

Antisocial Behaviour Policy

Policy Number: HM04

Prepared By	Customer Services		
Procedure Created	Antisocial Behaviour Policy		
Effective Date	August 2021		
EIA Status	Initial Screening Conducted	Yes	No
		X	
	Full EIA Conducted	Yes	No
			X
Review Date	February 2026		
Posted on Website	Yes		

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1. Introduction

1.1 Statement of Objectives

The Antisocial Behaviour Policy aims to create and maintain conditions in which tenants can enjoy their home and surroundings in peace, without unreasonable disturbance from others.

Our objectives include:

- being efficient and proactive in fulfilling our legal obligations as a landlord.
- ensuring that tenants fulfil their legal obligations in relation to their tenancy agreement
- focusing on prevention and early intervention where appropriate.
- developing a multi-agency approach to resolving disputes that we cannot resolve independently.
- ensuring that tenants are kept up to date on the status of their complaint.
- ensuring that staff are appropriately trained so that they have the appropriate skills to deal with issues that arise; and
- monitoring and reviewing incidents of Antisocial Behaviour, identifying trends and intervening as appropriate.

CVHA will take a strategic approach to the management of Antisocial behaviour (ASB), including:

- contributing to, and taking part in, partnership and multi-agency working to deal with, and prevent, antisocial behaviour within communities where the Association is represented.
- developing schemes to meet ‘secure by design’ criteria and
- making budgetary provision where appropriate to undertake improvements, such as increased security lighting, which would help to prevent or reduce ASB.

1.2 Compliance with Regulatory Standards

In terms of the Scottish Social Housing Charter, the Scottish Housing Regulator has identified a number of key indicators to measure landlord performance and that are relevant to this policy.

The Association will adhere to the outcomes of the Scottish Social Housing Charter detailed below.

Outcome 1: Social Landlords perform in all aspects of their housing services so that, they support the right to adequate housing, and 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.

Outcome 6: Estate Management, Antisocial behaviour, Neighbour Nuisance and Tenancy Disputes; tenants and other customers live in well-maintained neighbourhoods where they feel safe.

Outcome 11: Tenancy Sustainment; tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.

Outcome 13: Value for Money; – tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

1.3 Expected Outcomes

Key outcomes of operating an effective Antisocial Behaviour Policy include:

- ensuring that properties are well maintained, safe, secure.
- optimising customer satisfaction with service delivery; and
- delivering value for money.

1.4 Informing and Involving Stakeholders

We will promote our Antisocial Behaviour Policy in line with our Customer Engagement Strategy.

1.5 Corporate Fit - Legislation and best practice

We will comply with all relevant legislation and associated regulations, including:

- The Housing (Scotland) Act 1987, 2001, 2010, 2014
- Environmental Protection Act 1990, as updated by Public Health etc. (Scotland) Act 2008.
- Protection from Harassment Act 1997.
- Crime and Disorder Act 1998.
- The Data Protection Act 2018.
- The Privacy and Electronic Communications (EC Directive) Regulations 2003:
- The General Data Protection Regulation (EU) 2016/679 (the “GDPR”).
- Human Rights Act 1998.
- Criminal Justice (Scotland) Act 2003.
- Antisocial Behaviour etc. (Scotland) Act 2004.
- Hate Crime and Public Order (Scotland) Act 2021
- Police, Public Order and Criminal Justice (Scotland) Act 2006.
- Equality Act 2010; and
- The Scottish Social Housing Charter.

Common law, statute and the contractual obligations within our tenancy agreement set out our responsibilities as landlord and those of our tenants.

Our Antisocial Behaviour Policy is consistent with our:

- Corporate Strategy
- Business Plan
- Tenancy Sustainment Policy. (Under Review)
- Allocations Policy
- Estate Management Policy
- Risk Based Policy
- Domestic Abuse Policy

- Child and Adult Protection Policy
- Unacceptable Actions Policy
- Health and Safety Policy
- Risk Strategy
- Financial Regulations; and
- Standing Orders and Delegated Authority Policy

1.6 Equalities

Our Antisocial Behaviour Policy complies with CVHA's Equality Policy to ensure equality of treatment for all tenants without discrimination or prejudice.

The Association aims to promote equality and diversity and operate equal opportunities policies across all areas of the business.

