

Anti-Social Behaviour Policy

**AS WITH ALL OF THE ASSOCIATION'S POLICIES and PROCEDURES, THIS GUIDE, IN FULL AND IN PART, CAN BE MADE AVAILABLE IN SUMMARY, ON TAPE, IN BRAILLE, AND IN TRANSLATION INTO MOST OTHER LANGUAGES –**

**PLEASE ASK A MEMBER OF STAFF IF YOU WOULD LIKE  
A VERSION IN A DIFFERENT FORMAT**

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| Approved By | Committee of Management at the meeting on 5 <sup>th</sup> February 2020 |
| Next Review | February 2025 (or as otherwise required under terms of Item 14)         |

## **WSHA Anti-Social Behaviour Policy (GCC Neighbourhoods & Sustainability Platinum Service)**

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### 1. KEY MESSAGE

Whiteinch and Scotstoun Housing Association will not tolerate any level or any form of antisocial behaviour affecting tenants/residents. Where necessary we will use the most robust measures available to stop antisocial behaviour.

To achieve this end the Housing Association will work positively in partnership with GCC Neighbourhoods & Sustainability and Police Scotland who have expressed a strong commitment to this joint policy initiative.

### WHITEINCH AND SCOTSTOUN HOUSING ASSOCIATION POLICY AIMS

- Adopt a zero tolerance approach to antisocial behaviour affecting Whiteinch and Scotstoun Housing Association Tenants
- Recognise that neighbour nuisance and antisocial behaviour is a multi-tenure issue and to ensure that appropriate mechanisms are in place to deal with the complex legal and practical issues associated with this
- Practice early intervention and the use of all available approaches to conflict resolutions, to prevent escalation and ultimately stop the antisocial behaviour
- Will use formal legal measures, such as Antisocial Behaviour Orders and Tenancy Recoveries as and when appropriate following legislative guidelines and best practice
- Protect individuals' and households' entitlement to quietly enjoy their home
- Adopt a zero tolerance approach to hate crime and behaviour targeted against those in groups with protected characteristics including women and minority groups
- Promote and adopt a partnership approach (especially in close liaison with GCC Neighbourhoods & Sustainability)
- Provide a high quality, accountable and transparent service to meet the needs of all tenants and wider community interests
- Ensure effective management responses are initiated

### 2. LEGISLATION

The policy takes account of the undernoted legislation:

- Housing (Scotland) Act 2001
- Anti-Social Behaviour (Scotland) Act 2004
- Equality Act 2010
- Housing (Scotland) Act 2010
- Housing (Scotland) Act 2014
- Human Rights Act 1998
- Data Protection Act 2018

### 3. GOOD PRACTICE GUIDANCE AND SSHC STANDARDS AND OUTCOMES

The policy seeks to comply with published good practice in relation to dealing with anti-social behaviour, including all relevant standards and outcomes contained in the Scottish Social Housing Charter (SSHC).

### 4. EQUALITY AND DIVERSITY POLICY

The Association operates an **Equality and Diversity Policy** under which it is committed to promoting an environment of respect and understanding that aims to eliminate discrimination by and towards members of the public, Committee Members, contractors and staff.

The Association will at all times endeavour to ensure that in all its activities, primarily the provision of services, the principles of the **Equality & Diversity Policy** will be fully applied.

In accordance with the Association's Equality & Diversity Policy, the Anti-Social Behaviour Policy has been consciously considered to judge whether there is any likelihood that its presentation or operation could in any way lead, no matter how inadvertently, to discrimination. The conclusion of this exercise is that it is believed that the Anti-Social Behaviour Policy should operate in a non-discriminatory way.

### 5. ROLES AND RESPONSIBILITIES

#### WHITEINCH AND SCOTSTOUN HOUSING ASSOCIATION

It will be the responsibility of Whiteinch and Scotstoun Housing Association to receive, record, investigate, and action reports of antisocial behaviour to the point of resolution, or where appropriate, make a referral to the Community Relations Unit (CRU) in line with the terms of the Service Level Agreement (SLA) with GCC Neighbourhoods & Sustainability.

