



# Policy on Responding to Neighbour Nuisance and Anti-Social Behaviour

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Berwickshire Housing Association is a Registered Society. Registration No.: SP2482RS  
Scottish Charity No.: SC042342 Registered Office: 55 Newtown Street, Duns, TD11 3AU

# Policy on Responding to Neighbour Nuisance and Anti-Social Behaviour

## 1 Introduction

- 1.1 The Association is committed to ensuring that as far as is possible all of its residents are able to have quiet enjoyment of their homes, without being abused, harassed or subject to noise or other nuisance caused by those around them. We house people with many different housing and social needs and ask that our tenants have consideration and tolerance of their neighbours.
- 1.2 The Association is committed to reducing and tackling Anti-Social Behaviour both by using preventative measures and by responding firmly and effectively to complaints of both neighbour nuisance and Anti-Social Behaviour by working in partnership with Scottish Borders Council and other relevant agencies.
- 1.3 Prevention of Anti-Social Behaviour does not come within the scope of this policy, but is noted as an important priority. Under the terms of the Allocations Policy housing applicants will normally only be housed subject to a satisfactory tenancy report.
- 1.4 The policy outlined below looks at the definitions of Anti-Social Behaviour and neighbour nuisance. However it must be noted that in some cases differing lifestyles may cause clashes and conflict between neighbours. This policy is not intended to address behaviour that is merely different and will not be used to promote harassment of individuals or groups for behaviour that results from being of a different race or origin.

## 2 Purpose

- 2.1 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.

## 3 Aims

- To ensure that those who report incidences of Anti-Social Behaviour are kept aware of the progress of their complaint and are made aware of the reasons for decisions taken
- 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 partnering agencies.

- 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.

#### **4. Definition of nuisance and anti-social behaviour**

- 4.1 Anti-social and nuisance behaviour is behaviour that disrupts other resident's normal use of their home and the community which they live in. It is defined by the Anti-Social Behaviour etc. (Scotland) Act 2004 as follows "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.
- 4.2 The clauses within the Association's Scottish Secure Tenancy Agreement which refer to nuisance and anti-social behaviour are highlighted to new tenants at their "sign-up" meeting and at accompanied viewing. If there is problems in a new tenancy the clauses are repeated at "settling in visit".

### **5 Categories**

- 5.1 There are different types of neighbour nuisance and anti-social behaviour. It is important to distinguish between the severity of different types of behaviour. The Association's policy is to classify neighbour nuisance and anti-social behaviour into three categories which then influence the way in which we respond to complaints.

#### **5.1.1 Neighbour Nuisance**

This means behaviour which unreasonably interferes with other people's right to the use and enjoyment of their home and community and includes, for example, complaints about occasional excessive noise, occasional disturbances, car repairs, parking in unauthorised areas, pets or children out of control, door slamming, untidy gardens.

#### **5.1.2 Anti-Social Behaviour**

This is behaviour which is clearly unacceptable and can include criminal acts such as vandalism and damage to property, repeat noise nuisance, serious disturbances as well as behaviour such as rubbish dumping.

#### **5.1.3 Serious Anti-Social Behaviour**



This is unacceptable behaviour such as threatening or abusive behaviour, violence, unprovoked assault, vandalism, harassment or drug dealing.

The Association takes a very serious view of any racial harassment either against or by any Berwickshire tenants/residents. We have established a separate policy for responding to racial harassment. For further information see the Equal Opportunities Policy.

There are complaints which are not primarily about housing matters, for example, complaints about road traffic speeds, child protection or abuse. These complaints are usually dealt with by the appropriate authorities such as the Police or social work.

## 6 Prevention

### 6.1 The powers of a landlord

The Association recognises that prevention is the most effective form of action. We cannot totally prevent anti-social behaviour, but we can however work as a landlord in partnership with other agencies to try to minimise the circumstances which may give rise to anti-social behaviour.

### 6.2 Design of housing developments

The Association takes a 'Project Team' approach to the design of new developments. The involvement of Customer Services 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
- parking
- security by design

### 6.3 Allocations



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The Association will let houses in a way which is sensitive to the surrounding area if there is already evidence of actual or potential problems in an area. Potential tenants will be subject to a check via the Anti-Social Behaviour Unit to establish that there are no concerns.

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 would look into this matter in more detail and may not consider that applicant for a tenancy.

#### 6.4 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 explained in detail by the Housing Officer before the new tenant signs the tenancy agreement. (see Appendix A) Behaviour expected of a tenant is also discussed at accompanied viewing.

#### 6.5 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 includes checking how the tenant is getting on with neighbours, and re-emphasising the tenant's obligations under the tenancy agreement.

#### 6.6 Tenants' 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 good neighbor advice note.

## 7 Multi-agency Working

7.1 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.

7.2 The Scottish Borders Anti-social Behaviour Working Group was set up in 1998 with 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, Victim Support, NHS, Waverley Housing, Eildon Housing



Association, Scottish Borders Housing Association and other relevant agencies to implement and review the agreed multi-agency strategy.