A sign or language interpreter can be made available. Tenants can have a family member, friend or other representative with them at all times, if they so wish. We will discuss complaints in a location where tenants feel comfortable.

The Association adheres to the Equality Act 2010 by being committed to equal and fair treatment for all and opposed to any form of unlawful discrimination. We will not treat anyone differently or less favourably than others because of any of the protected characteristics as listed in the Equality Act 2010:

- Age,
- Disability,
- Gender reassignment,
- Marriage and civil partnership,
- Pregnancy and maternity,
- Race,
- Religion or belief,
- Sex,
- Sexual orientation
- Or because of any other condition or characteristic which could place someone at a disadvantage were it to be considered, unless this can be objectively justified in terms of the legislation.

To support our commitment to equality of opportunity an equality impact assessment has been carried out on this policy.

1.7 Confidentiality

CVHA recognises that confidentiality is important to tenants and will treat their tenancy information in the strictest confidence under the Data Protection Law and in line with CVHA's Openness and Confidentiality Statement. However, it is recognised, that parties involved in cases may often be identified from the nature of the complaints made.

Confidentiality of all parties involved in cases of ASB will be respected, except where an offence is disclosed. The exception to this will be where a person (including children) is considered to be at risk, or if there is a risk of serious harm to anyone involved in the situation, or when required to do so by law or by an order of a court.

1.8 Business Plan and Risk Management

Our Business Plan reflects that tackling antisocial behaviour is a key landlord responsibility. We seek to mitigate against business risk through managing our anti-social behaviour service in an efficient, effective and economic manner.

2. Roles and Responsibilities

The Customer Services Manager (CSM) is responsible for ensuring adoption of, and adherence to, this policy and its associated procedures relevant to their operation. The CSM also has responsibility to ensure that CVHA is compliant with legislative/regulatory requirements and good practice.

The Senior Housing Officer(s) (SHO) has day-to-day responsibility for the implementation of this policy and procedure. They are responsible for ensuring that suitable and sufficient training and instruction is provided to staff.

All Customer Service Team staff must be aware of, understand and comply with this policy. The Contact Centre Advisors will log complaints and provide general advice and information to customers. Should a case require investigation a Housing Officer (HO) will investigate the matter and respond to the reporter.

We clearly define budgetary responsibilities and delegation of authority for antisocial behaviour functions within our Financial Regulations and Standing Orders and Delegated Authority Policy.

The Board will receive regular updates on the implementation of the Antisocial Behaviour Policy so that they can have reasonable assurance that it is operating effectively in practice. The Audit and Risk Committee may also seek assurance in this regard.

3. Definition of Antisocial Behaviour

Section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 defines antisocial behaviour as a person who,

“Acts in a manner that causes or is likely to cause alarm or distress; or pursues 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”

A course of conduct must involve conduct on at least two occasions.

4. Definition of Harassment

Harassment is a specific type of antisocial behaviour. ‘Harassment’ exists when one party acts to adversely affect the peace or comfort of, or cause offence to, another party (the subject).

The following definition is used for the purpose of this policy. Harassment is defined in the Equality Act (2010) as when:

- (i) A person (A) harasses another (B) if -
 - (a) A engages in unwanted conduct related to a relevant protected characteristic, and
 - (b) the conduct has the purpose or effect of -
- (ii) violating B's dignity, or

(iii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

The terms ASB and Harassment are often used interchangeably, the difference is that harassment is generally premeditated, targeted and reoccurring whereas ASB can be unintentional and spontaneous.

The Protection from Harassment Act 1997 sets out that for harassment to be a criminal offence, the conduct must be intended to amount to harassment, occurs in circumstances where it would appear to a reasonable person that it would amount to harassment, and involve conduct on at least two occasions.

Where there is a suggestion that a criminal offence has occurred – for example under the Race Relations Act 1976 – we will assist the victim in taking the case to the Police or another organisation that may be better placed to offer advice.

We will deal with all complaints of anti-social behaviour or harassment fairly and effectively and will update the reporter on action being taken.

5. How to Report Antisocial Behaviour

The initial report of an ASB incident may be reported by:

- The reporter (victim)
- A third party, for example a relation, employee, contractor or neighbour.
- A specialist organisation, for example Police, Social Work Services.

