



ANTI-SOCIAL BEHAVIOUR & NEIGHBOUR DISPUTES POLICY

Date of Meeting: 26 January 2021

Review Date: January 2024

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1. Introduction

- 1.1 Calway Housing Association believes that all residents have the right to the peaceful enjoyment of their home and must equally have respect for the rights of their neighbours. The Association is committed to preventing anti-social behaviour in its area and ensuring that any issues that do arise are dealt with swiftly, fairly and consistently. This document sets out how the Association will respond both proactively and reactively to deter and resolve incidences of anti-social behaviour and neighbour disputes that occur within its area of operation, i.e. its properties, common spaces and surrounding environment. It lays down the level of responses available to Calway and its partners, who effectively deal with anti-social behaviour in order to provide safe neighbourhoods and sustainable communities. It also seeks to clarify the Association's responsibilities as a landlord, in such situations and the limitations on the role it can play.

2. Legal Definition of Anti-social Behaviour

- 2.1 Antisocial behaviour can range from noisy neighbours, uncontrolled pets or litter louts, through to vandalism, serious assault and drug-dealing. For the purposes of this document, anti-social behaviour is defined in accordance with the statutory definition contained at Section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004, which states that

'a person is involved in antisocial behaviour if they:-

- (i) act in a manner that causes or is likely to cause alarm or distress; or
- (ii) 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 as them

In the definition given in the Act,

- (i) 'conduct' would include speech, and
- (ii) a course of conduct' must involve conduct on at least two occasions.

- 2.2 These legal definitions will be used to inform the categorisation and investigation of anti-social behaviour and guide the decision making process in terms of deciding when it is appropriate for legal action to be instigated.

3. Aims & Objectives

- 3.1 The main aims and objectives of this policy are to:-
- (i) Ensure tenants are fully informed about their obligations and responsibilities and those of the Association and provide clear guidelines for tenants and staff alike.
 - (ii) Make it easy for tenants and residents to report problems and create a culture in which they are willing to approach the Association as they feel confident of an effective response.

- (iii) Deal promptly, consistently and effectively with complaints and keep complainants fully informed throughout.
- (iv) Work positively in partnership with Police Scotland, Community Relations Unit (CRU) and other agencies who can assist in dealing with neighbour disputes and anti-social behaviour.
- (v) Respond to neighbour disputes in such a way as to prevent them escalating into something more serious and where appropriate encourage mediation and communication between disputing parties.
- (vi) Maintain confidentiality regarding the source of complaints, unless the complainant specifically gives permission for their identity to be revealed.
- (vii) Ensure all relevant staff are appropriately trained to deal effectively with neighbour disputes and anti-social behaviour.
- (viii) Maintain effective communication between all parties involved and adequate recording of all communications and actions taken.
- (ix) Maximise tenants' satisfaction with the way in which complaints are handled.

4.0 Regulatory Framework

- 4.1 The principle legislation that governs anti-social behaviour is the Housing (Scotland) Act 2001, Misuse of Drugs Act 1971, the Anti-social Behaviour Act 2004 and the Housing (Scotland) Act 2010. The Housing (Scotland) Act 2014 also provides the Association with additional powers and obligations in tackling anti-social behaviour by:-

Enabling social landlords to grant a Short Scottish Secure Tenancy (SSST) to new tenants, or to convert an existing tenancy to SSST, where the applicant, tenant, a household member or a visitor has been involved in anti-social behaviour in or near social housing within the last 3 years.

- 4.2 The 2010 Act also provides landlords with details of the 'Scottish Social Housing Charter' which sets out the standards and outcomes which all social landlords are expected to meet in the delivery of their services. This policy takes into account Outcomes 1 and 6 as follows:-

Outcome 1 – Equalities - *“Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.”*

Outcome 6 - Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes. *“Tenants and other customers live in well – maintained neighbourhoods where they feel safe”.*

Outcome 11: Tenancy sustainment - tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.

Changes introduced May 2019 significant changes introduced to tenant's rights in the Housing (Scotland) Act 2014. They replace the current 2002 Model Tenancy Agreements for tenancies created **on or after 1 May 2019**, when most of the provisions in the 2014 Act come into effect.

Ending a Scottish Secure Tenancy by Court Order – Conviction of a Crime / Serious Antisocial Behaviour

Committing serious antisocial behaviour or certain crimes are a breach of the tenancy agreement and can lead to eviction. The Association are entitled to seek a court order if the Tenant or anyone living with the tenant at the property, or anyone visiting the property are:

- convicted of using the house or allowing it to be used for immoral or illegal purposes.
- convicted of any offences punishable by imprisonment committed in or around the locality of the property.

