

Responding to Reports of Neighbour Nuisance and Antisocial Behaviour Policy

Status: Approved

Policy Lead :	Executive Director – Customer Experience
Owned By :	Neighbourhood Services Lead
Date Approved:	Many 2024
Approved By :	Operations Committee
Review Date:	May 2027
Regulatory / Legislative Considerations/ References	Scottish Social Housing Charter – Charter Outcome 6 The Scottish Secure Tenancy (SST) Housing (Scotland) Act 2001 Housing (Scotland) Act 2014 Antisocial Behaviour etc (Scotland) Act 2004
Other Documents to be read in conjunction with this policy :	Scottish Borders Council Antisocial Behaviour Policy and Procedures Manual

<p>Policy Title:</p>	<p>Responding to Reports of Neighbour Nuisance and Antisocial Behaviour Policy</p>
<p>Purpose / Aim of policy:</p>	<p>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 antisocial behaviour.</p> <p>The aims of the policy are as follows:</p> <ul style="list-style-type: none"> • To ensure that those who report incidences of antisocial behaviour are kept aware of the progress of their complaint and are made aware of the reasons for decisions taken. • To allow all customers 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 antisocial behaviour. • To help customers and communities to find their own peaceful solutions to problems of neighbour nuisance whenever possible. We will provide customers 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 customer 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.
<p>Scope of Policy:</p>	<p>BHA is committed to reducing and tackling antisocial behaviour and neighbour nuisance both by preventative measures and by responding both firmly and effectively to reports.</p> <p>BHA only has jurisdiction when taking action against behaviour where our customers are alleged perpetrators and housing related matters. We work with Scottish Borders Council, Police Scotland, and other relevant agencies to ensure that all residents can enjoy their homes with abuse, harassment or being subjected to noise or nuisance caused by those around them.</p> <p>While prevention of antisocial behaviour does not come directly within the scope of this policy, it is an important priority. The scope of this policy is specifically around the effective management of reports of neighbour nuisance and antisocial behaviour.</p>
<p>Definitions:</p>	<p>Antisocial behaviour (ASB) and nuisance behaviour is behaviour that disrupts other residents normal use of their home and the community where they live.</p> <p>ASB is defined in the Antisocial Behaviour etc (Scotland) Act 2004 as follows:</p> <p><i>“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</i></p>

	<p><i>same household.”</i></p> <p><i>Conduct’ includes speech and a course of conduct must involve conduct on at least two occasions.</i></p>
Approval Source:	Operations Committee
Equality Impact Assessment:	<p>BHA aims to ensure its services and fair and accessible to all – in the scope of this policy, this relates to both people reporting neighbour nuisance and antisocial behaviour and those causing disturbances in their community.</p> <p>The policy will not be used to discriminate against any individual or household on the grounds of race, religion, marital status, disability, age, sexual orientation, gender, political opinion or otherwise. BHA’s services comply with the requirements of the Equalities Act 2010.</p> <p>When considering action in respect of any form of ASB, colleagues will investigate to ensure the complaint has not been motivated maliciously or because of discrimination or stigmatisation against a person because they fall into a specific group as outlined above. All action will be legal, proportionate and justified by our role to contribute to safe communities.</p>
Sustainability Assessment:	N/A
Partnership Assessment:	<p>As above, BHA works in collaboration with partners like Scottish Borders Council and Police Scotland as well as neighbouring Borders housing associations as part of the wider BHN.</p> <p>There are a number of collective commitments we sign up to as a result – this specific policy details the BHA-specific response to reports of neighbour nuisance and ASB as part of the wider Scottish Borders approach.</p> <p>There may be updates to the Scottish Borders wide approach which may prompt an interim review of this document ahead of the next review, which will be brought to the Operations Committee as required.</p>
Glossary of Terms	<ul style="list-style-type: none"> • ABC – acceptable behaviour contract • ASB – antisocial behaviour • ASBO – antisocial behaviour order • ASBU – antisocial behaviour unit • BHA – Berwickshire Housing Association • Colleague – any member of staff at BHA • Customer – anyone who has a tenancy with BHA • SBC – Scottish Borders Council • SST – Scottish Secure Tenancy • SSST – Short Scottish Secure Tenancy
Risk Implications:	Given the nature of this particular policy, risk plays a central role in managing cases, colleague safety and any potential legal action.