Anonymous complaints will be investigated however it must be noted that no feedback can be provided to the reporter if they remain anonymous and it can be difficult to pursue a case if there are no witnesses or lack of evidence.

Incidents of ASB can be reported in person, by telephone, in writing, via email or CVHA webpage.

6. Categories of Antisocial Behaviour

Each report of ASB is considered on a case-by-case basis, each case logged will be categorised based on the seriousness of the incident. The category determines the timescales for the HO to respond to the reporter and initiate the investigation stage.

Serious Antisocial Complaints – serious complaints which, if proved, may result in eviction proceedings being raised. Examples may include drug dealing; assault and violence, criminal behaviour involving threats of violence, serious harassment, hate crime and serious damage to property including fire raising.

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

General Neighbour Nuisance. These are less serious cases and are unlikely to result in eviction proceedings. This category includes complaints and disputes affecting neighbours, disagreements for example, on the use of common areas, the behaviour of children, pets, general household living noise, behaviour of visitors/family members, infrequent disturbances and the condition of gardens.

Disagreements or issues can arise when the lifestyles of people living near to each other clash. This can happen for example, between different age groups, household sizes /

family composition, cultural backgrounds, and working / sleeping patterns. We may advise the reporter of their responsibility to address such matters without our involvement if our previous attempts to resolve the matter has not improved the situation and/or there is no evidence of ASB or breach in tenancy.

CATEGORY	EXAMPLE	RESPOND TO REPORTER
SERIOUS ASB It is expected that serious incidents will be reported to Police.	Serious incidents of assault and violence, criminal behaviour involving threats of violence towards any member of the public including members of staff; serious harassment; hate crime; and serious damage to property, including fire raising. A tenant or member of their household has been convicted of drug dealing or in connection with illegal or immoral purposes.	1 working day
GENERAL ASB	Complaints which concern aggressive/abusive behaviour; frequent disturbance; vandalism; harassment, drug/solvent/alcohol related nuisance; and frequent and persistent noise.	5 working days
GENERAL NEIGHBOUR NUISANCE	Complaints which concern breaches of tenancy conditions or minor neighbour disputes (these would normally be dealt with by a referral to mediation services or in line with the Estate Management Policy or the Tenancy Agreement)	5 working days

We aim to carry out our investigation and outcome each reported case within 28 working days.

7. Domestic Abuse

New legislation was introduced on 5 May 2021 to protect a person from abusive behaviour by their partner or ex-partner; and to allow the termination of Scottish Secure tenancies in cases involving abusive behaviour by a tenant towards a partner or ex-partner.

Where domestic abuse occurs within our tenancies, we will work within the legislative framework to ensure victims receive appropriate support. We will signpost to support, those subjected to domestic abuse who wish to remain in their own home. Where appropriate, legislative powers and legal remedies will be used to protect the rights of those subjected to domestic abuse. This could include legal remedies that exclude the offending partner from a tenancy.

8. Drugs

We recognise that drugs can have a serious effect on those who misuse them, their families, and their communities. Involvement with drugs can often have a direct link to ASB.

Customers who report drug activity at a CVHA property will be directed to report the

matter to Police Scotland for investigation. CVHA may pursue a decree for eviction in cases where its tenants or members of their families have been convicted of the sale or supply of drugs to others in their communities, where such a course of action is considered to be, reasonable and proportionate.

9. Antisocial Behaviour Investigation

We will view all complaints of alleged antisocial behaviour objectively and will investigate impartially.

When a complaint is received, we will commence an investigation into a complaint in accordance with the timescales outlined above.

Staff will be required to use their professional judgement on the best way to progress a case, with the steps taken depending upon the circumstances of each individual case. We will keep a detailed record of action taken – the type of investigation is likely to include:

- Interviewing the reporter
- Interviewing the alleged subject (if appropriate).
- Interviewing witnesses (if appropriate)
- Seeking information from the Police, Social Work or any other agency likely to have information.
- Communicating regularly with reporters to keep them informed of progress and outcomes.
- Providing advice and information.

Discussions with the subject will focus on the affect that their behaviour has on others whilst explaining their tenancy responsibilities. This may include accessing a specialist support service to help the subject to understand and adhere to the tenancy obligations.

