

Antisocial Behaviour Policy

Change Control			
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1.	Introduction
1.1	The Highlands are widely recognised as being a safe place to live, work and visit. The Highland Council, with other Partner Agencies, seeks to strengthen and enhance this reputation. A key element of this work is to deal effectively with anti-social behaviour across all tenures.
1.2	The Highland Council and Partner Agencies are 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 or harassed or subject to noise or other nuisance caused by those around them, through use of preventative measures and by responding firmly and effectively to complaints of anti-social behaviour.
1.3	This policy outlines the way in which Highland Council will respond to reports of anti-social behaviour.
1.4	Registered Social Landlords and other Partner Agencies also have relevant organisational policies for responding to tenancy management issues and reports of anti-social behaviour.
1.5	This policy outlines the definitions of anti-social behaviour. This Anti-social Behaviour Policy is not intended to address behaviour that is merely different and will not be used to promote the harassment of individuals or groups for behaviour that results from being of a different race or origin.
1.6	The Council aims to ensure that those who report incidents of Anti-social Behaviour are kept aware of the progress of their complaint and are made aware of the reasons for decisions taken.
2. Principles of the Policy	
The following principles will underpin The Highland Council's Anti-Social Behaviour Policy:	
2.1	To ensure that The Highland Council applies this Policy taking account of wider Policy, Legislation and Guidance both nationally and locally.
2.2	To ensure that the Highland Council and Partner Agencies respond jointly to resolve issues of anti-social behaviour quickly and effectively.
2.3	To ensure that the Highland Council and Partner Agencies work together to identify preventative measures to reduce instances of anti-social behaviour occurring.
2.4	To ensure that where necessary, all legal measures are considered in incidents of serious and persistent anti-social behaviour.

2.5	To ensure that all complaints are treated in confidence if the complainant requests this. However, this may limit the action it is possible to take.
2.6	To ensure that those who report incidents of anti-social behaviour are kept aware of the progress of their complaint and are made aware of the reasons for decisions taken.
2.7	To comply with legal duties to promote equality by ensuring that all residents can live without threats, verbal or physical harassment or prejudice on the grounds of race, disability, gender, sexual orientation, disability, age or faith in line with the Council's and other partners' commitment to promote equal opportunities and good relations.
2.8	To ensure that information on the Anti-Social Behaviour Policy is accessible to all and implemented in a manner consistent with equal opportunities; this includes the completion of an Equality Impact Assessment on the Policy.
3. What is Anti-Social Behaviour?	
3.1	<p>Anti-social behaviour can mean different things to different people. Any definition of anti-social behaviour needs to recognise that behaviour which is merely different may not be anti-social. The Ant-Social Behaviour Etc. (Scotland) Act 2004 provides the following definition;</p> <p><i>" A person engages in anti-social 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"</i></p> <p>There are three broad categories of anti-social behaviour. Examples below:</p>
A	<p>Breach of tenancy conditions where actions can be taken in relation to the tenancy as described in the Highland Council's tenancy agreement and Highland Council's Estate Management Policy.</p> <p>Examples of this include low level domestic noise, minor neighbour disputes.</p>
B	<p>Anti-social Behaviour, where the behaviour is of a serious and persistent nature e.g; Persistent noise nuisance; Persistently failing to control pets; Persistently failing to control children within household.</p>
C	<p>Severe Anti-social Behaviour, where the police are involved e.g. violence towards another person; threatening behaviour; drug dealing; Vandalism/damage to common areas; Harassment (including hate incidents).</p>

