

HOMES FOR LIFE HOUSING PARTNERSHIP

Anti-Social Behaviour Policy

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Responsible	Business Manager
Objectives	To describe the Company's arrangements for addressing anti social behaviour

1. BACKGROUND TO AND CONTEXT TO THIS POLICY

- 1.1 The anti-social behaviour policy aims to provide a framework for the Company to have an effective strategy for deterring anti-social behaviour through communication to tenants and applicants, training for staff, and dealing with anti-social behaviour through effective operational procedures. The policy has also been developed alongside current legislation, particularly the Crime and Disorder Act 1998 as amended by the Criminal Justice Act (Scotland) 2003, Anti-Social Behaviour Act (Scotland) 2004 and the code of guidance on anti-social behaviour.
- 1.2 The Criminal Justice (Scotland) Act 2003 introduced interim Anti-Social Behaviour Orders (ASBOs) and also extended the power to apply for ASBOs to registered social landlords. It also introduced a new duty on local authorities and the police to jointly prepare and publish anti-social behaviour strategies
- 1.3 This policy does not stand on its own but is linked to other documents and policies, including:
 - (a) The current business plan, which states our commitment to promote sustainable communities by providing quality, affordable homes and high standard services to meet the needs of the people in the areas where we work. Clearly, achieving this aim could be jeopardised by acts of anti-social behaviour.
 - (b) Policies covering equality and diversity; confidentiality; allocations; transfer; domestic abuse; racial harassment; unacceptable behaviour and tenant participation .

(c) The Company's expectations of the conduct of staff, including confidential reporting.

(d) We are a member of the East Lothian Antisocial Behaviour Partnership which operates a joint Anti Social Behaviour Policy separate to our own. Whilst we are an independent organisation, we recognise that more serious incidents of antisocial behaviour will be more effectively dealt with by the Partnership. We will apply the joint policy in serious cases and follow protocol when exchanging information. Respective roles are described in Appendix 3

2. POLICY OBJECTIVES

2.1 This policy sets out what we will do to prevent anti-social behaviour and how we will deal with incidents including:

- setting out our approach to taking effective action to deter and tackle anti-social behaviour, including partnership working;
- setting appropriate targets for dealing with incidents of anti-social behaviour on a case by case basis, agreed with our tenants (See Appendix 1)
- specifying methods used to investigate incidents, gather evidence, provide support to complainants and witnesses, and to take action against perpetrators; gauging satisfaction of how we deal with reported incidents from complainants and witnesses; and
- setting out how we will help in the resettlement and rehabilitation of perpetrators.

3. PERSONS COVERED BY THIS POLICY

3.1 This policy applies to our tenants, their visitors, our staff and contractors. As well as action taken to deal with incidents of anti-social behaviour, action will be taken against tenants who harass their neighbours, members of our staff or our contractors. Similarly, staff who harass tenants or their colleagues will be subject to our disciplinary procedures. Contractors who harass tenants or staff may have their contract with us terminated.

3.2 The central focus of this policy, however, is on the conduct of tenants and their visitors.

4. DEFINITION OF ANTI-SOCIAL BEHAVIOUR

4.1 Our tenancy agreement states:

It is the responsibility of tenants, those living with them, and their visitors not to "harass or act in an anti-social manner to, or pursue a course of anti-social conduct against, any person in the neighbourhood. Such people include

residents, visitors, our employees, agents and contractors and those in your house. It defines antisocial behaviour as 'meaning behaviour 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.'

4.2 Anti-social behaviour is defined as:

"Someone acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household."

Section 143 Antisocial Behaviour etc. (Scotland) Act 2004

The Act further clarifies that:

- "conduct" includes speech;
- "a course of conduct" must involve conduct on at least two occasions;
- "likely to cause" has the effect that someone other than a victim of the antisocial behaviour can give evidence of its occurrence. This is intended specifically to enable the use of professionals as witnesses where those targeted by antisocial behaviour feel unable to come forward, for example, for fear of reprisals or intimidation.