Following referral, the Housing Association will require to provide ongoing assistance to the Community Relations Unit such as provision of information, reports etc, and attendance at interviews, meetings, joint discussions and participation in court proceedings where applicable.

#### ROLE OF THE ASSOCIATION'S HOUSING OFFICERS

##### **Housing Officers will be expected to**

- Record all complaints and verify that there are reasonable grounds to investigate further
- Provide information, advice, support and guidance to victims of Antisocial Behaviour as appropriate
- In conjunction with GCC Neighbourhoods & Sustainability, Police Scotland and external agencies as appropriate work with tenants with a view to tackling Antisocial Behaviour
- In conjunction with GCC Neighbourhoods & Sustainability, Police Scotland and external agencies as appropriate engage with perpetrator/alleged perpetrator to address their behaviour as required

##### **Community Relations Unit officers will be expected to**

- Investigate and take appropriate action relating to referrals of antisocial behaviour made by the Association in line with the relevant service level agreement, legislation, guidance and agreed procedures
- Provide advice, training and assistance to Housing Officers in line with the service level agreement
- Update the referring Housing Officer on case progress as required

### 6. DEFINITION OF ANTI-SOCIAL BEHAVIOUR

#### **Definition of Antisocial Behaviour**

The legislation provides that a person engages in antisocial behaviour if they act in a manner that causes or is likely to cause alarm or distress; or pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household as them. In this definition “conduct” would include speech; and a course of conduct must involve conduct on at least two occasions.

"Alarm" involves fear or apprehension of danger.

"Distress" involves some form of suffering. It goes beyond upset, or annoyance, or irritation or inconvenience

**Note** – this differs from the Housing definition of “alarm, distress, nuisance or annoyance”. There are tenancy management actions that can be taken for “nuisance and annoyance”

#### **Reasonableness defence**

In determining whether a person has engaged in antisocial behaviour the sheriff will disregard any behaviour shown to be reasonable in the circumstances (see section 4(3) of the 2004 Act). If relevant, this will be raised as a defence by the defender’s agent and assessed by the Court at the submissions stage of any Hearing. The Community Relations Officer/Housing Officer should consider this when assessing a complaint e.g. is the behaviour something normally done within a house and/or is the complainer particularly sensitive.

The fundamental aim of dealing with reports of antisocial behaviour in the community is to resolve the problem. Officers will treat all complaints with due seriousness and will seek to identify the most appropriate method to achieve resolution.

Where a complaint is received regarding antisocial behaviour affecting a tenant or resident of Whiteinch & Scotstoun Housing Association, or a complaint relating to the tenancy, or in the locality of it, Officers will deal with the matter in accordance with these procedures.

Where a complaint is made about a tenant or resident of a private let, or owner occupier or residents of that property, there is an agreement in place these complaints can be referred on to GCC Neighbourhoods & Sustainability directly for investigation.

Community Relations Officers will keep complainers advised about progress and provide regular updates.

Client confidentiality will be respected and treated with the utmost sensitivity.

Officers will take care not to jeopardise the complainer or their safety while investigating the complaint. The name of the person making the complaint must not be disclosed to the alleged perpetrator or a third party without their agreement or legal reason for doing so.

All Officers will keep full and accurate records of telephone calls, verbal discussions and action taken regarding the handling of the complaint. (A range of standard letters and forms are provided as appendices)



### 7. CATEGORIES OF COMPLAINTS

There are different categories of antisocial behaviour and neighbour nuisance ranging from lifestyle disputes, conflict between neighbours, breaches of tenancy agreements and serious antisocial behaviour. At times, it can be difficult to identify the category of complaint and to identify the most appropriate action to remedy that complaint.

To help officers identify the most appropriate action, there follows guidance on Categories A, B and C and examples of types of complaint.