3.2	<p>Drug supply and or cultivation from a Council tenancy are addressed through a Protocol between Police Scotland and Highland Council.</p> <ul style="list-style-type: none"> • It is the intention of Highland Council that if a tenant or household member is convicted of an offence relating to the supply and/or cultivation of drugs from a Council tenancy, court action to recover the tenancy will be considered.
3.3	<p>Housing (Scotland) Act 2014</p> <p>Changes to Scottish Secure Tenancy Rights (effective from 1st May 2019)</p> <p>Highland Council Tenancy Agreement</p> <p><u>2.19</u></p> <ul style="list-style-type: none"> • No vehicle, caravan or trailer belonging to you or anyone living with you or anyone visiting you may be parked on our land unless: <ul style="list-style-type: none"> • that land is set aside for parking; OR • we have given you written permission; OR • it is a public road; • AND, in every case, <p>it does not cause a nuisance or annoyance to your neighbours</p>
3.4	<p>** (Abandoned/Nuisance Vehicles Guidance – currently under review and will be updated in due course) **</p>
<p>4. The Legal Framework</p>	
4.1	<p>The Highland Council will make sure that the policy complies with our statutory powers and duties including those contained but not exclusive to the following legislation:</p> <ul style="list-style-type: none"> • Housing (Scotland) Act 2014, Part 2 • Housing (Scotland) Act 2010 Sections 14-22, 320 Schedule 2 - 2, 7 & 8 • Housing (Scotland) Act 2001 – Sections 14-22 • Anti-social Behaviour (Scotland) Act 2004 (Commencement and Savings) Order 2004 Section 11 • Local Government in Scotland Act 2003 • Civic Government Scotland Act 1982 Section 47 – 50, 54 • Criminal Justice (Scotland) Act 2003 Section 83 • Human Rights Act 1998 • Equality Act 2010 • Data Protection Act 2018

	<ul style="list-style-type: none"> • Public Order Act Section 18 • Protection from Harassment Act 1997 Sections 8-11 • Environmental Protection Act 1990 Sections 80-81 • Dangerous Dogs Act 1991 • Dog Fouling (Scotland) Act 2003 • Control of Dogs (Scotland) Act 2010
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5. Prevention & Intervention

<p>5.1</p>	<p>Multi-Agency Meetings Police Scotland, Highland Council and Partner agencies are committed to responding to all reported incidents of anti-social behaviour by means of multi-agency meetings between all relevant agencies.</p> <p>The frequency and format of the meetings is dependent upon agreement by associated partners within geographic areas and the issues being reported.</p> <p>Intervention actions to address the issue(s) are agreed by all relevant agencies and updates reported back during the next meeting.</p>
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<p>5.2</p>	<p>Interventions</p> <p>The interventions considered will include;</p> <ul style="list-style-type: none"> • Visits by a designated Housing staff member to establish the issue(s) and reinforce conditions of tenancy • Joint visits by agencies depending on the issue(s) • Referral to support services • Referral to other statutory agency/service • Referral for home fire security visit • Notification to Landlord regarding privately rented tenant behaviour • Conflict resolution/mediation • Letter drop to surrounding neighbours to establish extent of problem/balanced opinion • Patrols by Community Warden, Education & Enforcement Officer • Installation of noise monitoring equipment • Acceptable Behaviour Contract (ABC) with tenant/individual • Issue Warning letter regarding behaviour and consequences of continuing • Issue Unacceptable Behaviour Notice (UBN) • Issue Notice of Proceedings (NISP), regarding Highland Council tenant(s) • Anti-social Behaviour Investigation by Highland Council Anti-Social Behaviour Officer • Application to the civil court for an Anti-social Behaviour Order (ASBO) • Civil proceedings to recover Highland Council tenancy (Eviction) • Criminal investigation where necessary.
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<p>5.3</p>	<p>Case Conferences</p> <p>If early intervention is ineffective, the behaviour has escalated, and/or an individual is assessed as displaying multiple and complex needs, a case conference will be arranged by the relevant lead service/agency to consider solutions to addressing the anti-social behaviour.</p> <p>All agencies who are involved in the anti-social behaviour investigation and where necessary, those who are involved in assessing the needs and supporting the individual will be invited.</p> <p>This case conference is not designed to replace other multi agency case conferencing such as, Adult Support & Protection (ASP), Care Programme Approach (CPA) ; Multi Agency Risk Assessment Conference (MARAC) ; Multi Agency Public Protection Arrangements (MAPPA) ; Child Protection (CP), however, information will be shared across relevant groups regarding the individual's circumstances including the actions required to address the anti-social behaviour and or additional support needs identified through investigating reports of anti-social behaviour.</p>
<p>5.4</p>	<p>If there is evidence that an applicant, who has applied to the Highland Housing Register, has been involved in documented serious anti-social behaviour in the past three years, any offers of housing will require being risk assessed by partner agencies. This will form part of the tasking conference call discussion and may mean that an applicant is required to amend their areas of choice depending on where and against whom the anti-social behaviour occurred.</p>
<p>6. Reporting Anti-social Behaviour</p>	
<p>6.1</p>	<p>Reports to the Highland Council will be accepted by letter, by email, by phone or in an interview.</p>
<p>6.2</p>	<p>Anonymous reports will be recorded, but it will not normally be possible to act on such reports unless the complaint can be verified by an officer.</p>
<p>6.3</p>	<p>All complaints will be treated in confidence if the person making the complaint asks for this. Where total confidentiality is requested, this may however limit the action that the Council is able to take. Complainers must also be informed of this and depending on the type of complaint it may not be possible to prevent the perpetrator from guessing the origin of the complaint.</p>
<p>6.4</p>	<p>Anyone making a complaint will be offered a choice of suitable venues to discuss their complaint(s).</p>