- 7.3 The Association will also work with other agencies, for example, police, social work, education, community education and health services when planning both the physical development and management services for a new development. We will encourage them to provide the resources required for our housing developments and take note of the impact of our proposed development on their services.
- 7.4 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 required support and assistance they may need to establish and maintain their tenancies.
- 7.5 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 in our communities. We are unable to take action against children playing in open areas.

## **8 Training**

8.1 We will train our staff in

- This policy and any relevant procedures
- Legal remedies
- The services available from other agencies
- Related personal skills, such as interviewing skills, mediation & negotiating skills, avoiding conflict and avoiding violent situations

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

### **9.1 Making a complaint**

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

### **9.2 Anonymous complaints**

We will not normally investigate anonymous complaints about non-tenancy issues or neighbour nuisance. We will use our discretion in deciding whether to investigate anonymous complaints about serious anti-social behaviour or harassment. We will log anonymous complaints in order to monitor any patterns developing which may require us to take action. We will where we feel appropriate bring any serious anonymous complaints to the attention of the Anti- Social Behaviour Unit (SBC)

### 9.3 Decision making

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

### 9.4 Response times

9.4.1 We will respond quickly, sensitively and objectively to complaints of nuisance and anti-social behaviour. These will normally be dealt with by the Housing Officer in the first instance and will be discussed with the Housing Team Leader at regular monitoring meetings. The response to collate the relevant information from the complainant may be in the form of a telephone call, but is preferred to be a home visit or an interview within the office. We will contact complainants within the following timescales:

Description	Timescale (working days)
Nuisance behaviour	Within 10 days
Anti-social behaviour	within 5 days
Serious anti-social behaviour	within 1 day

If any of the above categories of behaviour represent a threat to the safety of occupants of a building or to the structure of the building (for example, rubbish blocking a fire exit or creating a fire hazard in a stair) the response time will be within 24 hours.

9.4.2 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 also take any necessary interim action.

9.4.3 Targets for resolving cases are agreed locally and following consultation with tenants these are:

Description	Resolution Target
Neighbour Nuisance and less serious anti-social behaviour	Within 3 months
Serious Anti-Social Behaviour	Within 6 months OR commencement of legal action.

### 9.5 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 and over a course of time. A course is defined as at least two incidents within a 6 month period.



The Association has developments which are mixed tenure (where some of the residents are not Berwickshire tenants but may for instance be owner occupiers). If nuisance is being caused by a resident who is not an Association tenant, the Association will attempt to resolve the problem using for example mediation, but in any such case will pass the relevant information to the Anti- Social Behaviour Unit within Scottish Borders Council to investigate.

## 9.6 Working with other agencies

We will take steps to work pro-actively with the following authorities to deal with nuisance and anti-social problems which fall within their sphere of responsibility:

- Environmental Health department - problems such as noise, vermin, stair cleaning, disposal of rubbish
- Planning department
- Cleansing department - abandoned cars
- Social Services – children, family and support issues
- Police - criminal acts such as assault and drug dealing, noise nuisance and harassment. Disclosure of information between the police and ourselves is often restricted by the Data Protection Act 1998. To disclose information correct forms allowing disclose or relevant information must be completed. We do discuss specific issues at Core Group Meetings in the Anti Social Behaviour Unit.
- NHS Borders – any related medical/mental health issues
- Any other relevant agencies – there are a number of specific partners who work sporadically within our area and therefore may need to be contacted in relation to a specific issue

## 9.7 Confidentiality

All complaints can be treated in confidence; however it will be made clear to the complainant that if the complaint is followed up the complainees may be able to identify the complainant simply from the details of the complaint. There are some minor exceptions in relation to confidentiality:

- The details of anonymous complaints about serious anti-social behaviour may also be passed on to any appropriate agency.
- It concerns criminal behaviour and we are obliged to inform the police
- There is risk to the health or welfare of an individual. In this case we will inform the relevant agency.

## 9.8 An objective approach

We will take account of all the circumstances of the complaint. This will include information from the complainant, any other witnesses and the person(s) responsible for the behaviour. We will review information objectively to decide on any action to be taken.





## 9.9 Mediation

The Association supports the Scottish Borders Mediation Service. Where appropriate, we will refer cases to this service as it is a useful tool which can help people to resolve their disputes. Mediation is voluntary but the effects are usually positive. The Association will advocate this service wherever possible although it cannot be used if civil action has been taken.

## 9.10 Support to victims of anti-social behaviour

We will keep complainants informed of the outcome of any investigation by staff. Our procedures champion a victim focused service.

We will give advice to complainants on support agencies and make referrals where appropriate to the Scottish Borders Victim Support Service. We will give as much support and assistance as possible to people suffering because of anti-social behaviour and where appropriate liaise with any other bodies that may also be able to assist.

## 9.11 Legal action

In the case of serious anti-social behaviour or persistent nuisance behaviour and breach of tenancy we will consider taking legal action against the tenancy of the offending tenant where appropriate. All possible legal remedies will be considered, subject to the level of evidence required being available. At all times the use of Anti Social Behaviour Orders and Eviction will be considered only as a last resort where other appropriate forms of action have been tried and failed. The following are some of the legal remedies available to the Association to be used in specific cases.