4.3 Anti-social behaviour can include:

- Arson
- Using housing accommodation to sell drugs, or for other unlawful purposes
- Physical assault
- Intimidation and harassment
- Exploitation and intimidation of vulnerable people
- Damage to property
- Posting offensive material
- Fouling of public areas
- Graffiti
- Obstructive behaviour
- Noise nuisance

4.4 We accept that incidents of reported anti-social behaviour may also be the result of the clash of lifestyles and that people have different levels of tolerance to things such as noise.

5. OUR APPROACH TO ANTI-SOCIAL BEHAVIOUR

5.1 Homes for Life considers anti-social behaviour unacceptable. Everyone has the right to the peaceful enjoyment of their home and we will uphold this right through our policies. All tenants and their visitors must show consideration for their neighbours by complying with the terms of their tenancy agreements; this

includes ensuring that they do not carry out any form of anti-social behaviour, whether it be accidental, deliberate or personally motivated against someone because of their gender, sexuality, religion, disability, lifestyle, age, health status or appearance.

5.2 The following constitutes our approach to anti-social behaviour:

(a) Anti-social behaviour will not be tolerated and effective action will be taken to tackle it.

(b) We will seek to prevent anti-social behaviour through our allocations policies, effective communication with new and existing tenants, supporting vulnerable tenants, early intervention and playing a part in the community.

(c) We are committed to a victim-centred approach and will support complainants/witnesses and will work with tenants to resolve anti-social behaviour.

(d) We will use all available and appropriate services to deal with anti-social behaviour, including taking enforcement action where necessary.

(e) We are committed to effective joint working with our partners in the community.

(f) We will respond to all complaints made about the behaviour of our tenants, but will not become involved in disputes which are not related to tenancy conditions.

(g) We will monitor the effectiveness of this policy through some key performance indicators that may include:

- reduction in property damage such as graffiti and the time taken to remove graffiti;
- greater numbers of incidents being reported through increased confidence at our ability to act effectively;
- increasing levels of victim and witness satisfaction at our action to deter and tackle anti-social behaviour; and
- decreasing communal repair and void costs.

6. DEALING WITH ANTI-SOCIAL BEHAVIOUR

6.1 Deterring anti-social behaviour

We will seek to deter anti-social behaviour in a number of ways:

(a) Design and development

- By the effective design of new developments so as to reduce the potential for crime and disorder, the design process being carried out in consultation and liaison with staff, tenants and external partners and stakeholders such as the police.
- Where possible, carrying out estate improvements to reduce anti-social behaviour.

(b) Lettings

- Through our allocations and transfer policies, we may take into account any history of anti-social behaviour incident in the neighbourhood and will advise potential tenants so that an informed choice can be made whether or not to accept a tenancy.
- In order to achieve balanced communities and to identify vulnerabilities, we will carry out risk assessments on all prospective new tenants in accordance with our allocations and transfer policies.
- Making prospective tenants aware both of their legal obligations with regard to anti-social behaviour and our approach to dealing with it.

(c) Effective communication

- We will publicise our commitment to tackling anti-social behaviour through leaflets, our newsletter, as well as other appropriate mechanisms.
- Where appropriate, we will publicise successful action against perpetrators in order to deter future incidents.

(d) Early intervention

- We recognise that dealing with lower levels of anti-social behaviour at the outset can prevent problems escalating. This may include dealing with graffiti, rubbish, abandoned cars and vandalism or minor noise nuisance.
- Where appropriate, we will encourage tenants to deal with incidents initially themselves through advice and information and mediation
- However, where this is not possible or successful, tenants should be confident that we will investigate their complaints effectively and efficiently and take action appropriate to the circumstances of the case.

6.2 Playing our part in the community; working with other agencies

In recognising the positive value that joint working will bring to reducing anti-social behaviour, we will, where they exist, join and work positively with, local forums or similar organisations, including the local police force, the Council,

social services departments and local and/or national organisations, including signing up to joint protocols on information-sharing where they exist. Homes for Life holds a Joint Protocol with Police Scotland which sets out the procedure to be followed in the informal and formal exchange of information and the requirements for confidentiality.

- 6.3 Mediation is seen as a critical part of the overall approach to tackle neighbour disputes. Mediation enables neighbours to find practical, workable solutions to a wide range of problems. Mediation is a voluntary and confidential process of conflict resolution. Trained impartial mediators provide a safe, structured and positive environment to enable those in dispute to resolve their differences, reach a better understanding of the other party's position and to agree conflict resolution strategies for the future.