In all instances when complaints of antisocial behaviour are received they should be placed into one of the following categories:

#### **CATEGORY A - Very Serious Complaints**

Complaints which concern a conviction for drug dealing, criminal behaviour involving serious incidents of violence or threats of violence towards any member of the public including members of staff, serious assault, serious harassment, racial harassment, incidents of sectarian abuse and serious damage to property, including fire raising. Typically, it is expected the Police will also be involved for Category 'A' cases.

#### **CATEGORY B – Serious Complaints**

Complaints which concern aggressive/abusive behaviour, frequent disturbance, vandalism, drug/solvent/alcohol abuse, verbal/written harassment, and frequent and persistent excessive noise.

#### **CATEGORY C – Nuisance Complaints**

Complaints which concern simple breaches of tenancy conditions, environmental issues, unkempt gardens. This would also include living noise such as footfall, noise from children playing and doors closing/banging. (These would normally be dealt with as Estate Management issues by Association staff)

It is recognised that it is unlikely that all complaints will fit neatly within one category, however, the complaints should be categorised in line with previous case history and the nature of the complaint.

### 8. RECEIVING A COMPLAINT

A Complaint can be made in writing, verbally by telephone, or in person.

#### **Identify Previous Action**

Where a complaint is first made to the Association, a Housing Officer should ascertain what level of contact the complainer has had with their neighbour, assess how to proceed and which category the complaint falls into. Details of all attempts to resolve the complaints informally should be taken.

#### **Recording the Complaint.**

When a complaint is made in person Association staff (often this will be a Housing Officer but could be, for example, a Customer Services Assistant or Housing Assistant) should, where necessary, assist the client to record the complaint by completing a CR1 Form. Community Relations Officers/Housing Officers must ensure that the complaint is fully recorded, accurate and reflects all the factual detail of the client's complaint. It is important that the CR1 form is signed and dated where possible by the member of Association staff preparing the statement and the person making the complaint.

#### **Receiving anonymous complaints or complaints from reluctant witnesses**

It is important that all staff of Whiteinch & Scotstoun Housing Association are approachable to customers and that we are aware of what is happening within their neighbourhoods.

The acceptance of anonymous complaints or complaints from reluctant witnesses will contribute towards our objective of early intervention and prevention by providing a customer focused service that does not turn anyone away.

There are generally two reasons why complaints are made anonymously:

- They are not genuine (and possibly made with malicious intentions) or
- They are genuine and anonymous due to fear of reprisals.

The acceptance and investigation of anonymous complaints should be handled very sensitively. Housing Officers should use their discretion regarding the handling of the complaint. If the reason for the complaint is fear of reprisals, contact should be made with the Community Relations Unit and advice sought from an officer there regarding the case and possible referral.

### 9. RECORDING AND RESPONDING TO THE COMPLAINT

#### RECORDING

##### Individual Case Files

The CR1 and/or letter of complaint should be kept in the ASB case file to record the steps taken throughout the investigation and to record verbal communication. All written communication must also be kept in the file. Files must be stored securely and information only shared/disclosed in accordance with Data Protection legislation and GDPR guidance.

Generally, the Association will retain on file the letter of complaint, if applicable, the CR1 Neighbour Nuisance Complaint Form, the CR2 (Acknowledgement to complainer letter) and the CR16 (Referral to CRU), if applicable. GCC Neighbourhoods & Sustainability will, thereafter, provide the Association with any further relevant documentation pertaining to the case, for example, warning notices, anti-social behaviour notices (ABCs', UBNs'), confirmation of case closure, etc.

**For the avoidance of doubt, a record of all written and verbal communication in respect of a case should be retained by the Community Relations Unit.**

##### Neighbour Nuisance Complaints Statistical Information-Monitoring and Review

To enable Whiteinch & Scotstoun HA to effectively monitor and analyse the nature and number of neighbour nuisance complaints it is essential that all complaints are recorded by the Housing Officer concerned in a central ASB data base. The information contained in this data base will include the number of complaints received, the specific nature and category of complaints, action taken and current status and outcomes.