### 9.11.1 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.

### 9.11.2 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.

### 9.11.3 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, if they deem it to be appropriate, demote the related tenancies to a Short Scottish Secure Tenancy (SSST) through powers passed in the Housing (Scotland) Act 2001 if an order is granted.

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

#### 9.11.4 Repossession of the tenancy and eviction of the tenant

The termination of Scottish Secure tenancies is controlled by Section 14 of the Housing (Scotland) Act 2001.

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 Operations Director to the Housing Services Manager and the decision to evict is taken by the Operations Director.

#### 9.12 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 sustain their tenancy and adhere 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 we may if necessary consider a compulsory transfer. We will work closely with the tenant's support agencies and any other statutory agencies during the process of legal action and in preparing for eviction. At all times we would attempt to resolve any situation and allow the person(s) to remain in their current home.

#### 9.13 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 (e.g. Housing officers, police officers, private investigators). Where possible the Association will use professional witnesses to provide the factual evidence necessary to take action when neighbours are reluctant to give evidence. There may be occasions of serious anti-social behaviour where it is necessary for neighbours/complainants to attend court to provide the required evidence relating to the case.

## **10 Responses to Nuisance & Anti-Social Issues**

### **10.1 Differing Lifestyles and Social Networking**

We will not investigate complaints about incidents that do not involve breaches of the tenancy agreement. If the problem is a simple disagreement between neighbours or a personality clash, we will advise the complainant to try to resolve the problem by talking with their neighbour or we will offer to refer them to Scottish Borders Mediation Service. We will not investigate complaints of bullying or harassment via Social Network sites. The use of said sites is within the control of the individual.

### **10.2 Nuisance Behaviour**

We will encourage tenants to come to an amicable agreement about how to solve the problem. This may mean offering to refer them to the mediation service. If this fails to resolve the problem, we will advise the offending tenants of their responsibilities within the tenancy agreement. Further occurrences will result in official warnings about their responsibilities described in the tenancy agreement and joint face-to-face and/or Acceptable Behaviour Contract meetings with Police, Scottish Borders Council & the Association to discuss potential legal action and outcomes.

We will take legal action to repossess the tenancy and evict the tenant if:

there are persistent breaches over an extended period

AND/OR

tenants persistently do not heed our official warnings

Legal action against a tenancy is a long process. It is important that we are able to have some intermediate sanctions against the offending tenancy. We will use a range of other intermediate sanctions to stop the offending behaviour. These sanctions involve using other legislation within civil law and the powers of other agencies to stop the problems e.g. Environmental Health department powers on stair cleaning and disposal of rubbish, police powers and Environmental Health powers on noise nuisance.

If there is evidence of anti-social behaviour 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.

The Association will offer a short Scottish Secure Tenancy (SSST) if allocating a tenancy to an applicant or a member of the applicant's household is the subject of an active Anti-social Behaviour Order.

The rights under a short 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.

### **10.3 Serious anti-social behaviour and harassment**

A quick and firm response is essential for this type of behaviour.



It is not normally appropriate to advise complainants to seek to resolve their differences amicably with the tenant causing the problem. We will investigate the circumstances of the case and take appropriate action.

Action on these cases will be decided jointly by the Housing Officer and the Housing Services Team Leader. Action will range from official warnings to starting immediate legal action to recover possession of the tenancy of the tenant causing the problems. We will also consider other legal methods of controlling the offender's behaviour until we can evict, for example taking out an interdict to restrict their behaviour.

Very serious anti-social behaviour may include criminal action. Staff will always advise the complainants and any other witnesses to tell the police of any criminal actions. We will not take action on any complaint of criminal activity unless the complainant has reported it to the police. Staff will ensure that they always pass on information about criminal activity to the police.

In cases of criminal activity it may not be possible to take legal action against the tenancy of the person responsible until we know the outcome of the criminal court case. However in such cases we will consider other legal measures to restrain the offender's behaviour, for example an interdict.

We will liaise with other agencies that may be able to support victims and tenants who are acting as witnesses. We will refer tenants to these agencies when appropriate.

Our action will focus on stopping the very serious anti-social behavior and not on moving a complainant to stop the complaints. However in serious circumstances we will consider transferring the victim to another property although all aspects of the case will be considered before such a decision is made.

## 10.4 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

## 11 Monitoring and Review

It is essential that good, well detailed records are kept of complaints and the action taken, both for monitoring purposes and to assist the Association to identify the nature of problems and the type and frequency with which problems occur within specific areas & communities.

Staff will keep accurate records of complaints and subsequent action using our housing management software system.

Statistical information will be provided to the Board and to Scottish Borders Council on a regular basis.

This policy will be subject to review every 3 years.

## **Appendix A**

### **Berwickshire Housing Association Scottish Secure Tenancy Agreement**

#### **Clauses relating to nuisance and anti-social behaviour**

### **3 RESPECT FOR OTHERS**

- 3.1** 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.
- 3.2** '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.
- 3.3** 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.
- 3.4** 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.
- 3.5** 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.
- 3.6** 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.
- 3.7** 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.
- 3.8** 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.



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