevention and Enforcement

Legal Remedies

9.1 The Association has or has access to several legal powers and remedies in the management of antisocial behaviour. These include:

- Notice of Proceedings
- Recovery of Possession Actions
- Anti-Social Behaviour Orders (ASBOs)
- Interim Interdict – an order of the court requiring a person to stop doing something legally wrong. Trust might for example seek an interdict against ASB which constitutes a breach of tenancy conditions, a threat of violence, or a pattern of ongoing nuisance. Interdicts are a recommended course of action to intervene quickly and provide immediate protection.
- Short Scottish Secure Tenancy Agreement – a new ground included in the Housing (Scotland) Act 2014 which means:
 - Trust has the flexibility to consider using this new additional measure to tackle relatively serious antisocial behaviour in certain cases.
 - Trust Housing may grant a SSST to a new or existing tenant if there has been antisocial behaviour within the previous three years with no need for any criminal conviction or court proceedings to have taken place. The antisocial behaviour can have been based on the antisocial behaviour of not just the existing tenant but also –
 - Any joint tenant
 - Anyone residing or lodging at the property
 - Any subtenant
 - Any visitors to the property

- The SSST must be granted for an initial term of 12 months. This can be extended by a further 6 months in certain circumstances.
- Notice requires to be served to advise the tenant of the change to their tenancy conditions.
- The SST would end on the serving of that notice.
- The SSST may convert back to a SST if certain conditions are met.
- Setting a minimum 12-month term for SSST's for antisocial behaviour is intended to allow more time for support services to have an effect and prevent the need for eviction action at a later stage, wherever possible.
- Landlords can take legal action during the period of the SSST and will need to decide if this is the type of case where this would be appropriate.

Non-Legal Remedies

9.2 Trust has several non-legal measures which can be adopted in the case of antisocial behaviour. These include:

- Advice and Support
- Formal warning letters
- Mediation & Support,
- Acceptable Behaviour Contracts (ABCs),

9.3 Our Antisocial Behaviour procedure contains full details of how we will deal with breaches of the tenancy agreement in terms of antisocial behaviour.

Prevention

9.4 Trust acknowledges the importance to taking steps to prevent antisocial behaviour. Consequently, this policy links to other policies such as allocations, estate management, void management, pets, complaints.

- 9.5 Trust Housing Association believes that one of the best ways to tackle ASB is to have effective preventative measures in place. Early intervention is key, identifying possible problems before they become antisocial. We have adopted the following preventative measures:
- 9.6 A robust SST agreement that has specific clauses relating to ASB
- 9.7 New tenants are advised of the conditions of the tenancy agreement and particularly the obligations relating to ASB when they sign their SST agreement.
- 9.8 We consider the support needs of existing and prospective tenants, developing effective partnerships with care and support providers to try to ensure appropriate support is in place to enable the tenant to sustain their tenancy
- 9.9 We promote a firm stance and confirm intent to take action against ASB in our “What you need to Know about Living Here” folder and through newsletters.

10. Malicious or Vexatious Complaints

- 10.1 The making of malicious or vexatious complaints can be a form of harassment or anti-social behaviour whereby an innocent resident is subject to unfounded, exaggerated or dishonest complaints by someone seeking to cause a detriment to that innocent resident.
- 10.2 A vexatious complaint is a complaint without any merit which has been made solely to harass or intimidate another resident or a member of staff.
- 10.3 A malicious complaint is a complaint that is false, and the intention is to cause harm or damage to another resident or a member of staff.
- 10.4 Whilst Trust staff will respond to complaints made in line with the policy, part of their investigation may have to include the possibility that the complainant may have certain motives for making the complaint.
- 10.5 Staff will need to be aware of such possibilities when investigating complaints and if it becomes clear that the complainant is malicious or vexatious then the appropriate action will be taken against the perpetrator as would be for any other form of harassment or anti-social behaviour.

11. Staff Resources, Training and Support

- 11.1 The management of ASB can be resource intensive in terms of staff time and financial costs.
- 11.2 It is important that staff who are managing antisocial behaviour cases are provided with support from colleagues, line management and our legal advisors.
- 11.3 Detailed procedures and guidance for staff on how to manage ASB accompany this policy. The procedure also provides reporting proformas and associated paperwork to assist with investigations and management of ASB.
- 11.4 Appropriate training can be accessed through research and external providers
- 11.5 Trusts Health and Safety policy and its associated procedures and guidance including risk assessment, zero tolerance and lone working, together with appropriate HR policies relating to the welfare, security and safety of staff should be applied where appropriate.

12. Data Protection

- 12.1 We will comply with the provisions of the Data Protection Act 2018, which gives individuals the right to see and receive a copy of any personal information that is held about them by the Association and to have any inaccuracies corrected.

13. Anti-Bribery

- 13.1 Trust is committed to the highest standards of ethical conduct and integrity in all its activities and, to ensure compliance with the Bribery Act 2010, it has introduced an Anti-Bribery policy and procedures. These must be adhered to by all employees, Board Members and associated persons or organisations acting for or on behalf of Trust when undertaking any actions referred to in this policy.

14. Equality, Diversity & Inclusion

- 14.1 As Leaders in Diversity, Trust aims to promote equality and diversity and operate equal opportunities policies which inform all aspects of its business. It will ensure that it adheres to the Equality Act 2010 by being committed to equal and fair treatment for all and opposed to any form of unlawful discrimination.

As such, in considering this policy, no one will be treated differently or less favourably than others because of any of the protected characteristics as listed in the Equality Act 2010:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation; or
- Marriage and Civil Partnership

Or because of any other condition or characteristic which could place someone at a disadvantage were it to be taken into account, unless this can be objectively justified in terms of the legislation.

Trust will make reasonable adjustments for disabled people where necessary and possible to do so.

Upon request, Trust will make information on applying for housing available in alternative formats, such as large print, tape, Braille to overcome communication barrier.

Trust will use Happy to Translate tools and procedures to help overcome a language barrier.

15. Policy Review

- 15.1 This policy will be reviewed on a three-yearly basis. The purpose of the review is to assess the policy's effectiveness and adhering to current legislation and good practice and identify any changes which may be required.

16. Document References

- 16.1 In all of Trusts official documents, where references are made to specific job titles, roles, groups or committees, such references shall be deemed to include any changes or amendments to these job titles, roles, groups or committees resulting from any restructuring or organisational changes made within Trust (or, where this policy also applies to another member of the Trust group, made within that group member) between policy reviews.