East Lothian Council currently contracts SACRO to supply Mediation Services across the county. Homes for Life will work alongside the Antisocial Behaviour Team and SACRO in promoting this Service..

- 6.4 Effective training for staff

We will provide appropriate training for our staff to understand the context of anti-social behaviour, to follow the procedures produced in respect of this policy, to provide appropriate support to victims and witnesses and to deal with and monitor incidents and action against offenders. Training will also include helping staff to cope with difficult people and dangerous situations and keeping staff up-to-date with current best practice and legislation.

- 6.5 Taking action; supporting complainants and witnesses

- (a) A victim-centred approach

Reports of anti-social behaviour will be treated seriously in that an objective investigation will be carried out to establish the facts behind the reported incident.

- (b) Gathering evidence and tracking incidents

- We will record, investigate, track and monitor reported incidents and will agree with complainants and witnesses a system and frequency of feedback so as to keep them informed of progress of key elements of the investigation and of any proposed action against perpetrators. The investigation will seek to establish the nature and extent of reported incidents, the motivation, if any, behind them, the existence of any witnesses and the action we propose to take. Complainants and witnesses will be informed of a single contact person who will lead the investigation throughout.

- We will monitor and review the effectiveness of action taken in response to reported incidents. Complainants and witnesses to such incidents will be kept informed of these reviews.

- When notified of an incident that is alleged to be personally motivated (ie harassment), we will respond by, in the first instance, visiting the victim by no later than the next working day after the report of the incident.

- When notified of the existence of offensive graffiti, we will arrange for its removal within 24 hours.

(c) Delivering an appropriate response to tackling anti-social behaviour

We will offer a range of services in order to deliver a proportionate and flexible response to the challenge of anti-social behaviour. This may include:

- contacting the Council's environmental health department in cases of excessive noise;

- visiting the offender, victim and witnesses to establish the nature of the incident(s) as part of the investigative process;

- encouraging the effective recording of incidents through the use of written, video or audio diaries. Interpreters and/or the Language Line service will be used where appropriate;

- using professional witnesses to gather evidence of anti-social behaviour where appropriate

and

- offering initial non-legal remedies such as mediation and advice on coping with differing lifestyles.

(d) Supporting victims and witnesses

We recognise that anti-social behaviour can only be tackled successfully when victims and witnesses have the confidence and morale to be involved. This means ensuring their safety and wellbeing.

We will provide effective support to complainants and witnesses from the initial reporting of an incident to its remedy; this may involve:

- referral to counselling or other support services;

- use of professional witnesses in court hearings; and

- using witness statements where admissible as evidence in court.

(e) Taking action against perpetrators

Where there is evidence of anti-social behaviour, we will take action under breach of tenancy conditions. Such action may involve:

- Offering mediation between the two parties.
- Getting perpetrators to sign up to acceptable behaviour agreement (ABAs).
- Obtaining anti-social behaviour orders (ASBOs).
- Obtaining injunctions.
- According to the nature of the case, obtaining suspended or absolute possession orders through the courts, which may lead to eviction.
- Supporting criminal prosecutions through co-operation with the police and Council in appropriate cases of nuisance.
- Supporting, where possible, programmes of rehabilitation and resettlement of perpetrators.

We recognise the right of tenants to take their own legal action under the Protection from Harassment Act 1997.

(f) Rehabilitation of perpetrators

In tackling anti-social behaviour, we will consider the positive impacts that support might have on offenders. This can be particularly relevant where anti-social behaviour may be a consequence, directly or indirectly, of drug and/or alcohol abuse or mental health. We will consider what actions we may be able to take to achieve long term changes in behaviour and so avoid simply moving the problem to somewhere else.

6.6 Data protection and confidentiality

Generally the Company will only disclose personal information with the consent of the individual. Only information which can or must be legally disclosed under the Data Protection Act will be shared with a third party without the individual's consent and only where the Company considers it is legally required to or where it is legitimate and necessary to do so. The need for such disclosure will be assessed in each case and any information disclosed will be restricted to only that which it is necessary and proportionate in the circumstances.