Before we start the court action for eviction, we will serve a Notice of Proceeding on the tenant. The tenant has the right to challenge that decision. From May 2019, the Housing (Scotland) Act 2014 made this process easier by removing the need for the Court to consider whether it is “reasonable” to make any order for eviction where we are using this ground for eviction.

The Court will be required to grant the eviction order if we have served the Notice of Proceedings within twelve months of the date of the conviction (or within twelve months of the conclusion of an unsuccessful appeal against the conviction).

Conversion to a Short Scottish Secure Tenancy for Antisocial Behaviour

In certain circumstance, we can change a tenant’s tenancy agreement to a different type of tenancy agreement called a Short Scottish Secure Tenancy (SSST) agreement, which gives fewer rights and less protection from eviction than a Scottish Secure Tenancy (SST). From May 2019, these circumstances include any situation where a tenant or someone living with the tenant has acted in an antisocial manner in or around the property. If we choose to convert the tenancy we will serve a Notice which will detail the action of the person who has behaved in an antisocial manner and our reasons for converting the tenancy. The tenant will have the right to appeal the conversion to the Sheriff Court.

5. Prevention

- 5.1 All staff must ensure that appropriate action is taken at the outset of any tenancy to prevent neighbour disputes or anti-social behaviour from arising, including:-
- (i) Clear discussion on the content of the tenancy agreement and promotion of the good neighbour agreement at the sign-up stage to clarify the tenant’s/Association’s responsibilities, grounds for repossession etc.
 - (ii) A Settling-in visit, posted or telephone survey to all new tenants being carried out by a member of the Property Services staff, within six weeks of the date of entry, to discuss tenancy responsibilities and highlight any potential neighbour issues.
 - (iii) Suspending applicants on the Association’s waiting list who adopt threatening, violent or abusive behaviour towards any resident, visitors, employees of the Association, including agents or contractors and Committee Members until any issues are satisfactorily resolved.
 - (iv) Consideration of housing mix and sensitive letting when allocating properties to prevent potential lifestyle clashes. (Cross Reference: Allocations Policy)
 - (v) The Association has been working in partnership with Community Relations Unit (CRU) since 2012. CSG is a partnership between Police Scotland and

Glasgow City Council which aims to prevent crime, tackle antisocial behaviour and promote community safety within the Greater Glasgow Division. Some of the services provided include one to one meetings, close meetings, signing Antisocial Behaviour Contracts and provision of mediation services, through to providing case notes for legal action. They also provide a range of measures to assist in gathering evidence e.g. professional witnesses, CCTV, video cameras and noise monitoring equipment.

- (vi) The Association's approach to the prevention and management of anti-social behaviour is also integrated with our management of allocations, estates and void properties, as this positively contributes to sustainable communities.

6. Categories of Complaints

6.1 There are different categories of complaints ranging from lifestyle clashes, conflict between neighbours, breaches of tenancy and serious antisocial behaviour. An important element of classifying complaints is to help establish where the primary responsibility for action lies. This should ensure that complaints are dealt with effectively and with the most efficient use of all available resources of time, expertise and cost.

6.2 The Association will therefore adopt the under-noted definitions. Categories A, B and C are those widely used by other RSL's, including those with whom we benchmark and also by the Community Relations Unit.

(i) **Category A: Serious Anti-Social Behaviour**

Complaints classified under this category are conviction(s) of 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.

Such complaints are not primarily housing matters, particularly where they involve clear breaches of criminal law. The Association recognises its limitations in dealing with criminal related complaints and may therefore refer such complaints to more appropriate agencies and liaise with them accordingly to effect appropriate actions.

(ii) **Category B: Complex Neighbour Disputes**

Complaints classified under this category are aggressive/abusive behaviour, frequent disturbance, vandalism, drug/alcohol abuse, verbal/written harassment and frequent and persistent noise.

The Association will generally be involved directly, but will also work with other agencies as required, such as Environmental Health, Social Work, Community Relations Unit Noise Team, etc.

(iii) **Category C: Minor Breaches of Tenancy Obligations**

Complaints classified under this category are minor breaches of tenancy, environmental issues, unkempt gardens, dog fouling, dumping of bulk items, improper use of common areas etc.

The Association will generally deal with these complaints in house, either directly or liaising with other residents, contractors or other service providers e.g. GCC Land Services, etc.

(iv) **Other Complaints**

Complaints made against factored owners or sharing owners, household members or visitors, will only be pursued where there is a breach of the Deed of Conditions or the complaint relates to a common factoring issue, otherwise the complainant will be given general advice on the options available to them.

