
NEIGHBOUR DISPUTES AND ANTI-SOCIAL BEHAVIOUR

Title:	Neighbour Disputes and Anti-Social Behaviour Policy and Procedures
Purpose of Procedure:	To clarify procedures and guidance for dealing with neighbour disputes and cases of anti-social behaviour.
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Assurance Statement: Standard 2

The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.

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1.0 POLICY STATEMENT

The purpose of this Policy Statement is to set out the aims and objectives of Association's policy in respect of anti-social behaviour and neighbour disputes. This will provide a framework for committee, residents and staff within which incidents of anti-social behaviour and neighbour disputes will be dealt with by the Association's staff.

This Policy sets out what we will do to help prevent anti-social behaviour and Neighbour disputes and how we will deal with these complaints. We understand our responsibility to make sure that tenants can enjoy their home. Our tenants also have a responsibility to make sure that their actions do not interfere with their neighbours' quiet enjoyment of their home. Our aim is to sort out the problem, wherever possible, so that neighbours can continue to live together without further problems.

Blairtummock Housing Association believes that all tenants and residents have a right to live peacefully in their home and is committed to providing a positive response to any complaints of anti-social behaviour.

A separate Complaints Policy deals with complaints about the service provided by us.

An Estate Management Policy sets out what we will do about complaints received about the general environment.

These policies are available on request from our offices.

EQUAL OPPORTUNITIES & HUMAN RIGHTS STATEMENT

We aim to ensure that all services, including the delivery of this policy, provide equality of opportunity.

We will respond to the different needs and service requirements of individuals. We will not discriminate against any individual for any reason, including age, disability, gender re-assignment, marriage, civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, or other status.

2.0 AIMS

Blairtummock Housing Association believes that anti-social behaviour is unacceptable. We aim to prevent anti-social behaviour from taking place and reduce its effect.

Anti-social behaviour can seriously affect the quality of life of our residents and communities. We believe that our tenants should expect and be able to live peacefully in their homes and community.

The purpose of this policy is to outline the measures Blairtummock Housing Association has adopted to address anti-social behaviour. This policy aims to ensure a pro-active and strategic approach to anti-social behaviour that can tackle problems quickly, sensitively and effectively.

Scottish Housing Regulator Housing Charter Standard 6 requires: -

Social landlords, working in partnership with other agencies, help to ensure that:

- tenants and other customers live in well-maintained neighbourhoods where they feel safe

Scottish Housing Regulator Housing Charter Standard 11 requires: -

Social landlords ensure that:

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

In taking all decisions and considering all matters raised in this policy the Association will take into account that everyone has a human right to respect for their family life and their home.

This policy and procedures, formulated in the following pages, aims to address issues of anti-social behaviour and respond accordingly.

3.0 OBJECTIVES

3.1 The policy will deal with anti-social behaviour and neighbour nuisance by:

- Reducing the opportunity for anti-social behaviour to start by sensitive design, and achieving “Secured by Design” accreditation in new build developments and implementing Secure by Design principles in planned maintenance programmes;
- Providing good quality information to promote good tenancy relations and inform the expectations of users of the service;
- Responding within guaranteed times to complaints in an effective, sensitive and consistent manner, undertaking thorough investigations, keeping accurate records and informing complainants of progress and decisions that have been made.

3.2 Encouraging communication and mediation to tackle problems early and effectively and to reduce the risk of escalation by;

- Ensuring that the approach to anti-social behaviour complies with the law and best practice;
- Supporting complainants;
- Facilitating a multi-agency approach with Community Safety Glasgow, Police Scotland, and other agencies who can assist in order to maximise the resources available to address anti-social behaviour and tackle the causes and consequences of anti-social behaviour;
- Informing the development of staff procedures that guide staff through the process of investigating and resolving problems of anti-social behaviour;
- Monitoring and reviewing the effect and outcomes so the aims and objectives of the policy are successfully met.

4.0 DEFINITION AND CATEGORIES

- 4.1 Anti-social behaviour is difficult to define. Anti-social behaviour can involve incidents from minor nuisances, noise and neighbour disputes through to serious violence, crime and intimidation. Anti-social behaviour is closely related to breaches of conditions of tenancy addressed in our Estate Management Policy.
- 4.2 There are different types of neighbour nuisance, anti-social behaviour and harassment. We distinguish between the severity and impact of different kinds of behaviour. They have been classified into categories and for each category we define the timescale in which we aim to respond to the complaints (**Appendix A**). We will respond sensitively and objectively and the response may be in the form of telephone call, a letter, a home visit or interview held at the Association office.

Examples of Anti-Social Behaviour could include:

- Noise nuisance;
- Intimidation and harassment;
- Fouling of public areas;
- Aggressive and threatening language and behaviour;
- Actual violence against people and property;
- Hate behaviour that targets members of identified groups because of their perceived differences; and
- Using homes to sell or keep drugs, or for other unlawful purposes.

- 4.3 There are however, two legal definitions of anti-social behaviour;

Part 1 of Schedule 2 to the Housing (Scotland) Act 2001 defines antisocial behaviour as:

“action or course of conduct which causes or is likely to cause alarm, distress, nuisance or annoyance”.

Section 143 of the Anti-Social Behaviour (Scotland) Act 2004 defines anti-social behaviour as:

“acting in a manner which causes or is likely to cause alarm or distress or pursuing a course of conduct which causes or is likely to cause alarm or distress to a least one person who is not of the same household”, where “Conduct” includes speech and “course of conduct” includes at least two occasions.

5.0 PREVENTION

- 5.1 We will carry out the following measures to ensure that neighbour disputes are prevented or minimised:
 - 5.1 We will build and maintain our properties to standards that minimise the impact of anti-social behaviour.
 - 5.2 Our Policy on Anti-Social Behaviour and Neighbour Disputes is highlighted at the pre-allocation and tenancy sign-up stage. The need for tolerance towards others is stressed and that we will provide a quick and effective response to neighbour complaints or instances of anti-social behaviour. We will stress at tenancy sign-up that we operate a zero tolerance approach to offences involving supply of drugs or growing drugs in our properties.
 - 5.3 We will consult tenants on anti-social behaviour and neighbour disputes and provide advice on how tenants can deal with complaints between neighbours (**Appendix B**). Information will also be contained in the Tenant Information Pack.
 - 5.4 We aim to provide, with other agencies as required, the appropriate level of support needed so that tenants can sustain a tenancy, live peacefully with their neighbours and lead as normal and independent a life as possible.
 - 5.5 We aim to deal with estate management problems efficiently and effectively to prevent problems and conflict (**see separate Estate Management Policy**)
 - 5.6 We will participate in strategies on anti-social behaviour introduced by Glasgow City Council, Community Safety Glasgow and Police Scotland.
 - 5.7 We will consider housing mix and sensitive allocation to prevent potential lifestyle clashes (**see also Allocations Policy**).