7. Timescales and Performance

7.1	<p>The Council is committed to responding to complaints of Anti-social Behaviour as quickly as possible. It is important to ensure that the most serious complaints are investigated without delay. However, these can be more complex cases which involve more than one Service or Agency and may take time to resolve. In some instances, resolution will only be through criminal proceedings.</p> <p>Target times for an initial response to the different categories of complaint are outlined below.</p> <p>Note: - these are timescales for initial response to a complaint. Timescales for further action/involvement should be included in any action plan drawn up.</p>
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CATEGORIES

A	<p>Breach of tenancy conditions where actions can be taken in relation to the tenancy as described in the Highland Council's tenancy agreement and the Estate Management Policy.</p> <p>Investigate complaint and update complainant by phone/letter or visit within 10 working days</p>
B	<p>Anti-social Behaviour, where the behaviour is of a serious and persistent nature e.g.</p> <ul style="list-style-type: none">▪ Persistent noise nuisance▪ Persistently failing to control pets▪ Persistently failing to control children within household <p>Carry out initial investigation and assess appropriate action. Contact complainant by phone call/letter/ visit within 5 working days to advise of assessment.</p>
C	<p>Severe Anti-social Behaviour, where the police are involved e.g.</p> <ul style="list-style-type: none">▪ Violence towards another person▪ Threatening behaviour▪ Drug dealing▪ Vandalism/damage to common areas▪ Harassment <p>Contact complainant and information requested from police within 2 working days.</p>

8. Dealing with Reports of Anti-social Behaviour

8.1	Incidents will be managed by the Lead Agency/Service depending on the incident. This will be managed in accordance with approved policies and existing powers and duties. However, some cases may require early interventions by more than one of the Partner Agencies with a view to resolving the issue(s) at the earliest opportunity.
8.2	In the role as landlord, if the issue involves a Highland Council Tenant and is regarding breach of tenancy conditions, Community Services (Housing) will take the appropriate steps to manage the case. The Highland Council will follow the guidelines/procedures as stated in the Scottish Secure Tenancy Agreement/Short Secure Tenancy Agreement that is provided to tenants (updated May 2019) at the commencement of their tenancy alongside the Council's Estate Management Policy.
8.3	<p>If the report relates to another tenure type (non-Council Tenant) or is not regarding breach of tenancy conditions, the complainant will be directed to the appropriate Council service, landlord or agency in order to have the issue(s) investigated. This may require notifying a Private Landlord of the issue(s) depending on the agreed actions from the multi-agency meeting.</p> <p>In all cases where a Private Landlord is involved, the Council's Landlord Registration Team will be notified of the issue(s) in order to establish if the landlord is registered.</p>
8.4	In cases where the report involves a dispute between two owner occupiers, the Council will provide advice and guidance. There is a limit to the involvement of public sector agencies in many disputes between neighbours and in many cases owner occupiers will be advised to seek their own legal advice.