6.7 Examples of where the Company is legally required to cooperate include enquiries from the Police or Local Authorities in fulfilling their statutory

duties, such as those under the Crime and Disorder Act 1998, Children (Scotland) Act 1995, or cooperation between relevant authorities to deal with or prevent anti- social behaviour under section 139 of the Anti-social Behaviour (Scotland) Act 2004.

6.9 Formal Information Exchange

Section 139 of the Antisocial Behaviour etc. (Scotland) Act 2004 allows agencies involved in tackling antisocial behaviour to share relevant information.

Information can be shared:

- where a partner is investigating and gathering evidence of antisocial behaviour in relation to an individual or group with a view to taking action to prevent or tackle that individual's or group's antisocial conduct.
- where Police Scotland are seeking information to prevent or detect crime or for the purposes of investigating suspected criminal conduct.

The principal signatories to the information sharing protocols in place are East Lothian Council (various departments and sections), Police Scotland, East Lothian Housing Association, Homes for Life Housing Partnership, NHS Lothian and the Ambulance Service.

In all instances of information sharing an audit of requests and disclosures will be maintained by the ASB team.

Information should be exchanged prior to the commencement of enforcement action. This information gathering exercise will allow the partnership to establish whether or not there is sufficient justification for legal proceedings.

6.10 Vexatious complainers

Following investigation, the Partnership may declare unjustified, repeated, unfounded or frivolous complainers as vexatious and may decide to take no further action as a result of those complaints or implement the Unacceptable Behaviour Policy

6.11 Monitoring and reviewing this policy

This policy will be monitored and reviewed regularly to ensure it meets our regulatory obligations and is effective in dealing with anti-social behaviour.

We will ensure that copies of this policy and its summary are made available for our staff, tenants and stakeholders in a variety of formats and versions (such as in translation and large print) where necessary. .

Appendix 1

Procedure

1. Categories

Anti social behaviour can range from minor incidents to very serious, which can be life threatening. When we receive a report of Anti social behaviour it will be given a category, which will state how quickly we will aim to investigate and resolve the problem:

- **Category A:**

This category includes incidents of a very serious anti-social nature, physical violence, criminal convictions, escalation or increase in frequency of disturbances or excessive noise. We aim to investigate and make our initial assessment of such complaints within **3 working days**.

- **Category B:**

This category includes incidents, which indicate serious anti-social behaviour, such as persistent excessive noise, frequent disturbances, threats of violence, vandalism to Association property. We aim to investigate and make our initial assessment of such complaints within **5 working days**

- **Category C**

Incidents which clearly breach a tenancy condition but which are of a relatively minor nature, e.g. occasional noise, stair cleaning, rubbish dumping noisy or uncontrolled pets will fall into this category. We aim to investigate and make our initial assessment of such complaints within **10 working days**.

“Target timescales relate to the initial response to a complaint. A case is regarded as resolved when we have taken appropriate measures as laid out in this policy or where we do not have the authority or powers to resolve the case and we have explained this to the complainant. Timescales to resolve a complaint will be set on a case by case basis reflecting either how straight forward or complex a case is. The timescale will be agreed with the tenant. For example a serious complaint may require a lengthy period of investigation and corroborative evidence gathering or may be escalated immediately and passed to the police to resolve. ”

2. Procedure

2.1 All incident reports can be made either verbally, in writing or through a referral from the Anti Social Behaviour Hotline. On receiving a complaint, staff will categorise it and aim to investigate and resolve the problem within the stated timescale. The Housing Officer will contact the person making the complaint to clarify what the problem is and obtain any further information. Staff

will explain that reported incidents are treated confidentially, but sometimes it may become clear to the person causing the problem who has reported the incident.

2.3 When investigating the incident staff will visit other residents in and around the neighbourhood to seek witnesses. The witnesses must be over 16 and not related to the person reporting the incident. Staff will also contact other agencies that may have been involved in the incident such as the Police, Mediation service etc.