6.0 RECEIPT OF COMPLAINTS

6.1 Establishing Responsibility for the complaint i.e. is it Blairtummock Housing Association's responsibility? The first stage after receipt of a complaint is to establish whether the matter is appropriate to be dealt with by the Association. This will usually be if the alleged culprits are the tenants of the Association, residents within Blairtummock Housing Association property or where the clear majority of those affected are Blairtummock Housing Association tenants. Alternatively, if the Anti-Social behaviour is affecting the community in general and/or is taking place in public places like shopping centres, parks, etc. the lead agency should be the local authority or the Police. (clarify)

6.2 Complaints will be accepted in a number of formats;

- Telephone call (although the complainer will be asked to sign a statement relating to the complaint at a later date)
- Recorded message left on answering machine (although the complainer will be asked to sign a statement relating to the complaint at a later date)
- By letter
- By e-mail
- Via standard complaint form (**Appendix C**) which would be the preferred method

6.3 All complaints must be logged onto the SDM complaints register

6.4 Anonymous complaints should be accepted and recorded. However, it is unlikely that anonymous complaints, on their own, will be investigated, as these can be of a malicious nature, and can represent a form of harassment. One advantage of recording anonymous information is that it may help identify a problem at an early stage. We recognise that sometimes anonymous complaints are made because of fear of reprisals however also accept our limitations in being able to action this type of report further. In all instances the Housing Officer should discuss further action on anonymous complaints with the Housing Manager and consider the credibility before deciding of further action.

6.5 The Association will not accept complaints from a third party unless there are extenuating circumstances, e.g. Home Helps, Social Work, Police, and Solicitors etc. Where a third party makes a complaint, the Association may contact the first party (i.e. the tenant affected) to confirm the details of the complaint.

7.0 PROCEDURE FOR DEALING WITH COMPLAINTS

- 7.1 We will collect the facts and interview the complainant. We will use standard forms for recording this information. We will request disclosure from Police Scotland under the Information Sharing Protocol if appropriate. This can take some considerable time to receive.
- 7.2 We will assess each complaint to decide whether it is a tenancy issue, a criminal matter or both.
- 7.3 We will decide what action should be taken within the categories listed on **(Appendix A)** and decide if other agencies need to be involved. We will keep complainants informed at every stage.
- 7.4 We will employ a range of options to resolve the situation on a case by case basis. These include: Interviewing all parties, warning letters, mediation, referral to other agencies including police, social work, other landlords and Glasgow City Council departments. Legal action is the last resort but will be taken if it is clear that the complaint cannot be resolved in another way. The reasonableness of Legal Action will be considered by assessing the level of evidence and the likelihood of success
- 7.5 In cases where it is appropriate to obtain an Anti-Social Behaviour Order (ASBO), we will liaise with Glasgow City Council, the Procurator Fiscal and other appropriate agencies with regard to the serving of an ASBO.
- 7.6 Neighbour complaints can cover a wide range of issues but the majority will be about minor problems. A small number of complaints could, however, develop into a serious problem if they are not or cannot be resolved at an early stage.
- 7.7 Those who lodge a complaint should be asked if they have spoken to the offending tenant in an attempt to resolve the problem. It should be explained to the complainant that some problems are better dealt with amicably and without the involvement of the landlord. This approach will not, however, be appropriate in all cases and will depend on the nature of the complaint.
- 7.8 All complaints must be recorded on the complaints form **(Appendix C.1)**. Following receipt of the complaint the complaint should be acknowledged in writing **(Appendix C.2)**.
- 7.9 Before interviewing the tenant who is making the complaint the Housing Officer/Assistant must research the house files both of the tenant

complaining and of the person they are complaining about. It is useful to check house files as this can often identify whether there is a history of similar complaints involving the persons concerned and provide details on the nature of any previous complaints.

Colleagues may also be able to provide details on previous complaints. Other issues such as mental health or support issues will be established at this stage and the relevant agency contacted where appropriate.

- 7.10 Where it is necessary to interview the complainant this must be carried out within the appropriate timescale (**Appendix A**). During the interview with the complainant the Complaint Form (**Appendix C.1**) should be completed.

It is important to try and obtain as much information as possible from the interview in an attempt to get a clear understanding of what happened. The Housing Officer/Assistant must try and get an accurate picture of what happened by finding out and recording all relevant circumstances including what day it happened, what time, how often and who caused the problems.

In addition, try to establish if there are any witnesses who can substantiate the complaint. If the police attended, try to find out from the complainant the name of the police officer(s) concerned. This should be confirmed in writing to the complainant (**Appendix C.3**).

- 7.11 An Incident Diary will be provided to complainants which can be used for recording incidents. (**Appendix C.4**)
- 7.12 Complainants should be advised that every effort will be made to ensure that any information they provide will be treated in confidence. Indeed, the express consent of the complainant will be sought prior to any approach being made to the neighbour, when such an approach is made, the identity of the complainant will not be revealed. They should, however, also be made aware that such information may be used in the preparation of a court case should the need arise. No case will be taken to the legal action stage without fully consulting the complainant.
- 7.13 Any witnesses must be visited/contacted (**Appendix C.5**) with statements being obtained and recorded (**Appendix C.6**). Taking such action is intended to help clarify what has been happening and to assess if the complaints are justified. When interviewing witnesses or others, staff must be sure to protect the anonymity of the complainant. In serious cases neighbours should be asked if they are willing to appear in court as witnesses in any future legal action. Witnesses

should be made aware that any statement they make may be used at a later date in court.

- 7.14 The tenant who is the subject of the complaint should be contacted (**Appendix C.7**) and interviewed (**Appendix C.8**). On occasion it may be appropriate for the Housing Officer/Assistant to be accompanied by another colleague or for the interview to take place in the office. Inform the tenant(s) of the nature of the complaint made against them and ask for their comments.

The Interview Form (**Appendix C.8**) should be completed once the tenant(s) has given their comments against them. The name of any person(s) who can confirm the version of events as advised by the alleged offending tenant should be noted. Again the identity of the complainant should not be revealed.

Should the tenant fail to attend the interview they should be duly contacted and advised of a further appointment (**Appendix C.9**).