9. Anti-social Behaviour Orders (ASBOs)

9.1	If issues of anti-social behaviour cannot be satisfactorily resolved legal action will be considered where appropriate. In such cases the evidence gathered will be passed to Legal Services for their consideration and advice.
9.2	The Council will only consider applications for ASBOs where it can be demonstrated that all other appropriate courses of action have been considered, pursued and failed.
9.3	The Council will not apply for an ASBO where it considers that there is insufficient evidence to support it, or where it decides that the behaviour is not serious enough, or of the character, to warrant an ASBO application.

9.4	The Anti-social Behaviour Scotland Act 2004 allows the Council and Registered Social Landlords to apply to the sheriff for an ASBO to protect persons in the Council's own area. Where the case refers to the tenant of a social landlord, the landlord must ensure that appropriate investigation of complaints is carried out to enable consideration of any appropriate course of action to deal with specific complaints.
9.5	An ASBO can be applied for where a person has acted in an anti-social manner (i.e. causes alarm or distress to one or more people not in the same household as themselves) or pursued a course of anti-social conduct, defined as involving conduct on at least two occasions.
9.6	All Council applications for an ASBO will be following consultation with the Council's Legal Services, relevant Council Services, Police Scotland and other relevant partner agencies. This consultation will be facilitated through case conference and discussion will encompass the terms of the order to be sought and its duration.
9.7	The Council is required to maintain records in relation to ASBOs in their Council area.
9.8	The multi-agency meetings will carry out an ongoing review of ASBOs and will consider revocation on an annual basis.
10. Mediation	
10.1	Mediation enables parties in dispute to reach mutually agreed settlements. Mediation may be used where: – i) One party agrees to the mediation process, although both/all is preferred ii) There are no allegations of violence.
10.2	Following an initial assessment by the Housing Management Officer and in consultation with the Principal Housing Officer - mediation may be recommended to reach a mutually agreed settlement between the parties.
11. Conversion to a Short Scottish Secure Tenancy for Anti-Social Behaviour	
11.1	Section 7(2) of the Housing (Scotland) Act 2014 extends the circumstances whereby a landlord can serve the tenant with a notice converting their Scottish

	Secure Tenancy to a short Scottish Secure Tenancy. This means that in certain circumstances the Council can change the tenancy agreement to a different type of tenancy agreement called 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 unless the Council agree to extend it or convert it back to a Scottish Secure Tenancy.
11.2	The circumstances now include any situation where a tenant or someone living with the tenant 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 around the house occupied by the tenant and it must also have happened in the 3 years before the notice is served.
11.3	Section 7(2) of the 2014 Act also places new requirements on social landlords when issuing a notice to a tenant converting a tenancy to a short Scottish Secure Tenancy as a result of antisocial behaviour. In cases where no antisocial 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 antisocial manner, the landlord's reasons for converting the tenancy and details of the tenant's right of appeal to the sheriff.
12. Eviction	
12.1	The Council will take steps to recover possession of a tenancy if other appropriate forms of action have been tried and been unsuccessful in addressing the anti-social behaviour of a Council tenant and/or visitors to their home.
13. Confidentiality & Data Information Sharing	
13.1	The terms of the Data Protection Act 2018 will be adhered to within this policy.
13.2	The new Act replaces the 1998 Act to provide a comprehensive legal framework for data protection in the UK, in accordance with the General Data Protection Regulation ((EU) 2016/679) ("GDPR"). It updates the rights provided for in the 1998 Act to make them easier to exercise and to ensure they continue to be relevant with the advent of more advanced data processing methods.
13.3	The Data Protection Act 2018 regulates the handling of personal data, which has been lawfully obtained. Information can be disclosed legitimately for a number of

