



Ferguslie Park
Housing Association

Anti-Social Behaviour Policy

Date Approved by the
Management Board

Signed:

Chairperson

Date of Next Review

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FERGUSLIE PARK HOUSING ASSOCIATION

ANTI SOCIAL POLICY

1. Introduction

The purpose of this policy statement is to set out the Association's policy in respect of anti-social behaviour and to provide a framework within which incidents of anti-social behaviour will be dealt with by the Association staff.

This policy statement will be supported by detailed procedures which will assist staff in dealing with incidents of anti-social behaviour to offer appropriate responses, support and action. However, it should be noted that procedures in themselves are mechanistic and factual and may not cover all situations with regard to anti- social behaviour.

Ferguslie Park Housing Association is committed to providing housing within a pleasant and peaceful environment and shall as far as is reasonable seek to make sure that no resident is subjected to a neighbour nuisance/anti-social behaviour.

Our tenants know that they are responsible for their own actions and for the actions of their family, friends and visitors to their house. They are also aware that they should do nothing that causes a nuisance or annoyance to their neighbours, or within the vicinity of the property, and if they do we will take action on complaints made about them.

We will **NOT** become involved in disputes that are not related to tenancy conditions and we cannot take action against people who are not our tenants. We will, however, offer advice and assistance to anyone who is experiencing difficulty with another resident living in the community and we will refer them to support agencies that can help.

We aim to deliver a quality service which makes sure tenant's rights and responsibilities are upheld. We will do everything we can to assist tenants to stay in their home and carry out evictions only where all other options to save the tenancy have failed.

2. Definition of ASB

Anti-social behaviour is a very complex issue, what feels like just a nuisance to some people can have a very severe impact on others. We assess each case individually against the definition outlined in legislation within the Anti-social Behaviour etc (Scotland) Act 2004 which states:

A person engages in Anti-social behaviour if they:

'a) act in a manner that causes or is likely to cause alarm or distress; OR

b) 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. “Conduct “includes speech and must involve conduct on at least two occasions.’

And the Scottish Secure Tenancy Agreement (updated from 1st May 2019) that states

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. Investigating Anti- Social Complaints

Procedures should be implemented in a professional manner, taking account of individual customers’ needs and circumstances. When dealing with any complaint of anti- social behaviour, Housing staff should seek to resolve the matter quickly and amicably, using any resolution method considered appropriate. We will try to resolve them at any early stage to stop them from turning into more serious problems. We will be positive and supportive in our approach and customers will be treated with courtesy, respect and fairness. Investigations will be conducted in a fair, un-biased and considerate manner.

When a complaint is received about a tenant, we will discuss the complaint(s) with them and provide an opportunity to respond, however all approaches made to Housing staff will be treated in the strictest confidence at all times. Where appropriate we will work with other agencies, such as Asist, Police Scotland, RAMH, Social Work, Women’s Aid and other Addiction Services to settle disputes. We will also call on the assistance of appropriate support agencies where their help could prevent eviction. We have information sharing protocols in place that allow us to share information with appropriate agencies. All shared information is treated in the strictest confidence and will only be used for legal purposes.

We are aware that anonymous complaints can be an early sign of a serious problem or can result from intimidation or fear. We will investigate as far as possible anonymous complaints but we encourage people to make themselves known so we can deal with the problem more effectively. We will respect people’s confidentiality at all times unless there is a risk of harm to those involved or affected by the complaint.

If a complaint is received in the form of a petition we will initially investigate the matter by contacting each signatory individually and investigate the matter appropriately. We will do this so we can determine more exactly the nature of the anti-social behaviour and who has been personally affected.

It is important that all parties are kept informed throughout the investigation process and that feedback is given on what is happening with the complaint. We will ensure accurate and detailed records are kept which will support legal action if required.

4. Landlord and Tenant Obligations

We will help prevent problems arising by making sure our tenants are fully aware of their responsibilities and by identifying potential problems before and after individuals become tenants.

We will discuss how we manage anti-social behaviour and nuisance at the pre-allocation and tenancy signup stages. We will stress the need for tolerance towards others including providing everyone with our Anti-social Behaviour Policy on request. The policy will also be promoted to existing tenants at various times throughout the year with information within newsletters and the policy available on our website. .