- 7.15 In some investigation corroboration may be obtained from other staff, or from the police and Social Work (**Appendix C.10**).
- 7.16 When the investigations have established the situation, the Housing Officer/Assistant and an appropriate senior member of staff, will jointly decide on the course of action to be taken. The complainant and the person complained about should be advised of the decision taken and the action proposed. The complainant and the perpetrator will be duly notified of the outcome (**Appendix C.11 and C.12**).
- 7.17 The action proposed will be based on the individual circumstances of the case. Some of the possibilities in terms of the proposed action may include:
- No further action – complaint unsubstantiated
 - No immediate action but with continued monitoring
 - Warning interview
- 7.18 If, following investigation, the complaint, is found to be substantiated the Housing officer should consult with the Senior Housing Officer to identify the most appropriate action to resolve the situation.
- 7.19 Generally, a complaint will be considered substantiated if:
- Two independent complainers confirm the same specific incident
 - A single complaint about a specific incident is confirmed by Police attendance and action (i.e. warning, caution or charge)

- A single complaint about a specific incident is confirmed by Community Safety Glasgow (CSG) Noise Control Team attending and taking action (issuing a warning notice or fixed penalty notice)
- CCTV or photographic evidence confirming an incident
- A single complaint about a specific incident confirmed by an admission from the perpetrator when interviewed regarding an incident

7.20 The warning interview will be carried out when the complaint has been corroborated. It will always be an interview by appointment as this will be a formal interview which may lead to Court action and therefore requires to be accurately documented.

Again for legal reasons but also for reasons of safety it may be appropriate for the Housing Officer/Assistant to be joined by another colleague for the interview to take place in the office. The offending tenant must be made clear about the incident(s) to which the warning relates. In addition, the tenant must be advised of the action including legal action that the Association would be prepared to take if there is no change in behaviour.

A letter must be sent to the offending tenant within 3 working days of the warning interview (**Appendix C.13**). This letter should refer to the interview giving details of the corroborated complaints and the further action that will be taken if there is no change in behaviour. Should the tenant fail to attend the interview, they will be duly notified, in writing, confirming the warning (**Appendix C.14**). The complainant should also be notified to confirm the Association has dealt with the matter (**Appendix C.15**).

Where repeated serious acts of anti-social behaviour are apparent, the Association will consider issuing an Acceptable Behaviour Contract (ABC) (**Appendix C.20**). The tenant will be duly notified to attend a meeting and in most occasions the local community police will also be invited to attend (**Appendix C.21**).

7.21 In certain circumstances it may be decided not to hold a warning interview but merely to send a warning letter. This may be considered more appropriate for less serious cases such as complaints about litter, pets, stair cleaning and garden upkeep (**see Estate Management Policy**)

7.22 Mediation is an option, which can be used in an attempt to resolve a dispute. In all cases of mediation both parties would be referred to mediation service offered by Glasgow City Council through the Community Safety Glasgow.

If a situation does not improve the Housing Officer/Assistant should discuss the case with the Senior Housing Officer. This will enable consideration to be given as to what further action is required. One option may be to hold a further warning interview emphasising the seriousness of the situation followed by a second warning letter.

The perpetrator will be notified to attend the office for a further interview **(Appendix C.16)**, and this will be followed by a second written warning **(Appendix C.17)**. Where the perpetrator fails to attend the interview or make contact with the office, a second written warning will be sent **(Appendix C.18)**. Thereafter the outcome will be confirmed to the complainant **(Appendix C.19)**.

7.23 Where a problem persists following a second warning interview and letter the matter should be discussed with the Senior Housing Officer for consideration of further action. At this stage the options for further action will likely include legal action. **(Appendix D)**

7.24 Some types of nuisance behaviour will satisfy grounds for repossession. The grounds on which the court may order recovery of possession under Scottish Secure tenancies are specified in Schedule 2 of the Housing (Scotland) Act 2001.

7.25 For the purposes of this policy all warnings will be considered to last six months from the date of issue. We reserve the right to extend this in exceptional circumstances

7.26 The use of professional witnesses should be considered in certain circumstances such as persistent, extreme and serious cases where tenants are reluctant to give evidence in court or in addition to verbal or written evidence from tenants. Professional witnesses can include those such as the Police, Social Work and Housing Staff. They can, however, also include private investigators. The decision to use professional witnesses and/or CCTV will be made by the Director in consultation with the Housing Manager and the Management Committee

7.27 The Housing Manager will decide what form of legal action is appropriate after consultation with our Legal Advisors and Committee if necessary. Our solicitor will be able to provide advice on the most suitable form of legal action available. When seeking advice on a

particular case detailed information is required to decide on the most appropriate course of action.

- 7.28 The powers of landlords to deal with anti-social tenants are limited and largely depend on the ability to prove a case in court. It is therefore important that an accurate record of all complaints, incidents and action taken is held as this will form the basis of the proof.
- 7.29 The Committee will be advised of progress of serious anti-social cases through the committee reports. Any decision to proceed with legal action will be referred to the Management Committee for approval.
- 7.30 In certain circumstances, involving serious cases of anti-social behaviour, not all steps specified in this policy will require to be taken before legal action is instructed

8.0 NEW PROVISIONS UNDER HOUSING (SCOTLAND) ACT 2014

8.1.1 To complement the existing measures available to BHA to address antisocial behaviour in, or in the locality of a social housing tenancy, a number of new provisions were introduced in [the Housing \(Scotland\) Act 2014](#) ('the 2014 Act'). These measures include:

- a new short Scottish secure tenancy for antisocial behaviour (section 7 of the 2014 Act)
(Further information on this can be found in the guidance on '[Short Scottish Secure Tenancies for Antisocial Behaviour and Other Miscellaneous Changes to Short Scottish Secure Tenancies](#)');
- a power for BHA to extend the term of some short Scottish secure tenancies by six months, including those related to previous antisocial behaviour, where housing support services are being provided (section 10 of the 2014 Act)
(Further information on this can be found in the guidance on '[Short Scottish Secure Tenancies for Antisocial Behaviour and Other Miscellaneous Changes to Short Scottish Secure Tenancies](#)'); and
- a new streamlined eviction process where there has been a recent criminal conviction punishable by imprisonment for tenancy related antisocial or criminal behaviour (section 14 of the 2014 Act) within the previous 12 months.

8.1.2 This statutory guidance will help BHA to use the new streamlined eviction process contained in section 16(2) (aa) of the 2001 Act inserted by section 14(2) of the 2014 Act. The legislation is shown in a consolidated way in [Annex A](#) (including amendments made by the Housing (Scotland) Act 2010).

8.1.3 This new provision gives BHA the flexibility to choose whether to use a streamlined process for eviction in certain cases where a tenant (or any one of joint tenants), a person living in, or lodging in the house, a subtenant or a person visiting the house has been convicted of an offence punishable by imprisonment within the previous 12 months.

Section 14(2) of the 2014 Act amends section 16 of the 2001 Act to alter the powers of the court in possession proceedings in certain cases where there has been a conviction for an offence punishable by imprisonment. Section 16 is shown in a consolidated way at [Annex A](#).

8.1.4 Section 16(2) (aa) of the 2001 Act removes the requirement that the court considers whether it is reasonable to make an eviction order, in cases where the BHA has a ground for recovery of possession set out in paragraph 2 of schedule 2 of the 2001 Act and a notice of proceedings under section 14(2) of that Act has been served before the specified day.