##### Committee Reporting and Annual Return on the Charter (ARC)

The information recorded in the ASB data base will facilitate quarterly reports to Committee as well as the Annual Return to the Charter (ARC) submitted each year to the Scottish Housing Regulator.

#### RESPONDING

##### Acknowledge the Complaint

Housing Officers should acknowledge receipt of the complaints in writing if possible.

##### Identify Previous History and Liaison with other Services

In all cases the Housing Officers should refer to the house file for previous history and to establish if either the person being complained about or the person making the complaint has either a support worker or any other agency involvement (e.g. Glasgow City Council Social Work Services, Mental Health Agencies etc) or have been entered in the Association's Caution Register. If so, the Housing Officer should

include this information in the referral in order to assist the officer from the Community Relations Unit dealing with the case to do so as effectively (and safely) as possible including, for example, making early contact with any support agency/service as appropriate. On the other hand, if no support agency is identified and there appears to be a need for support the Community Relations Unit should inform relevant agencies. (In some cases support workers such as, for example, a Social Worker may require to be present during interviews at a later stage to provide specialist support to the client if applicable.).

### **Identify the action required**

Generally the action required will be determined by the category or nature of the complaint but also based on the Housing Officer's knowledge of any other circumstances or history. Once the complaint has been categorised as Category A, B or C, the process outlined in the flowcharts (Appendix 1) should be followed.

## **10. INVESTIGATING COMPLAINTS**

### **Interview the person making the complaint (Complainer)**

Housing Officers should initially interview the Complainer in person, or if this is not possible over the phone (if over the phone it is good practice to have the person verify their identity through, for example, providing their date of birth) and obtain details of the circumstances of the initial complaint. The initial assessment of the complaint (the aim of which is to verify that there are reasonable grounds for it to be further investigated) will generally be carried out by a Housing Officer, unless impractical to do so, who will gather all necessary information then complete (or assist the complainer to complete) the standard "Neighbour Nuisance Complaint form (CR1) prior to referral to the Community Relations Unit where considered appropriate. If required, the Community Relations Unit can provide advice prior to referral.

(NB In consideration of the complainer's security and anonymity Officers from the Association and/or the Community Relations Unit should offer the complainer the opportunity for interviews to be carried out in the Association's Housing Office, rather than in their home.)

The purpose of the interview is to ascertain the facts of the complaint, gather all relevant information and ascertain if anyone else was involved or witnessed the incident. Officers should advise the complainer of what happens next and confirm when they will be provided with an update on the situation.

It is good practice to discuss the complainer's expectations so these can be managed in line with what can and can't be done by the Association or GCC Neighbourhoods & Sustainability.



### 11. OUTCOMES OF INITIAL INTERVIEWS AND INVESTIGATIONS

#### **Outcome of initial interviews**

If on initial interview and assessment of the complaint the Housing Officer believes there is enough information to classify either a Cat A or Cat B case then a referral can be made to the Community Relations Unit, generally using CR1 and CR16 forms.

It is important that Housing Officers are aware of other resolution routes that may be appropriate e.g. Mediation and the GCC Antisocial Behaviour Noise Service (0141 287 6688 between 5pm and 3am)

An officer from the Community Relations Unit will then investigate the case following their procedures and practices. Community Relations Officers will update the referring Housing Officer following agreed timescales and appropriate communication methods, as per attached flow chart and target timescales.

## 12. APPROPRIATE ACTION

### REFERRAL TO THE COMMUNITY RELATIONS UNIT

#### Criteria for referring a Case

Category A and B complaints should be referred to the Community Relations Unit when Housing Officers have carried out their investigations and:

- There is sufficient initial information to indicate it is a Cat A or B case
- The complainer (if relevant) has been advised to expect contact from a Community Relations Officer to investigate further.

Category C complaints would normally be dealt with by Association Staff. Community Relations Officers can provide advice and assistance if appropriate.

#### The Referral Procedure (see Flowchart - Appendix 1)

The Housing Officer should follow the procedure outlined in Flowchart (Appendix 1) by completing and sending the two-page CR16 referral form to the Community Relations Unit and then sending a CR2 acknowledgement letter to the complainer.