- Explaining to the subject the potential actions which may be taken against them and the possible outcomes of such actions.
- Making all reasonable attempts to engage with subjects to improve their behaviour or increase their consideration for other residents.
- Make attempts to understand the reasons for the antisocial behaviour to ensure a risk-based approach to providing support.
- Referring subjects to appropriate support services, such as Drug and Alcohol Advisory Services, to provide support and assistance with rehabilitation.
- Continuing to liaise with agencies supporting a subject to ensure that there is an on-going 'joined-up' approach; and
- Ensuring any action taken against a subject is necessary and proportionate.

We will consider the action that best delivers a proportionate and flexible response to the antisocial behaviour reported. We will consider the following factors in determining the most reasonable way to proceed:

- Nature of the allegation/s.
- Seriousness of the allegation/s.
- Level of evidence available to support the allegation/s.
- Degree of risk faced by the subject or wider community if the behaviour continues.
- Wishes of the subject; and
- Likely effectiveness of one option versus another.

We will seek to resolve low level antisocial behaviour or neighbour nuisance cases informally where possible. However, where there is persistent antisocial behaviour, we will work in partnership with other agencies and consider legal remedies where

appropriate. Relevant agencies may be (but not limited to): Police; local authority; social work; victim support.

When working with vulnerable residents (both reporters and subjects of ASB) a tailored approach on a case-by-case basis will be taken to suit individual circumstances and needs. This will involve working closely with other partner agencies to ensure that vulnerable residents are provided with or signposted to appropriate support services.

We will take responsibility for investigating ASB within our neighbourhoods. However, depending on the nature of the ASB being carried out and the identity of the alleged perpetrator, it may be more appropriate for another agency to take the lead. For example, where there has been criminal damage, assault or harassment, it is not usually appropriate for housing officers to lead the investigation as Police Scotland should investigate criminal matters.

If the alleged perpetrator is an owner occupier, a private tenant or a tenant of a local authority or other housing association, the case should be referred to their landlord, the police or local authority ASB team to investigate.

10. Preventative Measures

- When allocating tenancies, we will seek to manage potential risks and identify support needs which including working in partnership with other service providers and agencies to improve tenancy sustainment.
- We will ensure customers are aware of their tenancy responsibilities including making new residents aware of their responsibilities to behave in an acceptable manner at the point of sign-up, with the terms of their tenancy clearly explained.
- All new tenants will be required to sign a 'Good Neighbour Agreement.
- Ensuring tenant know how to report ASB and are aware of their responsibilities with regards to preventing incidents.
- If appropriate we will form links with partners and community groups to identify issues and work collaboratively within communities at an early stage.

11. Outcomes

11.1 Non-Legal Interventions

- Mediation – Mediation is effective for lower level ASB or neighbour nuisance cases.
- Housing Options advice - Housing options advice will be offered to anyone who expresses an interest in seeking alternative housing. It is also recognised that a move to alternative accommodation can be a longer-term solution in response to neighbour nuisance.
- Advice and information - This will be provided to help tenants to maintain their tenancy conditions and to direct reporters to other agencies who may be better placed to investigate. When there is insufficient evidence to take further action, Staff may also provide advice to help to manage the expectations of the reporter.
- Tenancy Support – We will use a person-centred, trauma informed approach to try to understand the cause of the antisocial behaviour and signpost or refer to support agencies for support.
- Antisocial Behaviour Contracts (ABC's) – An ABC is a voluntary written agreement between a subject and CVHA. Whereby the subject agrees not to be involved in specific antisocial behaviour. ABC's are an effective tool to manage youth disorder but can be considered in other circumstances.
- Written Warnings – A First and Second Written Warning will highlight the tenancy conditions outlined in the Scottish Secure Tenancy Agreement.

- Management Transfer – As a last resort, in exceptional circumstances or where there is a risk to safety, a transfer to alternative accommodation may be considered.

11.2 Legal Interventions

Our aim is to resolve cases by utilising the measures outlined above but for high level serious cases or where intervention actions have failed to resolve the situation, we may take appropriate legal action as the next step.

We will take prompt action against tenants who breach their tenancy agreement. This action will initially be a warning letter or an interview with the tenant to discuss the issues. In the event of the tenant continuing to breach the tenancy agreement, we will make use of the following enforcement measures depending on the severity, or frequency of the behaviour this may lead to legal action.