8.1.5 The grounds for recovery of possession set out in paragraph 2 of schedule 2 are as follows: 'The tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of, the tenant, or a person visiting the house has been convicted of:

- a) using the house or allowing it to be used for immoral or illegal purposes; or
- b) an offence punishable by imprisonment committed in, or in the locality of, the house.'

8.1.6 An 'offence punishable by imprisonment' means that the offence carries imprisonment as a possible penalty but does not require that a custodial sentence was imposed as the penalty in the particular case.

8.1.7 The BHA must have served the tenant with a notice of proceedings before the specified day which is 12 months after:

- a) the day on which the person was convicted of the offence forming the ground for recovery of possession; or
- b) where that conviction was appealed, the day on which the appeal is dismissed or abandoned.

8.1.8 In summary, this means that where a court has convicted a tenant (or subtenant, or someone living with the tenant or visiting the house) of using the house for immoral or illegal purposes or of a criminal offence punishable by imprisonment, committed in, or in the locality of the house, **and** the BHA has served a notice of proceedings on the tenant under section 14(2) within 12 months of the conviction or the dismissal or abandonment of an appeal, the court must make an order for recovery of possession of the house without considering whether the court thinks it is reasonable to do so.

8.1.9 Section 16(3A) of the 2001 Act provides that the requirement placed on the court to make an order for repossession in any proceedings brought under these grounds does not override any other rights that a tenant has^[2]. This includes any arguments regarding proportionality in terms of article 8 of ECHR^[3]. **Section 4** of this guidance provides more details of the factors BHA should consider before raising streamlined eviction action.

8.2. Purpose and Use of the Streamlined Eviction Process

8.2.1 The purpose of the streamlined eviction process is to help BHA to take action on serious antisocial or criminal behaviour more quickly in some cases to help reduce the harm that is caused to individuals and communities.

8.2.2 The streamlined eviction process is intended to help to speed up eviction in cases where:

- serious antisocial or criminal behaviour has already been proven in court;
- the behaviour which led to the conviction was in, or in the locality of the tenant's house; and
- the BHA considers that eviction action is appropriate, such as to protect neighbours and other people living or working in or near a social housing property from harm.

8.2.3 The process requires a notice of proceedings to be served before the first anniversary of the date of the conviction, or where that conviction was appealed, the day on which the appeal was dismissed or abandoned. In considering whether to serve such a notice in that timescale, BHA should consider the content of [Section 4](#) of this guidance.

8.2.4 In those antisocial or criminal behaviour cases where the notice of proceedings has not been served in the required timescale, or where the BHA does not consider the streamlined eviction process is appropriate, they can continue to use the ground set out in paragraph 2 of schedule 2 of the 2001 Act, either in its own right or combined with any of the other conduct grounds in schedule 2 to raise eviction proceedings. The statutory test of reasonableness at section 16(2)(a) of the 2001 Act will however continue to apply to those cases where the streamlined eviction process has not been asked for by the BHA in the statement of claim section of the court writ when raising court action.

8.3. Steps to be Taken Before Using the Streamlined Eviction Process

Verifying Information

8.3.1 In cases where a BHA is considering taking eviction action following information about a relevant criminal conviction, the Association will take legal advice to identify whether and how the ground required for raising an eviction action under the streamlined eviction process can be satisfied.

8.3.2 Consideration of how the ground can be satisfied will include the evidence of the criminal conviction available and whether the criminal offence is one which concerns using the house for immoral or illegal purposes or carried imprisonment as a possible penalty. A prison sentence does not need to have been imposed. For example, a community payback order may be given by the criminal court as an alternative to a prison sentence.

8.3.3 The Association could consider obtaining an extract conviction from the court as evidence of the conviction. Where an extract conviction is available, this should be lodged as part of the sheriff court application if the case is taken to court.

8.3.4 An extract conviction cannot however be issued by the court until either:

- the expiry of the appeal period where no appeal is lodged; or
- the disposal of any appeal lodged.

8.3.5 The court will let the Association know if they are unable to issue an extract conviction and the reasons for this. BHA are however not prevented from raising eviction action under ground 2 of schedule 2 of the 2001 Act, including streamlined eviction action, simply because an extract conviction cannot be provided by the court.

8.3.6 Information on the current procedures for obtaining extract convictions can be obtained from the Scottish Courts and Tribunals Service.

8.3.7 If eviction action is being taken under ground 2 of schedule 2 of the 2001 Act only, pre action requirements do not have to be satisfied. If BHA are taking action on combined grounds which include rent arrears, pre action requirements will have to be satisfied.

Other Factors Which BHA Should Consider

8.3.8 There are a range of factors which BHA should consider in deciding whether raising eviction action using the streamlined eviction process is both appropriate and proportionate (as per Schedule 4). Some examples of this could include:

- the nature and seriousness of the offence, including any recurring nature of convictions or cumulative effect of several incidents, or the potential seriousness of a one off offence;
- who has been convicted of the offence and their connection to the property;
- where the offence was committed and the connection to the social housing tenancy;
- whether, and to what extent the offence has affected other household members, neighbours or others in the community, including the impact on neighbours and communities over time and the impact on the stability of the community;
- what action, if any, the person convicted of the offence is taking to make positive change;
- impact of eviction on household members;
- other steps taken/which could be taken by the BHA or partner agencies to address the antisocial or criminal behaviour.

8.3.9 In some situations it is likely to be very difficult to demonstrate to the court that eviction action is proportionate. An example of this could be where a criminal conviction is given for an isolated offence such as possession of a small amount of illegal drugs and the behaviour of the tenant has caused no harm to neighbours or others in the community. Another example could be where a person has been convicted of a breach of the peace that had little local impact. The nature and seriousness of the offence should be considered, along with any other relevant factors or circumstances.

The Nature and Seriousness of the Criminal Offence

8.3.10 The type of criminal convictions that allow use of the streamlined eviction process are only those for offences ‘punishable by imprisonment committed in, or in the locality of, the house’. There are a range of serious criminal offences punishable by imprisonment which could be committed in social housing or in the locality and which may have a serious impact on others, including neighbours or others in the community. Some examples of this could include: breach of an ASBO, closure order or dispersal order, threatening and abusive behaviour, murder, rape, other violent offences, offences related to domestic abuse, offences related to the use of offensive weapons, and serious drug related offences.

8.3.11 There are however no specific offences where the BHA should invariably seek to use the streamlined eviction process. The nature and severity of the offence is only one of the factors which BHA should consider as part of their assessment of whether eviction action using this process is appropriate and proportionate.