#### Communication

The Community Relations Officer assigned to the case will keep the Housing Association regularly advised of the progress of the case and will always call a case discussion meeting before a decision to commence any legal action is made.

### EXAMPLES OF SPECIFIC ACTION THAT MAY BE TAKEN

In cases where, following investigation by Association staff and the Community Relations Unit, allegations of anti-social behaviour are found to be justified and measures such as counselling and support (from the Association and/or external agencies as appropriate) have failed to resolve matters and mediation (see Section 13) is considered unsuitable, there are various courses of action which can be followed, up to and including taking court action to have an ASBO served on the perpetrator and/or to repossess the property. The action taken in any given cases will generally be dependent on the severity of the anti-social behaviour and the level of alarm or distress it has caused to others as well as, importantly, the circumstances of the perpetrator/alleged perpetrator.

Action that can and, where appropriate, will be taken include:

- **Issuing a First Warning Letter on the perpetrator/alleged perpetrator (Letter CR11)** - this will generally be done following an interview with the perpetrator/alleged perpetrator but if they fail to attend the interview the warning letter will be delivered to their home address. However, it should be noted that there should be a sufficiency of evidence of antisocial behaviour and who was responsible for this behaviour and that not turning up for interview, in itself, is not evidence of antisocial behaviour.
- **Issuing a Second Warning Letter on the perpetrator/alleged perpetrator (Letter CR12)** - if having received a First Warning the perpetrator/alleged perpetrator again acts in an anti-social manner they may be issued with a second warning letter. As with a First Warning, if they fail to attend for interview the warning letter will be delivered to their home address. However, it should be noted that there should be a sufficiency of evidence of antisocial behaviour and who was responsible for this behaviour and that not turning up for interview, in itself, is not evidence of antisocial behaviour.
- **Anti-Social Behaviour Contract / Unacceptable Behaviour Notice-** In some cases the perpetrator/alleged perpetrator of anti-social behaviour may be asked to consider an Anti-Social Behaviour Contract (ABC). This details the nature of the anti-social behaviour and outlines measures to prevent further Antisocial Behaviour, by signing the ABC they commit to no longer behaving in this manner on the basis that if they do not maintain this commitment further action may be taken against them up to and including legal action to obtain an ASBO and/or repossess their current accommodation. A copy of the signed ABC will be retained by the perpetrator/alleged perpetrator and the Association.  
If a perpetrator/alleged perpetrator fails to sign an ABC when given the option to do so they may be issued with an Unacceptable Behaviour Notice (UBN) which details the nature of the anti-social behaviour and confirms that if the perpetrator/alleged perpetrator continues to behave in an anti-social manner further action may be taken against them up to and including legal action to obtain an ASBO and/or repossess their current accommodation. A copy of the UBN will be retained by the Association.
- **Conversion to a Short Scottish Secure Tenancy-** Under the terms of The Housing (Scotland) Act 2014 the Association has the power to convert a full Scottish Secure Tenancy Agreement (SST) to a Short Scottish Tenancy Agreement (Short SST) in respect of anti-social behaviour within the last three years. The Short SST will run for an initial period of 12 months with a potential extension for a further 6 months. During the period of the Short SST



the Association should ensure that appropriate support is in place aimed at enabling the tenancy to be converted back to a full SST. Notice must be served on the tenant of the intention to convert their tenancy to a Short SST and, where appropriate, of the intention to extend the period of the Short SST for a further 6 months. The tenant has the right to appeal the decision to convert their tenancy through the Associations internal appeals procedure and also to the courts. If notice is not served to end the Short SST it will convert back to a full SST at the end of the 12 month or (where having been extended) 18 month period.

(n.b. Applicants for rehousing to the Association may also be initially granted a Short SST (rather than full SST) if there is evidence to suggest (for example, through information gained from a tenancy reference received from a previous landlord) that they or a member of their household have acted in an anti-social manner within the past three years. Such applicants may also have their application suspended from consideration for rehousing by the Association for a period of up to 3 years. Refer to the Association's Allocation and Letting Policy, Section 2.6. (Suspensions) and 2.18. (Short Scottish Secure Tenancies) for further detail.