	<p>purposes if the information is required:</p> <ul style="list-style-type: none"> • For the prevention, detection or investigation of a crime or suspected crime • For the purpose of discharging statutory functions; or • In connection with legal proceedings or prospective legal proceedings <p>If the information is disclosed for one of the above purposes, then the individual does not need to be advised that this information is being processed. The Anti-Social Behaviour (Scotland) Act 2004 lays down an explicit requirement for Information Sharing between the Police, Local Authority and Registered Social Landlords.</p>
<p>14. Staff Training</p>	
<p>14.1</p>	<p>In order to achieve the roles set out for them, staff dealing with complaints of neighbour nuisances and anti-social behaviour will require the appropriate training. This may include training on interview skills, use of legal remedies and mediation skills. Alongside attending staff training events and utilising the staff/housing online learning portals.</p>
<p>14.2</p>	<p>The Council will seek to raise awareness of its policy on neighbour nuisances and anti-social behaviour within Council Services and other appropriate agencies.</p>
<p>15. Scottish Housing Regulator and the (ARC)</p>	
<p>15.1</p>	<p>The Council has a statutory duty to complete the Annual Return on the Charter (ARC) to the Scottish Housing Regulator (SHR).</p>
<p>15.2</p>	<p>This provides key information on our performance throughout the financial year in relation to resolving anti-social behaviour complaints that relate particularly to Council Housing stock. This includes:</p> <ul style="list-style-type: none"> • Number of cases of anti-social behaviour reported within the year • Number of cases resolved within the year
<p>15.3</p>	<p>It is essential that good records are kept of complaints made and action taken, both for monitoring purposes and to help the Council to identify the nature of problems and the type and frequency with which problems occur.</p>
<p>15.4</p>	<p>All cases of anti-social behaviour and subsequent actions will be recorded on the Councils Housing Information System (HIS). This will ensure that appropriate information is recorded to facilitate legal action where this is deemed appropriate.</p>

15.5	Monitoring of anti-social behaviour complaints internally permits the Council to measure the occurrence of anti-social behaviour and the success of different actions taken.
15.6	<p>SHR Guidance – Indicator 15</p> <p><i>‘Percentage of anti-social behaviour cases reported in the last year that were resolved’</i></p>
15.7	<p><u>DEFINITION</u></p> <p>Anti-social behaviour (ASB)</p> <p>As per Part 13 of the Anti-Social Behaviour (Scotland) Act 2004 this is defined as:</p> <p>‘A person who acts 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 who is not of the same household’.</p>
15.8	<p><u>RESOLVED</u></p> <ul style="list-style-type: none"> • Where the landlord has taken appropriate measures, as set out in its ASB policies and procedures, to address the cause of the anti-social behaviour complaint and has advised the complainant of the outcome; or • Where the landlord does not have the authority or powers to resolve, and it has provided a full explanation of the landlord’s position to the complainant. • A case should be closed when it is resolved to the landlord’s satisfaction
15.9	<p><u>A CASE</u></p> <ul style="list-style-type: none"> • A case is opened when a tenant or service user reports an incident of ASB to their landlord • A case can be made up of single report/complaint of ASB; or • Multiple reports/complaints about the same party, made whilst a case is still ongoing. Such further reports/complaints would not be counted as a further new case. • The Council has a statutory duty to complete the Annual Return on the Charter (ARC) to the Scottish Housing Regulator (SHR).

16. Review	
16.1	This Policy will be reviewed in 2023 or when legislation or local strategy requires earlier review.
17. Appendices	
17.1	** (Abandoned/Nuisance Vehicles supplementary information currently under review and will be updated in due course)**