Where complaints are made against residents who are neither tenants nor factored owners, or their children, visitors or pets, the complainant will be offered general advice and the complainant will generally be advised to contact Community Relation Unit, Police or the Council depending on the nature of the complaint.

6.3 Response and Closure Timescales

Complaints received which are deemed to fall under Category A will be responded to within 1 working day. Category B complaints will be responded to within 3 working days and Category C complaints within 5 working days.

The Association will aim to close all cases within 5 or 20 working days, dependent on whether the Association is required to carry out further investigation in relation to that complaint.

7. Receiving Complaints

- 7.1 Complaints will be accepted in a number of formats, e.g. by telephone, by recorded message on the Association's answer-phone, in person, in writing or by email.
- 7.2 The Association also has a standard complaint form if preferred and a diary sheet (for logging complaints of a continuous nature) if necessary, to assist complainants to lodge a formal complaint, in an appropriate format. This is particularly useful as it requests specific information which will enable the Association to gather evidence that may be used to support further action.
- 7.3 The Association will not normally accept complaints by a third party unless there are extenuating circumstances, e.g. Home Helps, Social Work, Police, Solicitors, elected members of Parliament, etc. Where it is a third party who initiates the complaint, the Association may still need to contact the named person to confirm their awareness of the third party's involvement. A signed mandate will also be required from the named person confirming who is acting on their behalf.
- 7.4 In the case of tenants living in supported housing projects within the Association's area, e.g. Quarriers, Turning Point, Glasgow City Council, etc. a signed Protocol will generally be in place and will detail any special arrangements made with care providers for dealing with complaints made by or against such tenants.
- 7.5 The Association recognises that information given anonymously may be true and anonymity sought out of fear of reprisal, but may equally be untrue and founded on malice or prejudice. Anonymous complaints involving threats of violence, reprisal or other serious allegations will be investigated as far as possible and appropriate action taken. Anonymous complaints of a less serious nature may be taken and responded to via an article in the Association's newsletter, as a means of alerting the anonymous

complainant that the matter has been addressed and any alleged perpetrators, as to the Association's policy in this regard, the consequences of breaching such a policy and the manner in which this would be dealt with.

8. Responding to Complaints

- 8.1 The Association will respond efficiently and effectively to all reported incidences of neighbour disputes and anti-social behaviour. A range of measures may be used, dependent on the category of complaint and appropriate response. Some of the measures available to the Association's staff is detailed within section 9 of this policy.
- 8.2 It is not intended that every incident will be subject to the full complement of standard letters, warnings and joint agency protocols, through to court procedures and eviction, which will always be a last resort. Each case will be considered fully and specific measures used appropriately.
- 8.3 All reported incidences of neighbour disputes or anti-social behaviour will be recorded and all parties kept informed in writing of all action undertaken.
- 8.4 The Association's staff will handle all investigations sensitively to ensure the identity of witnesses is protected as far as possible.
- 8.5 All complainants will be encouraged to report complaints to the Police, Noise Team, Environmental Health, or other external agencies, where appropriate and staff will strive to facilitate a relationship between the parties to resolve the situation.
- 8.6 The Association appreciates people have differing lifestyles and perceptions and there are some issues that we will not investigate as anti-social behaviour. Examples given by the Community Relations Unit include, but are not limited to the following:-
- (i) Heavy footfall.
 - (ii) Banging of doors
 - (iii) Noise relating to children playing.
 - (v) Incidents where no details are provided of who is involved

9. Non Legal and Legal Action

- 9.1 The Association's aim is to resolve complaints as quickly and effectively as possible, whether directly or in liaison with other agencies. All disputes should initially be dealt with using measures other than legal action, such as:-
- (i) Non-Legal - Home visits, interviews with tenants in the office or close meetings, letters to all parties involved, tenants being recharged for any damage incurred, through to applications for rehousing being suspended until issues have been satisfactorily resolved. We will also offer mediation services, issue Acceptable Behaviour Contracts or Unacceptable Behaviour Notices in liaison with Police Scotland or Community Safety Glasgow
 - (ii) Legal - Issue a Notice of Proceedings for Recovery of Possession, which would advise of the start of the legal process. We may seek an Interdict, Anti-social Behaviour Order (ASBO), Conversion of the Scottish Secure Tenancy to a Short Scottish Secure Tenancy, (where an ASBO has been granted), or Eviction which would be a last resort. (See appendix 1 for more details).