1. INTRODUCTION

- 1.1. This policy sets out the principles on how BHA responds to reports of neighbour nuisance and antisocial behaviour to minimise the impact and occurrence of ASB.
- 1.2. BHA recognises the impact that ASB can have on individuals and the community and is committed to ensuring that communities across Berwickshire can be enjoyed safely and peacefully by the people who live there.
- 1.3. Our customers have a responsibility to make sure they keep to the terms of their tenancy agreement, with particular reference to treat others with respect and being a good neighbour.
- 1.4. The clauses within BHA's Scottish Secure Tenancy (SST) agreement which refer to nuisance and ASB are highlighted to new customer during their tenancy sign up. Where there are early issues with noise and potential clash of lifestyles, the clauses are repeated at settling in visit with a discussion with the new customer around their behaviour or concerns they have raised.
- 1.5. Anyone impacted by a BHA customer breaching this aspect of their tenancy has a right to complain and expect that their complaint will receive prompt attention. All reports of ASB will be taken seriously. Reports can be made to any BHA colleague and must be recorded on our housing management system for investigation.

2. POLICY AIMS AND OBJECTIVES

- 2.1. The aims of this policy are set out as follows:
 - To ensure that those who report incidences of antisocial behaviour are kept aware of the progress of their complaint and are made aware of the reasons for decisions taken.
 - To allow all customers 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 antisocial behaviour.
 - To help customers and communities to find their own peaceful solutions to problems of neighbour nuisance whenever possible. We will provide customers 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 customer 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.

3. CATEGORIES

- 3.1. There are different types of neighbour nuisance and antisocial behaviour. It is important to distinguish between the severity of different types of behaviour.
- 3.2. BHA's policy is to classify neighbour nuisance and antisocial behaviour into three categories which then influence the way in which we respond to complaints:

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.

Antisocial Behaviour

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

Serious Antisocial Behaviour

This behavior can include; threatening or abusive behaviour, violence, assault, vandalism, harassment or drug dealing.

BHA takes a very serious view of any hate crime either against or by any BHA customer or resident. We have established a separate policy for responding to racial harassment. For further information see the Equal Opportunities Policy.

- 3.3. 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 local authority social work.

4. PREVENTION

- 4.1. BHA recognises that prevention is the most effective form of action. While we cannot totally prevent ASB, we can work in partnership with other agencies to try to minimise any circumstances which may give rise to ASB.

4.2. Design of housing developments

Where BHA has new homes in the development phase, housing colleagues contribute to the project design phase to ensure any external experience or learning from previous developments can be taken into account in a bid to prevent any future issues when the development is occupied. This would include things like sound insulation, lighting in common areas, fencing, parking areas and the distinctions between public and private space.

4.3. **Allocating our homes**

BHA takes a considered and risk-based approach to letting our homes, especially if there is already evidence of actual or potential problems in an area. Prospective customers will be subject to a check via the ASBU to establish that there are no concerns.

BHA also requests written references from previous landlords where the individual holds or has held a tenancy to establish any previous tenancy issues that suggest the individual may require additional support or in extreme cases, would not conduct their tenancy according to the terms of their SST.

BHA reserves the right to suspend registrations where there is documented evidence to support that an individual, or a proposed member of their household, has:

- acted in an anti-social manner or been responsible for harassment in the vicinity of the property
- caused extensive damage to a current or previous tenanted property
- behaved in a threatening or violent way towards our colleagues or customers
- been responsible for using a former home for illegal purposes which are, or were, likely to endanger or cause nuisance or harassment to neighbours (e.g. drug dealing, prostitution, fire raising)

Evidence can include a Police or landlord report, history of criminal conviction, eviction of a former home, an ASBO or where an individual has had an SSST (or equivalent) due to ASB. If the individual demonstrates valid reasons that their behaviour has changed and that the behaviour will not reoccur (via professional testimony or other documented evidence), we would remove the suspension.