2.4 In serious or continuous incidents of anti social behaviour where legal action is being considered, the person reporting the incident will be advised to keep a log of all anti social behaviour and telephone the police where necessary. In cases where an Anti Social Behaviour Order or repossession action are being considered the person will be made aware that they may be required to give evidence in court.

2.5 When staff have obtained sufficient proof about an incident, he/she will visit the tenant responsible for the anti social behaviour to discuss the problem. This can result in the tenant being given verbal advice or a formal warning as appropriate.

2.6 On return to the office, staff will provide the Housing Manager with a case report and recommendation on the action to be taken. On approval, staff will write to both parties confirming the outcome.

3.0 **Mediation**

3.1 Mediation can be used to resolve anti social behaviour such as:

- one to one incidents where the anti social behaviour is repetitive but not escalating;
- when a group of tenants jointly report anti social behaviour about one or more tenants

3.2 Mediation will only work if all parties involved in the anti social behaviour agree to attend.

3.3 We will arrange mediation in such cases to help neighbours reach an agreement. This may not always be a resolution of the Anti Social Behaviour but could be a measure towards this.

3.4 Where we are unable to resolve a dispute we will refer all parties involved in a dispute to East Lothian Community Mediation (ELCM). We will aim to carry out follow up visits to all parties within 10 working days

of receiving written confirmation from ELCM that they have concluded their service.

- 3.5 Where antisocial behaviour continues after a final warning letter has been issued the case will be referred to the Anti Social Behaviour Partnership who will agree the next appropriate stage of intervention or legal action.

4.0 Anti Social Behaviour Agreements (ABA's)

- 4.1 An Acceptable Behaviour Agreement (ABA) is a written agreement between an individual (adult or child) involved in antisocial behaviour and relevant partners working to prevent antisocial behaviour. An ABA is a clear statement of what the Company and the Anti Social Behaviour Partnership would consider as acceptable behaviour and will be put in place following failure of written warnings. ABAs are flexible and by signing the agreement, the perpetrator admits that their behaviour is unacceptable. ABAs are quicker and cheaper than Court actions
- 4.2 In the case of any individual who breaches the agreement, the ABA can be used to support an application for an ASBO and / or, the raising of an eviction action. This will demonstrate to the Sheriff Court that the partnership has tried an alternative approach to tackle antisocial behaviour, thus strengthening the case against the antisocial person.
- 4.3 When staff have proof that a person is responsible for Anti Social Behaviour and the unacceptable behaviour has failed to respond to all other interventions and warnings an ABA will be considered.
- 4.4 Staff and Police should also involve other agencies i.e. Social Work, support agencies etc. when considering an ABA
- 4.5 The person responsible for causing the Anti Social Behaviour is not obliged to sign an ABA If the person responsible for the Anti Social Behaviour refuses to sign the ABA then staff will write and confirm their refusal to sign the agreement and appropriate legal action will be considered.
- 4.6 If an agreement is signed then the tenant and all agencies involved should receive a copy and then monitor the behaviour. If the Company receives proof that a person has broken the order then the appropriate legal action will be considered.

Appendix 2

Jargon Buster

Acceptable Behaviour Agreements (ABAs): Voluntary contracts signed by the perpetrators of antisocial behaviour that attempt to change their behaviour.

Antisocial Behaviour etc. (Scotland) Act 2004: The main piece of legislation dealing with antisocial behaviour in Scotland.

Antisocial Behaviour Fixed Penalties: “On the spot” financial penalties issued by the Police in relation to certain types of antisocial offences.

ASBO: Antisocial Behaviour Orders are Orders granted by a Sheriff. The applications are of a civil nature but a Breach constitutes a criminal offence.

Eviction: A formal Court action where a landlord repossesses a property from a tenant.

Housing (Scotland) Act 2001: The principal piece of legislation relating to the relationship between Social Landlords and their Tenants.

Intervention Warnings: Written or verbal warnings issued to the perpetrators of antisocial behaviour by East Lothian Council or any partner agencies.

Mediation: A voluntary process where parties involved in a neighbour dispute attempt to reach an agreement regarding future peaceful coexistence with the assistance of trained Mediators

Noise Penalties: These can include verbal warnings, the issuing of Fixed Penalties and the confiscation of noise making equipment by local authority officers.