Tenant responsibilities are outlined in Section 3 of their Tenancy Agreement which broadly advises that tenants, their family, friends or visitors to the property must not:

- act in an anti-social manner;
- harass or assault any person;
- make excessive noise at unreasonable times;
- use the property for illegal or immoral purposes;
- operate a business from the property; and/or
- store firearms in the property without a permit;

We are aware that anti-social behaviour is difficult to resolve, particularly where it is difficult to prove an incident took place, but we'll do our best to enforce this policy and support residents by:

- encouraging tenants to settle matters amicably;
- involving other appropriate agencies
- using mediation services to resolve differences between neighbours; and.
- enforcing the tenancy agreement by evicting tenants whose behaviour doesn't improve.

We will only evict when all attempts to sort the problem fail and where we get a Court Order.

Conversion to a Short Scottish Secure Tenancy for Anti-social Behaviour

Section 7 Part 2 of the Housing (Scotland) Act 2014 extends the circumstances when we could serve a new or existing tenant with a notice converting your Scottish Secure Tenancy to a Short Scottish Secure Tenancy. This means that in certain circumstances we can change the tenancy agreement to a Short Scottish Secure Tenancy, which gives the tenant fewer rights and less protection from eviction than a Scottish Secure Tenancy. A Short Scottish Secure Tenancy has a fixed duration of 12 months that can

be extended by a further 6 months, unless we agree to convert it to a Scottish Secure Tenancy.

The circumstances now include any situation where a tenant, someone living with or visiting the tenant, or a subtenant has acted in an anti-social manner or pursued a course of conduct amounting to harassment of another person. This conduct must have been in or in the vicinity of the house occupied by the tenant and it must also have happened in the 3 years before the notice is served.

Section 7 Part 2 of the Housing (Scotland) Act 2014 also places new requirements on social landlords when issuing a notice to a tenant converting a tenancy to a Short Scottish Secure Tenancy because of anti-social behaviour.

In cases where no anti-social behaviour order has been granted by the court, the landlord must include in the notice the actions of the person who has behaved in an anti-social manner, the landlord's reasons for converting the tenancy and details of the tenant's right of appeal to the sheriff.

When granting a Short Scottish Secure Tenant on Section 7, Part 2 of the 2014 Act to a new tenant, we can do so based on the behaviour of the prospective tenant, but also the behaviour of:

- Any prospective joint tenant
- Any visitor to a house currently occupied by the prospective tenant or by anyone who will be living with them
- Anyone who might be living with the prospective tenant

When Short SST's will Be Granted

There is no requirement for the anti-social behaviour to have resulted in court action when considering changing (or starting a new tenancy with) a SSST. Each case will be considered individually to ensure it is appropriate for a SSST to be granted.

Anti-social behaviour that will be considered (but not limited to) will be:

- Acting in a threatening or abusive manner
- Serious vandalism or damage to property
- Use of property for illegal or immoral purposes including drug dealing
- Use of offensive weapons
- Serious noise nuisance
- Persistent or recurring tenancy breaches such as failing to maintain gardens, dumping of rubbish in common areas etc.

Appropriate and reliable evidence will be required prior to any action being taken to convert a tenancy to a SSST. Examples of evidence that will be considered include (but not limited to):

- Our records of telephone calls, meetings, home visits, office interviews with tenants and complainers
- The impact of the behaviour on neighbours and the wider community from incident diaries etc.
- Professional witness statement from external agencies such as Police, Social Work, Local Authority Anti-Social Behaviour Team

- Evidence of warning letters, mediation attempts, use of Acceptable Behaviour Contracts etc.

We will also take into consideration who has been behaving in an anti-social manner (if not the tenant/joint tenant), their connection to the property, how long the behaviour has been ongoing and where the behaviour has been taking place.

Other factors that will be considered is the impact of the behaviour on the community, what effort the individual(s) have made to change their behaviour, issues around the vulnerability of tenants, members of the household or those affected by the behaviour and any other action that could be taken to address the behaviour.