- 9.2 The Association will only resort to legal action when all other options have been exhausted, or are deemed inappropriate.
- 9.3 Where legal action is proposed a report will be submitted to the Operations Services Sub Committee for approval.

10. Management Transfer

- 10.1 Where a neighbour dispute is deemed to be due to a 'clash of personalities or lifestyles' and may only be remedied by one party moving away, the Association may consider a management transfer. (Cross Reference: Allocations Policy)
- 10.2 The Association may also participate in any local Management Transfer agreements developed in conjunction with other housing organisations in the area. Whilst such an agreement will not be used as an initial remedy to any disputes that arise, it should be recognised as a possible solution in certain situations.

11. Monitoring and Reporting

- 11.1 The outcome of investigations and all action taken by the Association will be recorded and monitored.
- 11.2 The Association participates in benchmarking with other members of Easterhouse Housing and Regeneration Alliance (EHRA), via regular meetings and discussions. The Association is also a member of the Scottish Housing Network (SHN) and participates in benchmarking returns and practice exchange forums and related training, to ensure we adhere to good practice and continually assess our own policies and procedures against other housing providers.
- 11.3 A quarterly report will be presented to the Operations Sub Committee detailing the number of complaints received and outcomes.
- 11.4 The role of Committee in relation to neighbour disputes and anti-social behaviour will be restricted to:-
- (i) agreeing and reviewing the policy and related procedures
 - (ii) monitoring outcomes of the policy and procedures through reports
 - (iii) authorising the implementation of court actions
 - (iv) considering complaints via the complaints process
- 11.5 Any reports to Committee will be in a form where confidentiality and anonymity of complainants or those who are the subject of the complaint is retained.

12. Equal Opportunities

- 12.1 In executing this policy and related procedures, staff will have regard to the Association's policy on equal opportunities.
- 12.2 The Association will ensure that the implementation of this policy will be achieved without discrimination against any individual, group, organisation or company based upon:-

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual-orientation

13. CONFIDENTIALITY, DATA PROTECTION AND RIGHTS OF ACCESS

All information provided by complainers, witnesses or alleged perpetrators during the course of any anti-social behaviour investigation will be treated in strict confidence and will only be discussed with other parties with the individual's (or their appointed representative's) prior consent.

The Association will comply with the Data Protection Act 2018 and the General Data Protection Regulation in relation to all personal information held.

The GDPR includes the following rights for individuals:

- What personal data we hold about them;
- The purposes of the processing
- The categories of personal data concerned
- The recipients to whom the personal data has/will be disclosed
- How long we intend to store your personal data for
- If we did not collect the data directly from them, information about the source
- The right to have incomplete or inaccurate data about them corrected or completed and the process for requesting this
- The right to request erasure of personal data (where applicable) or to restrict processing in accordance with data protection laws, as well as to object to any direct marketing from us and to be informed about any automated decision-making that we use
- The right to lodge a complaint or seek judicial remedy and who to contact in such instances

If a tenant wishes a copy of relevant personal information which the association holds about them, subject access requests can be requesting in writing to the Association and we will respond within one month of this request. Further information regarding how we process your data can be found on our website along with a Subject Access Template.

14. Procedures / Staff Training

- 14.1 The Association will develop procedures identifying actions, roles and responsibilities in the implementation of this policy which will be subject to regular review.
- 14.2 The Association will ensure that its' staff are properly trained in terms of their knowledge and understanding of this policy and related procedures, statutory requirements and good practice and in the Scottish Social Housing Charter Performance Standards pertaining to this policy.

15. Further Complaints

- 15.1 Any tenant or resident who feels that a complaint lodged, or made against them, has been handled inappropriately, can make a formal complaint via the Association's Complaints Policy.
- 15.2 This is a separate policy which would consider complaints regarding:-
- (i) The handling and outcome of a policy
 - (ii) The treatment by a staff member
 - (iii) How the complainant or alleged perpetrator has been dealt with
- 15.3 Copies of the Complaints Policy and the standard complaints' form are available from the Association's offices or can be downloaded from our website. Anyone who remains dissatisfied after following the Association's Complaints Policy will be advised that they have final recourse to the Scottish Public Services Ombudsman, information leaflets for which are also available from the Association's offices.

16. Policy Review

- 16.1 This Policy will be reviewed three years from the date of approval, or earlier should the need arise to reflect changing circumstances or changes in legislation or good practice standards.