- **Anti-Social Behaviour Order (ASBO)-** In cases of serious and persistent anti-social behaviour where other measures, such as those outlined above but also including, for example, counselling and support have failed to resolve the case, the Association or GCC can apply to the court for an ASBO to be served on the perpetrator. An ASBO is an order, given out by a court, to stop a person from behaving in certain ways or doing certain things. It's not a punishment it is a preventative order to protect those affected by antisocial behaviour from further Alarm or Distress. An ASBO is a civil court order which means that it is not a criminal conviction, and therefore, does not give a person a criminal record, although a breach of the conditions of an ASBO can lead to criminal prosecution. A breach of an ASBO should be reported to Police Scotland on 101 or 999 in an emergency. The burden of proof to obtain an ASBO from the court is considerable (and expensive in terms of staff time and legal fees) and a key consideration of the court will be whether it is a reasonable and proportionate course of action in relation to the Antisocial Behaviour concerned.
- **Obtaining a Decree for Repossession-** Under the Housing Scotland Act 2001 (as amended by the Housing Scotland Act 2014) and the terms of the Scottish Secure Tenancy Agreement the Association can apply to the court for an order (decree) for eviction in cases of:
  - > the tenant, someone residing with or visiting the tenant having acted in

an anti-social manner which has caused serious alarm or distress to others in or around the locality of the house-in such cases the burden of proof is considerable and the Association must satisfy the sheriff that in relation to the anti-social behaviour concerned it is reasonable and proportionate to grant an order (decree) for eviction

- > the tenant, someone residing with or visiting the tenant has been convicted of a criminal offence punishable by imprisonment in or around the locality of the house – where the Association has served appropriate notices within 12 months of conviction the sheriff must grant an order (decree) for eviction

The Association would only consider repossession in cases relating to:

- > Very serious and persistent anti-social behaviour in the locality of the tenancy
- > Serious or persistent criminal convictions in the locality of the tenancy

Taking legal action to repossess a property can be, but does not have to be taken in conjunction with previous legal action to obtain an ASBO.

**The foregoing outlines a range of actions which the Association, in conjunction with the Community Relations Unit, may consider in relation to anti-social behaviour and is not exhaustive nor prescriptive. The manner in which each anti-social case is managed and the decision on if and when specific action is taken will be dependent on the background and circumstances of each case.**

### **13. MEDIATION**

The Mediation Service is provided by the GCC Neighbourhoods & Sustainability.

Mediation is available to all citizens of Glasgow and is very effective in resolving neighbour disputes. All parties have to be willing to take part.

Criteria for Referral:

- Voluntary involvement
- Willingness and capacity to listen and communicate with others

Cases that may not be suitable for mediation

- Potential for violence (or threats of violence that are likely to be enacted) between the parties or between the parties and the mediators

- Substance addiction or mental health that creates such instability in a party that they are incapable of contributing to the mediation process
- Cases involving allegations and/or evidence of child abuse
- Cases where legal proceedings (criminal charges or civil writs) have been initiated and are actively progressing, unless otherwise agreed by the procurator fiscal
- Cases where entrenched beliefs of a racial, sectarian or otherwise discriminatory nature are central to or substantially influential upon the dispute

Referral is made by completing the form Referral to GCC Neighbourhoods & Sustainability Mediation Service, see Appendix 2.

Referrals should be made direct to GCC Neighbourhoods & Sustainability Mediation Service at:

[commsafetymediation@glasgow.gov.uk](mailto:commsafetymediation@glasgow.gov.uk)

For further information please Tel: 0141 276 7522

### **14. POLICY REVIEW**

The Anti-Social Behaviour Policy will be reviewed and submitted to Committee for approval every five years or sooner, if necessary, due to changes in legislation, regulatory requirements, best practice guidance or fundamental changes to the service provided by GCC Neighbourhoods & Sustainability.