Who Has Been Convicted and their Connection to the Property

8.3.12 In some cases, it may for example, be a visitor to the house, an abusive partner/ex-partner, or someone who lives at the property from time to time who has been given a criminal conviction. In such cases BHA may have limited information about the convicted person’s connection to the property and will be investigating this and determining what impact the behaviour leading to the conviction has had on neighbours and the community. There will be situations where others, including neighbours or members of the community, are afraid to speak out. In other cases, the tenant may be unable, despite their best efforts, to prevent a person with a criminal conviction from returning to the property where, for example, the tenant fears for their own safety. When considering this type of case, BHA may wish to consider factors such as:

- how frequently the person visits or lives in the property;
- any action the tenant is taking to stop the person returning to the property;

- whether it is reasonable in the circumstances for the tenant to try to prevent the person returning to the property.

Where the Offence was Committed

8.3.13 The streamlined eviction process can only be used where the criminal conviction in question is related to the social housing tenancy. The criminal conviction must either be committed in the house or committed in the locality of the house. BHA will already be used to exercising their judgement when defining 'locality' and will need to make a decision based on the circumstances of the individual case. Where the criminal offence was committed elsewhere, BHA cannot use the streamlined eviction process, as the ground for raising eviction proceedings at paragraph 2 of schedule 2 of the 2001 Act will not be met. BHA will need to use other grounds to proceed with eviction action^[4].

Whether and to What Extent the Offence Has Affected Household Members, Neighbours or Others in the Community

8.3.14 Eviction action under the new streamlined eviction process should only be considered where there is evidence that the behaviour leading to the conviction has had, or is likely to have had, a serious impact on other household members, neighbours or others in the community. This could, for example, include domestic abuse towards a partner/ex-partner, threatening and abusive behaviour towards neighbours or significant disruption to their lives.

Positive Change

8.3.15 Sustainable and secure housing is a key factor in preventing re-offending. BHA have a role to play in helping people to sustain tenancies and prevent re-offending. There will be situations when the person who has received a conviction has changed their behaviour. Some examples of this could be:

- the behaviour has stopped, for example there have been no repeat offences, convictions, disturbances or complaints;
- engagement in training/employment;
- participating in a rehabilitation programme for drug/alcohol dependency or treatment for mental health issues;
- regular and meaningful engagement with support services to change behaviour in a positive way.

These examples may indicate positive change and BHA should consider the impact that eviction action may have on preventing ongoing positive change

and the potential for re-offending in such cases. BHA will however also want to be satisfied that they consider any positive change in behaviour is sufficient and is likely to be maintained in the long term.

Impact of Eviction on Household Members

8.3.16 As with all eviction action, the impact on the other members of the household should also be considered. BHA should ensure that communication with other relevant services has taken place to establish potential benefits and/or risks to other household members. This should however be balanced against the impact of the behaviour on the wellbeing of neighbours and the local community.

Other Steps Taken/Which Could Be Taken to Address the Antisocial or Criminal Behaviour

8.3.17 In some situations, other measures may be more appropriate to address the impact of the behaviour on others, such as a short Scottish secure tenancy with support, other housing management procedures, or joint working with partner agencies. BHA will also need to carefully assess what other steps have been taken, or could be taken to address the behaviour when balancing the rights of tenants and their household against those of neighbours and the wider community.

Decision on Further Action

Tenant will be interviewed by Housing Officer and a member of senior staff at the earliest opportunity. Tenant will be advised of procedure where a report will be presented to Management Committee for consideration of legal action. The tenant will be given the opportunity to put forward any case they wish to make in mitigation and these comments will be presented to committee within an anonymised report.

Notifying Tenants of the BHA's Decision to Take Eviction Action

8.3.18 BHA should ensure that they communicate clearly with their tenants. When legal action is to be taken, it is particularly important that the tenant concerned is notified of:

- the action to be taken and what will happen;
- the timescales for the action;
- why this action has been taken, including reference to the legislation and the tenancy agreement;
- who they can contact for advice and assistance, for example. Shelter Scotland, Citizens Advice and getting independent legal advice.

8.3.19 A tenant who disagrees with a decision taken by the BHA to raise court proceedings could seek judicial review of the BHA's decision to seek a court order, and/or defend the repossession action.

8.4. Serving a Notice

Once BHA have decided to consider taking action to recover possession of a tenancy under the new streamlined eviction process, the Association's solicitor will be instructed to serve a notice on the tenant(s) and any qualifying occupiers which explains that they may raise proceedings for possession of the property and sets out the grounds for doing so.

8.5. Court Action and Repossession

Raising Proceedings

8.5.1 Once a case has been received by the court, the court will identify which cases BHA wants the streamlined eviction process to apply to from the details of the grounds for repossession given in the statement of claim section of the court writ. BHA can however choose to raise proceedings on more than one ground, if they wish to do so. There are no changes to the procedure up to the point when the case calls in court (see 6.3).

8.5.2 Where an appropriate extract conviction has been obtained, this should however be included as evidence. There is no requirement at this stage for BHA to supply the court with any other specific evidence. BHA may, however, have to give further evidence during court action (see 6.5).

Court Action

8.5.3 The streamlined eviction process removes the ability of the court to consider whether it is reasonable to grant an eviction order. The court must grant an eviction order where it is satisfied that:

- the landlord has a ground for recovery of possession set out in paragraph 2 of schedule 2 to the 2001 Act; and
- the notice of proceedings was served on the tenant before the first anniversary of either, the date of the conviction, or where that conviction was appealed, the date on which the appeal was dismissed or abandoned.

8.5.4 In cases where the court is not satisfied that the criteria for streamlined eviction is satisfied, the court will then consider any other grounds for recovery of possession of the house raised by the landlord in the statement of claim section of the court writ.

8.5.5 If tenants or their representatives challenge the proportionality of a streamlined eviction action on human rights grounds, then the court may consider the reasons for such a challenge before reaching a decision. BHA

may need to give evidence on the reasons for the eviction action if such a challenge is raised and the sheriff decides that the challenge has sufficient basis to be considered.

9.0 OWNER OCCUPIER TENANTS AND TENANTS V OWNER OCCUPIER

- 9.1 Owner v Tenant - complaints made by owner occupiers against Blairtummock tenants will be investigated where are considered in category A & B will be dealt with following the same procedures. Category C cases will signposted to be referred to relevant agencies such as CSG and Environmental Health, Blairtummock HA will work with these agencies in order to resolve any issues raised.
- 9.2 Tenant v Owner- when complaints are made by a tenant against an owner occupier these should be investigated in the usual manner. Where both parties are willing to negotiate, mediation can be useful, regardless of tenure. In cases that require further action i.e. a substantiated complaint - the Community Relations Unit at Glasgow City Council will be contacted to take action against the owner. Owners who continually cause a nuisance to others will be reported to Glasgow City Council's Environmental Health Department and, where necessary, to the Police.
- 9.3 Where a case reaches the stage that the action by the Community Relations Unit is unsatisfactory, the Association will investigate the use of other legal remedies e.g. The feuding conditions are contained in a Deed of Conditions recorded over each estate which is referred to as a burden in the Feu Disposition, the purchaser's title to the property. This means that real and enforceable conditions are imposed on the purchaser and subsequent purchasers by the feu superior. If contacting the owner, it may be relevant to refer to the clause in the Deed of Conditions that has been breached.
- 9.4 In certain circumstances it may also be appropriate to send a letter to an owner occupier's lender to alert them to the behaviour that is giving cause for concern. This could be done by supplying the lender with a copy of the letter sent to the owner describing the antisocial behaviour and warning of the possible action which might be taken. The circumstances when we may wish to proceed with this option would include cases where a property has been sub-let and it is the behaviour of the tenant that is causing concern and instances where the condition of a property is deteriorating to the extent that the lender's interest is not secure. These cases will be discussed with the Housing Manager before contacting Blairtummock's solicitor for advice on taking this approach which would include providing information on other circumstances where this option may be appropriate. Close liaison with

our Solicitor is necessary when taking action against an owner occupier particularly in relation to legal action.