Ending a Scottish Secure Tenancy Agreement by Court Order

The Housing (Scotland) Act 2014 states how a Scottish Secure Tenancy can be ended following a conviction for serious anti-social or criminal behaviour. Section 14 Part 2 of the 2014 Act states that a court does not have to consider whether it is reasonable to make an order for eviction where the landlord has grounds for recovery of possession under Schedule 2 paragraph 2 of the Housing (Scotland) Act 2001. These grounds are:

That the tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of, the tenant, or a person visiting the house has been convicted of:

(a) using the house or allowing it to be used for immoral or illegal purposes, or

(b) an offence punishable by imprisonment which was committed in, or in the locality of, the house.

This means that we can end a Scottish Secure Tenancy if someone living in or visiting the home is convicted of a serious offence in the vicinity of the house. It allows us to end the tenancy where behaviour has had a serious impact on neighbours or others in the community. A serious offence is one that the offender could have been imprisoned for, whether or not they actually were sentenced to imprisonment. If we are intending to end a Scottish Secure Tenancy in this way, we would serve a notice on the tenant advising that we intend to seek recovery of possession of the property. This is served within 12 months of the conviction (or, if it was appealed unsuccessfully, of when the appeal ended). A tenant has a right to challenge a landlord's decision to take court action to end the tenancy on these grounds.

5. Complaint Categories

We will take a course of action appropriate to the nature of the complaint. To assist we've agreed three complaint categories as follows:

Category A – Very Serious Complaints which, if proven, will result in eviction proceedings. This category includes complaints which concern allegations of drug dealing, criminal behaviour involving

threats of violence towards any member of the public, including member of staff, house breaking, assault, criminal threats, serious harassment, racial harassment and serious damage to property including fire raising.

Category B – Serious Complaints which may result in eviction proceedings. This category includes complaints which concern allegations of aggressive or abusive behaviour, frequent disturbances, vandalism, drug/solvent/alcohol abuse, verbal and/or written harassment and frequent and persistent noise.

Category C – Nuisance Complaints which are **unlikely** to result in eviction proceedings unless they develop into Category B complaints. These include boundary disputes, untidy gardens, children any cause of disturbance, noisy parties.

Category P – Complaints received by the Association where one parties involved is either Owner Occupier or Private Tenant.

The Housing (Scotland) Act 2014 provided landlords with additional powers when dealing with cases of Anti-social Behaviour.

6. Targets, monitoring and reporting

We will routinely monitor the frequency of complaints received to identify trends or concerns and we will review performance against our service standards yearly, 100% of all anti- social cases will be dealt with in line with the timescales set for each category. Staff will review performance against target on a regular basis, taking whatever action is considered necessary to improve poor performance.

We will measure how good the service is through discussions with members of our Board and partner agencies and by carrying out resident surveys on the quality of our services and any changes we introduce.

Any concerns about our services will be reported to the Board as required together with an action plan identifying measures we've put in place to improve the quality of the service.

We will report details of our performance to our customers each year and will report performance to The Scottish Housing Regulator through the Annual Return on the Charter.

7. Complaints about the service

Anyone can complain if they feel we've not met our service standards. The complaints process is outlined in our Complaints Policy which is available from our office or on our website

8. Equalities

We do not believe this policy has the potential to adversely affect anyone in respect to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9. Review

This policy will be reviewed every three years but may be amended from time to time to reflect changes to legislation, good practice or changes requested by our customers. FPHA is committed to meeting the requirements of the Housing (Scotland) Act 2001, Housing (Scotland) Act 2010, and the Housing (Scotland) Act 2014 in all of its policies including involving tenants in the development of policies and seeking feedback in appropriate circumstances.

10. Legal Requirements

This Policy is designed in compliance with the following:

- The Housing (Scotland) Act 2001
- Disability Discrimination Act 2005
- Crime and Disorder Act 1998
- Misuse of Drugs Act 1971
- Anti-Social Behaviour (Scotland) Act 2004
- Human Rights Act 1988
- Regulation of Investigatory Powers (Scotland) Act 2000
- The Equality Act 2010
- Housing (Scotland) Act 2010
- Housing (Scotland) Act 2014

11. Training

- Ferguslie Park HA will provide staff with sufficient guidance and training to attempt to resolve neighbour disputes or anti-social behaviour through a variety of methods.