- Seeking compensation from the perpetrators for damage to property.
- Notice of Proceeding. (Legal Notice) - We will issue a Notice of Proceedings for recovery of possession as a warning against continued breaches of tenancy. This must be served prior to any Court Action.
- Suspension of Housing Application – In line with our Allocation Policy, we will suspend the housing application of tenants on our transfer list who have a Notice of Proceedings for antisocial behaviour.
- Decree for eviction. - We will only use eviction as a last resort when all other action has failed.
- Interdicts - Interdicts are another option to prevent someone from carrying out a certain course of action. Specific implements can also be used to enforce a tenancy condition. We will liaise with the police and our solicitors wherever necessary in response to antisocial behaviour.
- Antisocial Behaviour Orders (ASBO's) - We will consult with our solicitor and the police about serving an Antisocial Behaviour Order (ASBO). We may also consult the Principal Reporter if the person is under 16.
- Conversion to a Short Scottish Secure Tenancy (SSST) - Under the terms of section 7 of the Housing (Scotland) Act 2014, landlords have the right to convert an existing tenancy to an SSST where an existing tenant or member of their household or person visiting the house has acted in an antisocial manner within the last three years. There is no need for a criminal conviction or legal proceedings. The SSST must be granted for an initial period of 12 months and can be extended by a further 6 months in certain circumstances. 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.
- Streamlined Eviction - Under the Housing (Scotland) Act 2014, we have the right to pursue a streamlined eviction in cases of serious and ongoing antisocial behaviour, whereby a tenant, a resident, anyone else living in or visiting the property has been convicted of an offence punishable by imprisonment within the previous 12 months. Streamlined eviction removes the court's discretion to consider whether it is reasonable to grant an eviction order. Therefore, the court must grant an eviction order where it is satisfied that

- (i) there is a ground for recovery of possession set out in paragraph 2 of schedule 2 to the Housing (Scotland) Act 2001; and
- (ii) the council has given regard to the statutory requirements; and
- (i) the notice of proceedings was served within 12 months of the conviction (or when the appeal was disposed of).

12. Partnership Working

We will contribute to and work in partnership with other agencies to prevent and manage ASB including:

- Taking a multi-agency approach and working with subjects to understand the reasons for their behaviour and encourage change in behaviours to improve the situation
- Working closely with local authorities, relevant partners, and agencies, to ensure that an appropriate assessment takes place prior to rehousing any person who has been linked with ASB and to identify subjects who may attempt to move from property to property.
- Being part of formal information sharing protocols, and other appropriate protocols to facilitate the exchange of relevant information.
- Forming and maintaining links with statutory and other agencies to work towards preventing and reducing ASB.
- Being active members of key local partnerships; and
- Holding subjects accountable for their actions and ensuring that the full range of civil and criminal remedies are considered.

13. Malicious or Vexatious Complaints

The making of malicious or vexatious complaints can be a form of harassment or antisocial behaviour whereby an innocent resident is subject to unfounded, exaggerated or dishonest complaints by someone seeking to cause a detriment to that innocent resident.

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.

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.

Whilst Housing Association staff will respond to complaints made in line with the policy, part of their investigation may have to include the possibility that the reporter may have certain motives for making the complaint. Staff will need to be aware of such possibilities when investigating complaints and if it becomes clear that the reporter is malicious or vexatious then the appropriate action will be taken in line with CVHA Unacceptable Actions Policy.

14. Policy Review

This policy will be reviewed on a three-yearly basis or sooner if required by statutory, regulatory or best practice requirements. The purpose of the review is to assess the policy's effectiveness in adhering to current legislation and good practice and identify any changes which may be required.

Policy Change History

Version No:	Substantive Change	Author of Change	Approval	Date	Website
1.0	<p>The Equalities section has been expanded to reflect additional work and responsibilities. An Equalities Impact Assessment was carried out as part of the review.</p> <p>The 'Categories of Antisocial Behaviour' section has been refreshed to make service commitments and timescales clearer and more specific.</p>	Caroline Hotchkiss	Board	16/01/23	Yes
1.1	New policy front cover and version control added	Anne Cavinue	Board	30/01/23	Yes