9.5 If considered appropriate legal action can be taken against an owner occupier where there is breach of a real condition in the Deed of Conditions.

The options available include:

- An interdict could be raised in relation to the behaviour contravening the obligation. If this is ignored, further action can be taken for breach of interdict.
- An action of specific implement can be raised. This would be raised where the objective was to make the owner take some action to fulfil an obligation.
- The most drastic action is to irritate the feu. Here, an action for recovery of possession of the house could be taken to the Court of Session or Sheriff Court. This remedy is only available in exceptional circumstances and if a specific clause is included in the Deed which imposes the conditions concerned.

9.6 Owner v Owner -Where a dispute is between two owner occupiers they should be advised that Blairtummock will not get involved and they should contact the Community Relations Unit or their own solicitor. It would also be good practice to make such owners aware of the circumstances where other agencies may be able to assist due to the legal powers available to them. However, where a dispute involving two owners has implications for the wider community, including Blairtummock tenants, the Association may choose to exercise its right to become involved.

10.0 Drug Cases

- 10.1 In terms of Drugs cases the Association have agreed to implement a policy of considering legal action in all cases where tenants have been convicted of drugs offences in the tenancy or in the locality of the tenancy. This would also apply to any cases of drugs offences in or in the locality of the property by persons other than the tenant. e.g. friends or relations being convicted of drugs offences within the tenancy address.
- 10.2 A committee report will be presented to committee in these cases including the recommendation of our legal advisors. Committee will consider the report and either refer to the management committee or make a decision on taking further action or alternative actions.

11.0 Reporting and Monitoring

- 11.1 The Committee will be advised on all cases where a Notice of Proceedings has been issued.
- 11.2 Committee authorisation will be required for all types of legal action, including specific implement, decree of eviction, (ASBO) and interdict.
- 11.3 The Committee will be advised of the caseload for each category on a quarterly basis.
- 11.4 Any other significant trends such as youth crime and Acceptable Behaviour Orders will be reported and discussed for future strategies and action.
- 11.5 Progress of all cases booked to court will be reported to Committee by using numbered cases and no tenant will be referred to by name.

APPENDIX A

APPENDIX A

Categories of Anti-Social Behaviour:

Category A	Very Serious and/or Manager	Housing Officer SHO/Housing
Category B	Serious	Housing Assistant Housing Officer SHO/Housing Manager
Category C	Minor & Non tenancy related matters	Housing Assistant

Category A

Very Serious includes harassment and actual violence and threats of violence, any other serious criminal activity or serious damage to property, and all cases of supply or being concerned in the supply of drugs in the house or locality of the house, and all cases of growing drugs in the house. Where there is a complaint of harassment on the grounds of race, colour, religion, gender, sexual orientation, disability, age or domestic violence these will be dealt with as a Category A complaint. This category will be responded to within 1 working day.

Category B

Serious, includes serious breaches of conditions of tenancy, heated verbal arguments and serious disputes, noisy neighbours, allegations of petty criminal activity, threats or threatening behaviour, intimidating behaviour from groups or individuals, complaints that have the potential for rapid progression to a Category A complaint. This category will be responded to within 3 working days.

Category C

Minor, includes most neighbour disputes, minor breaches of conditions of tenancy, “domestic noise” such as the noise from a vacuum cleaner or washing machine or other everyday noise, complaints regarding pets, refuse, parking or the condition of a tenant’s property.

Non tenancy related matters, includes complaints which are not housing related matters or issues outside the Association’s jurisdiction, for example, child protection or abuse issues, owner occupiers or speeding. General advice will be given regarding where to direct their complaint.

This category will be responded to within 5 working days.

APPENDIX B



Resolving Anti-Social Behaviour & Neighbour Disputes

Resolving Problems with Neighbours

Blairtummock Housing Association recognised the rights of its residents to live in a safe, secure and pleasurable environment. No individual has the right to ruin this for you.

However, the majority of our residents act in a reasonable and responsible way to each other, with many examples of good neighbouring and community work taking place. However, there are times when disputes can take place.

What is Anti-Social Behaviour?

We recognise that anti-social behaviour can be very distressing. If you are suffering from the anti-social behaviour from another person then you should contact us and let us know. We will do all we can to resolve the problem.

Many problems can be solved informally and do not require the involvement of other authorities or the court.

“Anti-Social Behaviour is action or conduct causing or likely to cause alarm, distress, annoyance or harassment”. Examples of the most common are:

- Excessive Noise (this can be at any time of the day)
- Threatening Behaviour/Assault
- Verbal or Physical Abuse
- Harassment
- Drug Dealing and serious drug offences
- Damage to Property/Vandalism

Self Help

Many neighbour disputes start off as minor disagreements, but if not dealt with early they can escalate. We would advise you to approach your neighbour in the first instance, if you consider that you can do so comfortably. Your neighbour may not realise that they are causing a problem.

When you speak to your neighbour:

- Explain to them how their behaviour is effecting you
- Remain calm & polite at all times
- Do not threaten or behave in a threatening manner
- Be prepared to compromise
- Walk away if your neighbour continues to be unreasonable.

If this method is not effective, then you must start recording the incidents that are causing a nuisance. We will need this information if further action becomes necessary. This information should include:

- Times, dates and details of incidents and who was affected. You can pick up an incident diary from the office to help you record this.
- Photographs
- Evidence from other neighbours or a note of any witnesses to incidents.

What we can do

Our staff will do everything in their power to tackle Anti-Social Behaviour.....BUT we need your help. We need tenants to report behaviour that they deem to be anti-social.

For the Association to take action it is better if we have independent witnesses with a record of all anti-social incidents. We can provide an incident diary to assist you. Without such evidence and the willing assistance from witnesses it is difficult for us to take any action. We can guarantee that any information given will be treated as confidential. However, to enable us to take court action we may ask you to reveal your identity.