If the behaviour has been within the last three years, any offer of tenancy will be a SSST offer. The rights under a short SST are identical to the full SST except that there is no provision for succession and the security of tenure is limited.

4.4. **Sign up and settling in**

The tenancy agreement forms the legal agreement between BHA and our customer. This sets out the rights and responsibilities of both BHA and the customer. As above, the clauses relating to nuisance and ASB are explained in detail by BHA at both the sign up and accompanied viewing stage. Expected behaviour in a new tenancy is also discussed during these meetings.

Settling in visits are carried out to all new customers – these allow both the customer and BHA to discuss any aspect of the new tenancy which may not have been fully understood at the point of allocation. This includes BHA colleagues checking in with the customer about how they are getting on with neighbours and being part of a new community.

5. GENERAL PRINCIPLES FOR RESPONDING TO COMPLAINTS

5.1. Making a complaint

Customers 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. Customers can also report ASB to any BHA colleague who should log the complaint in our housing management system as soon as possible.

Complaints can be treated in confidence; however, it will be made clear to the complainant that if their complaint is followed up, the complainees is likely to be able to identify them simply from the details of the complaint. There are minor exceptions in relation to confidentiality – this is around serious ASB, concerns of criminal behaviour which must be reported to the Police or where there is a risk to the health or welfare of an individual.

5.2. 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 ASB or harassment. We will log anonymous complaints in order to monitor any patterns developing which may require us to take action. Where our risk assessment deems a report significant, we will bring any serious anonymous complaints to the attention of the ASBU at Scottish Borders Council.

5.3. Decision making

All action on alleged recurring or very serious ASB will be subject to risk assessment and assessment by at least two BHA colleagues, and where possible, with input from partner agency representation.

5.4. Response times

We will respond quickly, sensitively and objectively to complaints of nuisance and ASB. These will normally be dealt with by the Neighbourhood Manager in the first instance and will be discussed with the Neighbourhood Services Lead at regular monitoring meetings. The response to collate the relevant information from the complainant may be in the form of a telephone call but can be a home visit or an interview within one of BHA's offices.

We will contact complainants within the following timescales:

Description	Timescale (working days)
Nuisance behaviour	Within 10 days
Antisocial behaviour	within 5 days
Serious antisocial behaviour	within 1 day

If the behaviour reported represents a threat to the safety of the occupants of a building, or the structure of a building (ie blocking a fire exit or creating a fire hazard in a stair), the response time will be within 24 hours.

This may include escalation to partners including Police Scotland as appropriate.

- 5.5. 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 and outline this to the complainant in our communication.
- 5.6. Targets for resolving cases are agreed locally. For neighbour nuisance and less serious ASB, this is within three months of the first report. For serious ASB, this is within six months of the first report, or at the point of commencing legal action.

6. ACTIONS BHA CAN TAKE

- 6.1. We are able to take action against a customer on grounds of nuisance caused by the customer/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 customer's house and over a course of time. A course is defined as at least two incidents within a 6 month period.
- 6.2. BHA has developments which are mixed tenure (where some of the residents are not BHA customers but may for instance be owner occupiers). If nuisance is being caused by a resident who is not a BHA customer, we will attempt to resolve the problem using for example mediation, but in any such case will pass the relevant information to the ASBU for investigation.
- 6.3. We will take steps to work proactively with other agencies including the environmental health department for noise, vermin and rubbish concerns, social services for issues around adults, families and children and the Police for any criminal acts. Generally, support from relevant agencies is agreed and discussed at the monthly Core Group meetings facilitated by the ASBU.

6.4. Mediation

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

6.5. Support to victims of ASB

We will keep complainants informed of the outcome of any investigation by colleagues. 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 ASB and where appropriate liaise with any other bodies that may also be able to assist.