Restorative Justice: A practice where the perpetrators of a harmful or destructive act make amends by taking part in activities designed to compensate either the victim or the community.

“Secured by Design” scheme: An attempt by designers and architects to design buildings and other facilities in a way that reduces the likelihood of incidences of antisocial behaviour occurring.

Short Scottish Secure Tenancy Agreement (SSST): Short probationary Tenancy Agreements issued to individuals who have been subject to formal Court action relating to their antisocial behaviour.

Appendix 3

Roles within the Anti Social Behaviour Partnership

1. Role of the antisocial behaviour team

The Antisocial Behaviour Team includes Council and Lothian and Borders Police staff. It is the role of the team to:

- support the Antisocial Behaviour Case Monitoring Group
- establish the facts, taking great care when considering complaints to avoid the possibility of discrimination/victimisation on the grounds of race, ethnicity, age, sex, sexual orientation, disability or religion.
- confirm that the behaviour that has caused the complaint or concern does constitute antisocial behaviour.
- where appropriate, establish what steps the complainer has taken to resolve matters themselves and consider whether further steps would be appropriate. These might include mediation, noise monitoring or in some cases – civil action.
- maintain full and accurate confidential records on referred cases.
- advise partners in managing cases and preparing cases for referral to the Case Monitoring Group.
- establish a monitoring system to record intervention actions taken
- share intervention action taken with relevant sections and partners in accordance with information sharing protocols.
- become involved immediately in cases of extreme antisocial behaviour supporting and assisting partners.
- take a lead role in cases of antisocial behaviour where no clear lead partner role exists e.g. private sector housing ASB.
- represent the Council on the Mediation Advisory Group.
- promote the ASB helpline and co-ordinate response to cases working closely with partners as required.
- attend regular ASB meetings with partners.
- produce performance monitoring reports.
- represent the Partnership in Court providing evidence and acting as professional witnesses when required.
- ensure that a good audit trail of case information and evidence exists and that appropriate records are in place to ensure appropriate information sharing.
- ensure that all Council sections, external partners and other appropriate agencies, are involved in consideration of the case and their views are reflected and taken into account before any action is taken regarding that case, ensuring that the partnership's approach is collaborative. This is particularly important where children are involved.
- maintain accurate minutes of the Antisocial Behaviour Officers Group
- assist the Officers Group in developing detailed procedures and standard documentation and in generally carrying out its role.

- when an ASBO is granted by the court, ELC's legal services will provide the ASB team with a copy. The ASBT will pass a copy of this onto the police, so that they can update their computer database with details of the Order, and disseminate the contents of the Order to relevant localities. In addition, other relevant partners involved in the application should be provided with a copy of the Order by the ASBT.
- when an ASBO is granted, inform and provide feedback to the victims of the anti social behaviour.
- retain information regarding the use and effectiveness of ASBO's in order to support and evidence any monitoring and evaluation exercises that may be required.

2. It is the role of the Company when dealing with instances of ASB to:

- validate complaints received
- take action and meet the costs of any intervention and enforcement action for lower level ASB under appropriate independent policy, procedure or tenancy agreement.
- gather and collate all necessary information relating to any antisocial behaviour investigations.
- notify the Police immediately on the discovery of criminal activity.
- make necessary contact and early interventions with the alleged perpetrator of ASB
- ensure suitable arrangements are in place for the identification of new antisocial behaviour cases and ensure these cases are investigated and brought to the attention of the Antisocial Behaviour Monitoring Group in accordance with the policy.
- ensure any tasks detailed in the Antisocial Behaviour Monitoring Group minutes are completed timeously.
- conduct all necessary investigations and gather evidence that can be used to lead towards the preparation of an ABA or ASBO.
- observe confidentiality when obtaining and retaining information gathered from any source.
- ensure that any information provided by the Police is secured in such a manner so as to prevent any unauthorised access or theft.
- disclose all relevant information to East Lothian Council, in support of the pursuance of an ABA or ASBO.
- be responsible for arranging a suitable time, date and venue for an ABA meeting to take place. The Company will also be responsible for sending a letter to its tenant inviting them to attend the ABA meeting.
- undertake a leading role at any face-to-face meetings.