After Investigation of the Complaint

Once the relevant evidence has been gathered a structured approach to checking the problem will be adopted. Your complaint will be upheld (substantiated) or unable to be proven. In cases that are substantiated we will proceed to take one or all of the following steps.:

- Verbal warning
- Written warning

- Acceptable Behaviour Contract (ABC's). If they do not stop then we may seek an Anti-Social Behaviour Order (ASBO) through the courts.
- Interdict action
- Notice of Proceedings for Recovery of Possession of property on grounds of Anti-Social Behaviour.
- Compulsory transfer
- Court Action for recovery of the property

Please remember we will do all that we can do to assist in dealing with anti-social behaviour, so contact us and let us know about any problems you are experiencing.

We need your input to be successful in resolving Anti-Social Behaviour

Police Involvement

If you believe that the anti-social behaviour you are experiencing is placing you or your family in any immediate danger, then you should contact the Police immediately on 999 or 101.

Useful Contacts

Glasgow City Council Community Relations Unit 24 hour Antisocial Behaviour helpline 0800 027 3901

- For an ongoing noise incident call our ASB Noise Service on 0141 287 6688
 - If its an ongoing incident of a criminal nature call Police Scotland on 101
 - If you are a housing association tenant call your housing officer in the first instance
 - For all other calls phone the 24hr ASB helpline on 0800 027 3901
-

Public Health Group 0141 287 1059

publichealth@glasgow.gov.uk

Crimestoppers 0800 555 111 www.crimestoppers-uk.org

Police Scotland telephone 999 for emergencies, 101 for non-emergencies

Glasgow City Council mediation service 0141 276 7451

Scottish Fire and Rescue – 0141 771 2223 (Easterhouse Station)
999 for emergencies

Abandoned Cars 0141 276 0859

Bulk Refuse Uplift and Needle Uplift 0141 287 9700

Environmental Task Force (to report dog fouling) 0141 287 1058

Graffiti, Fly Tipping and Fly Posting Removal 0141 287 1058

Scottish Water customer helpline 0800 0778778

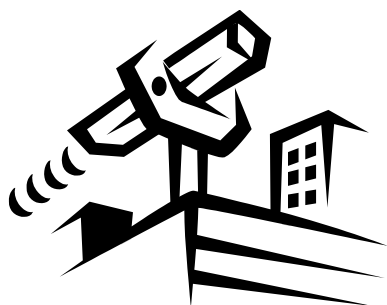
Roads and Lighting Faults 0800 37 36 35

Environmental Control Unit to report dog fouling 0141 287 0354

ANTI SOCIAL COMPLAINTS

The following telephone numbers should be noted and contacted if required:

Public CCTV (Cameras) – 0141 287 9999



If you have a camera positioned in your street or neighbouring street you can call Public CCTV direct to advise of any ongoing incidents/disturbances. This evidence may be used by the Association to pursue further action against individuals responsible for this type of unacceptable behaviour.

Out of Hours Anti Social Behaviour Noise Service 0141 287 6688 or out of hours 0800 027 3901 email – oohu@eps/glasgow.gov.uk

This service will respond to all noise complaints relating to anti-social behaviour (loud music, dogs barking, DIY noise, loud TV etc.) and has enforcement powers to allow noise disturbance issues to be resolved when informal contact is not successful.

Our officers are here seven nights a week from 5pm until 3am. You can contact them for advice during these hours by calling **0141 287 6688**. You can also register a complaint outside these hours by calling the 24 hour helpline on 0800 027 3901

TOGETHER
TACKLING
ANTI-SOCIAL
BEHAVIOUR

APPENDIX C

APPENDIX C

Standard letters and Forms

NDASB1	Neighbour Nuisance Complaint Form	C.1
NDASB2	Acknowledgement to Complainant	C.2
NDASB3	Confirmation of Investigation to Complainant	C.3
NDASB4	Incident Diary	C.4
NDASB5	Letter to surrounding residents	C.5
NDASB6	Additional Witness Interview form	C.6
NDASB7	First Interview Letter	C.7
NDASB8	Alleged Perpetrator Interview Form	C.8
NDASB9	Failure to attend first interview	C.9
NDASB10	Letter to Agencies	C.10
NDASB11	Close case (unfounded) to Complainer	C.11
NDASB12	Close case (unfounded) to alleged perpetrator	C.12
NDASB13	First warning letter	C.13
NDASB14	First warning letter (failed to attend)	C.14
NDASB15	Confirmation of warning to complainant	C.15
NDASB16	Second Interview Letter	C.16
NDASB17	Second warning	C.17
NDASB18	Second warning (failed to attend)	C.18
NDASB19	Confirmation of warning to complainer	C.19
NDASB20	Acceptable Behaviour Contract	C.20
NDASB21	Letter to attend ABC meeting	C.21

APPENDIX D

APPENDIX D

Appropriate Action

Non Legal Remedies

Advice and Assistance

The provision of advice may be effective in resolving certain complaints - usually Category C. Occasionally, the perpetrator may not be aware their behaviour is causing nuisance or annoyance. Often, less serious breach of tenancy conditions — such as stair cleaning — are likely to involve the Housing Officer visiting both parties and/or issuing close cleaning cards, if satisfied that a breach has been committed, giving advice or a warning. In the context of advice, it may be that another agency such as a Local Authority Department or Service is the appropriate service provider to address a particular problem of anti-social behaviour. See below for further information.

It is important that residents can access this information to allow problems to be dealt with early and effectively. Staff should make residents aware of all options available and promoting relevant services through newsletters, signups, new tenant visits and the Blairtummock anti-social behaviour leaflet (**Appendix B**).

Interviews and Letters

A warning letter is a useful tool in tackling anti-social behaviour. This will generally follow a formal interview, recorded in writing with the alleged culprit. The letter will outline what needs to be done and what the potential consequences will be if the actions do not cease.

Mediation

Blairtummock Housing Association believes mediation is an effective intervention method that can prevent neighbour disputes escalating. Mediation can help people who are in dispute reconcile their differences themselves rather than having a solution imposed on them from outside. However, mediation is only appropriate when both sides voluntarily chose it. Moreover, mediation is inappropriate in cases that involve violence, harassment or intimidation. The Association will refer all suitable cases to the

mediation service offered by Glasgow Community & Safety Services.

Mediation will be used where the anti-social behaviour is of a less serious nature and when it is anticipated the neighbours can reach a solution on their own rather than having measures imposed by the court or other agencies.

Acceptable Behaviour Contracts (ABC)

An Acceptable Behaviour Contract is a written agreement between the perpetrator, the Association (and the Police, if the Behaviour is or could be of a criminal nature). If the perpetrator is aged between 12 — 16 years of age the consent of the parents will be required. The agreement requires that the perpetrator must not continue with certain acts which could be considered anti-social behaviour. The Contract will set out what is and what is not acceptable behaviour. Generally, the agreement will normally last 6 months and will be reviewed after 3 months from the date of issue. The Acceptable Behaviour Contract has no legal status. However, if the terms of the contract have been breached, it is a valuable source of evidence in the pursuit of legal remedies.