6.6. Legal action

In the case of serious ASB or persistent nuisance behaviour and breach of tenancy, we will consider taking legal action against the tenancy of the offending customer where appropriate. All possible legal remedies will be considered,

subject to the level of evidence required being available. At all times the use of ASBOs 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 BHA for use in specific cases:

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.

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.

3. ASBO

The Antisocial 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 Antisocial 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 antisocial manner, or pursued a course of antisocial 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 antisocial 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. BHA has agreed a protocol with the local authority in relation to the procedures for ASBO applications.

4. Repossession of the tenancy and eviction of the customer

The termination of SSTs 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 the eviction as soon as possible. If we are intending to evict, we will notify SBC of the customer's impending homelessness. The decision to take legal action for recovery of possession of a tenancy is delegated by the Executive Director – Customer Experience to the Neighbourhood Services Lead. The decision to evict is reported to the Executive Director - Customer Experience for approval.

- 6.7. We will make every attempt to make sure customers with particular needs have appropriate assistance and support to maintain their tenancies. If a customer with particular needs is causing or has been the victim of nuisance or ASB, we will work together with the customer's support agencies to help them sustain their tenancy and adhere to their tenancy conditions.

- 6.8. If there is repeated nuisance or ASB, BHA will convene a case conference to explore what solutions are available. Ultimately if a customer 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.
- 6.9. We will work closely with the customer'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.

7. RESPONSES TO NEIGHBOUR NUISANCE AND ANTISOCIAL BEHAVIOUR

7.1. Differing lifestyles and social media

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 media. The use of said sites is within the control of the individual.

We recognise that some people have particular needs which mean they need support to live independently in the community. We assist customers to get access to the required support and assistance they may need to establish and maintain their tenancies.

The behaviour of children and young people is a common category 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 disturbance 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.

7.2. Nuisance behaviour

We will encourage customers 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 customers 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 (ABC) meetings with Police, Scottish Borders Council and BHA to discuss potential legal action and outcomes.

We will take legal action to repossess the tenancy and evict the customer if there are persistent breaches over an extended period and/or customers persistently do not heed our official warnings.

- 7.3. Legal action against a tenancy can be 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.

- 7.4. If there is evidence of ASB we will consider an existing customer'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.

7.5. **Serious ASB 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 customer causing the problem. We will investigate the circumstances of the case and take appropriate action.

- 7.6. Action on these cases will be decided jointly by the Neighbourhood Manager and the Neighbourhood Services Lead. Action will range from official warnings to starting immediate legal action to recover possession of the tenancy of the customer 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.
- 7.7. Very serious ASB may include criminal action. BHA colleagues 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. BHA colleagues will ensure that they always pass on information about criminal activity to the Police.
- 7.8. 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.
- 7.9. We will liaise with other agencies that may be able to support victims and tenants who are acting as witnesses. We will refer customers to these agencies when appropriate. Our action will focus on stopping the very serious ASB 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.

8. **TOOLKIT AND MANDATORY TRAINING**

- 8.1. Guidance and procedures on receiving, recording, investigating and taking action in relation to neighbour complaints will be provided for colleagues to use when dealing with complaints of nuisance and antisocial behaviour.
- 8.2. We will train BHA colleagues in this policy, all relevant procedure documents as identified in the ASB toolkit, the legal remedies available to BHA, the services available from other agencies and build the related personal skills to support effective and firm resolution of ASB.

- 8.3. As a key member of the Scottish Borders Antisocial Behaviour strategy group, BHA colleagues all join a mandatory cross-organisation training programme once every three years alongside staff from the Police, other RSLs, health and the local authority.

9. MONITORING AND REVIEW

- 9.1. It is essential that good, well detailed records are kept of complaints and the action taken, both for monitoring purposes and to assist BHA to identify the nature of problems and the type and frequency with which complaints occur.
- 9.2. Statistical information will be provided to the Board and to Scottish Borders Council on a regular basis. The policy will be subject to review every three years.