17. CROSS REFERENCES

Allocations Policy
Complaints Policy
Estate Management Policy
Scottish Secure Tenancy Agreement
Maintenance Policy
Rechargeable Repairs Policy
Factoring and Shared Ownership Policy
Tenants Handbook

MEDIATION SERVICES

Calvary Housing Association works in partnership with Community Relations Unit who provides a mediation service which is based on a referral system. The purpose of mediation is for neighbours experiencing a dispute to reconcile their differences themselves rather than going down a legal route or having a solution imposed on them. This is completely voluntary so generally the consent of all parties is required for this to work effectively.

ACCEPTABLE BEHAVIOUR CONTRACTS / UNACCEPTABLE BEHAVIOUR NOTICE

Calvary Housing Association works in partnership with Community Relations Unit and use Acceptable Behaviour Contracts (ABC) and Unacceptable Behaviour Notices (UBN) as a method of tackling anti-social behaviour. An ABC is a written agreement between the Association, Community Safety and the perpetrator. The main aim is to make the individual aware of the actions that are causing complaint, agree certain actions and responsibilities for the perpetrator to follow and to thoroughly understand the consequences of failing to comply. The contract is not a legally binding document but will be used in legal proceedings to prove to the Sheriff that the landlord carried out alternative approaches to an Anti-Social Behaviour Order (ASBO). Where the perpetrator is between the age of 12 and 16 years the consent of the parents will be required.

A UBN can be used where an individual refuses to co-operative with and sign an ABC or where they have broken the conditions of the ABC. The same rules apply as above.

INTERDICTS

An interdict is a court order which can either prevent or insist upon the perpetrator carrying out certain actions or behaving in a certain way. The behaviour could include a breach of tenancy conditions, violence or a pattern of ongoing nuisance. Examples of cases where an interdict-interim or full interdict have been successful are playing loud music, swearing or shouting, dog fouling, harassment of neighbours, verbal abuse or threats against staff, flooding of neighbours and damage to property.

Interdicts do not require witnesses to attend court. If granted and the behaviour does not improve, action can be taken for breach of interdict. However, the proof required is the same as that of a criminal prosecution. If an interdict is breached, the penalty is either a fine or imprisonment.

ANTI SOCIAL BEHAVIOUR ORDER (ASBO)

The Criminal Justice (Scotland) Act 2003 gave Registered Social Landlords and Local Authorities, in conjunction with the Police, the power to apply to the courts for an Anti-Social Behaviour Order (ASBO) for individuals aged 16 and over. The Anti-Social Behaviour Act 2004 replaced the legislation and extended the age from 12 to 16 years.

ASBOs contain specific terms and conditions that say exactly what the person cannot do, or where they cannot go. For example, an ASBO may say that a person cannot play loud music at certain times or that they cannot hang about in your street or stairwell. The conditions in an ASBO might apply for a limited period of time or indefinitely. Not every ASBO will be the same as each relates to a different person and different circumstances.

An ASBO is a civil court order. This means that it is not a criminal conviction and therefore does not give a person a criminal record. However, a person can still be prosecuted for criminal behaviour and be put in prison or fined, even if they already have an ASBO against them. Someone with an ASBO against them can also be prosecuted if they breach the terms of it. A breach of ASBO can also be used as evidence for obtaining an eviction decree for anti-social behaviour.

An ASBO can be made against any person irrespective of their housing tenure, i.e. owner occupiers, private sector tenants, and tenants of public sector landlords, including local authorities. The court can also decide to impose a temporary ASBO (an 'interim ASBO') for immediate protection until it considers all the evidence and decides what to do in the long term.

ANTI SOCIAL BEHAVIOUR ORDERS (ASBO) – CONVERTING SST TO A SSST

Current legislation is contained within Sections 34 to 37 and Schedule 6 (grounds for granting SSST in relation to Anti-social Behaviour paragraph 1 (eviction order for ASB) and paragraph 2 (full ASBO)).

A SSST is for a term of no less than 6 months. This allows the Association the right to convert a SST to a SSST where there is a full ASBO in place relating to the tenant, a person residing with or sub-tenant of the tenant. Where a SSST has been granted due to a previous eviction order or where a full ASBO has been granted, it will automatically convert to a full SST after a period of 12 months.

Amendments under the Housing (Scotland) Act 2014

Section 7(2) of the 2014 Act extends the circumstances where a SST can be converted to a SSST beyond the granting of an ASBO.

Conversion now includes circumstances where the tenant or person associated with the tenant has within the previous 3 years

- 1) acted in any anti-social manner.
- 2) Pursued a course of conduct amounting to harassment or
- 3) Pursued a course of conduct which is otherwise anti-social conduct in relation to another person residing in, visiting or otherwise engaged in lawful activity of the house.