Unacceptable Behaviour Notice (UBN)

An Unacceptable Behaviour Notice can be used where an individual refused to sign an Acceptable Behaviour Contract. The aim is to make the person aware of their actions and the consequences of continuing with their behaviour. Again, this does not have any legal standing, although it can be used as evidence to support the application of legal remedies such as anti-social behaviour orders or eviction action.

Legal Remedies

Legal action will be taken where the non-legal measures have been exhausted or where the anti-social behaviour is so severe as to merit immediate legal action. In cases where legal action is proposed, the Housing Officer and Housing Manager should prepare a report for consideration by Committee.

Legal action can include the following;

Interdict

An interdict is an order of the court requiring a person to stop doing something

legally wrong. Blairtummock Housing Association might, for example, seek an interdict against anti-social behaviour that was a breach of tenancy condition, a threat of violence or a pattern of ongoing nuisance. However, in cases where evidence exists to support action for interdict, action for ASBO is preferred.

An interdict can be held on an interim basis pending final determination of the merits of the case. In other words, the order is made without proof of the facts or full legal debate. Interim Interdicts are a recommended course of action to intervene quickly and provide an early court order.

Examples of cases where an interdict/interim interdict have been successful are: playing loud music; swearing/shouting; noise; harassment of neighbours; verbal abuse/threats to staff; and damage to property. If an interdict is granted and the behaviour is repeated, action can be taken for a breach of interdict. However, the proof required is comparable to that of a criminal prosecution, i.e. beyond all reasonable doubt. If an interdict is breached, the penalty is either a fine or imprisonment.

Anti-Social Behaviour Orders (ASBOs)

An ASBO will only be applied for after full consultation with the Police and the local authority. Given the action to address the behaviour are discussed. The Criminal Justice (Scotland) Act 2003 gave Registered Social Landlords, as well as a Local Authority, in conjunction with the Police; the power to apply to the courts for an Anti-Social Behaviour Order (ASBO) for individuals aged over 16. The Anti-Social Behaviour Act 2004 replaces this legislation and extends the use of ASBO to those between the age of 12 and 16.

It is important to recognise that an ASBO is not a substitute for criminal proceedings by the Police. An ASBO is a civil order that exists to try to protect the public from behaviour that causes or is likely to cause alarm or distress. An order will contain conditions prohibiting the person named in it from doing anything specified in the ASBO such as verbally abusing named persons and may prohibit the person from entering defined areas. Blairtummock

Housing Association can raise an ASBO against any person aged 12 or over, irrespective of their tenure. They do not have to be Blairtummock tenants or stay in a Blairtummock property.

We can apply for an ASBO if a person is an owner occupier, private sector tenant or tenant of a local authority. ASBOs for adults are intended to tackle both behaviour which is likely to escalate to the criminal level, and patterns of behaviour which cumulatively cause considerable alarm or distress to the community. An ASBO is not intended to be a substitute for criminal proceedings where these are appropriate, and is intended to be complementary to other civil procedures such as an interdict or the Children's Hearing System which should continue to be the primary forum for dealing with anti-social or offending behaviour by under 16s. A court-based order should only be pursued for a small number of persistently anti-social young people for whom alternative approaches have not been effective in protecting the community.

The Association can, in consultation with the police, and local authority, apply to the sheriff court for an order where there is evidence that a person (aged at least 12 years) has behaved in an anti-social manner and that an order is necessary for the protection of persons from further antisocial behaviour.

Prior to making an application for either an interim or full ASBO in respect of an under 16, we must consult the Principal Reporter as well as the Police and Local Authority. The sheriff must have regard to any views expressed by the Principal Reporter before determining whether to make an order or an interim order. The sheriff must also have regard to advice provided by a children's hearing before determining an application for a full ASBO.

A Sheriff would have to be satisfied that the individual has engaged in anti-social behaviour and that the order is necessary to protect others from anti-social behaviour. The Sheriff, in making the decision, will consider the definition of anti-social behaviour in the 2004 Act. As detailed above, this defines anti-social behaviour as when a person acts in a manner that causes or is likely to cause alarm or distress, or if they pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not in their household. There are provisions in the 2004 Act to apply for an interim ASBO. This is where an immediate anti-social behaviour order is required pending the application of a full ASBO. The Sheriff may grant an interim order provided that they are satisfied that the anti-social behaviour cited would be established when a

full hearing takes place. The Sheriff must also be satisfied that an interim order is necessary to protect the affected people from further anti-social acts or conduct by the person.

Blairtummock Housing Association will consider seeking an ASBO where non-legal methods are not effective and where there is evidence to support our application and this is considered to be (after taking legal advice) a prospect of success.

An ASBO is not a criminal conviction and does not form part of a criminal record. However, a breach of an ASBO is a criminal offence and an individual found guilty of a breach of an ASBO would have a criminal conviction.

Anti-Social Behaviour Orders/Interim Anti-Social Behaviour Orders and the Scottish Secure Tenancy

In terms of Section 35 of the Housing (Scotland) Act 2001, if a full ASBO has been granted against a tenant, we have the right to instigate action to convert their Scottish Secure Tenancy to a Short Scottish Secure Tenancy with support. In considering whether this action should be pursued, we will take the following into consideration:

- The nature, frequency and duration of the anti-social behaviour;
- The effect that the anti-social behaviour is having or is likely to have on the complainant and the community

Action taken by the Association before raising the ASBO proceedings, with a view to securing the cessation of the conduct;

Whether the ASBO has been breached and whether there are any convictions in that respect;

- The expected support needs of the household
- The rehabilitative process undertaken since the last complaint.
- If we make this change to the status of the tenancy, we must provide Housing Support Services.

Section 91(8) of the Act provides a broad definition of housing support services:

“Housing support services includes any service which provides support, assistance, advice or counselling to an

individual with particular needs with a view to enabling that individual to occupy, or to continue to occupy, as the person's sole or main residence, residential accommodation other than expected accommodation".

As the Association does not have staff who are qualified to provide such services, these would be arranged through partnership with the local authority. A Short Scottish Secure Tenancy will be converted to a Scottish Secure Tenancy after 12 months unless the landlord takes action to recover the tenancy.

Repossession

Repossession will be a last resort to alleviating anti-social behaviour and will only be used when all the above measures, have been deemed inappropriate or, where appropriate, have been exhausted. If all appropriate methods of trying to resolve the problem have failed, the Association will take eviction action against a tenant responsible for persistent and serious anti-social behaviour.

Section 16 of the Housing (Scotland) Act 2001 sets out the various grounds in which the landlord has the right to take action to recover possession. There are a number of grounds that relate to anti-social behaviour.

The 2001 Act sets out specific criteria which the courts must take into account.

Essentially, the decision to evict must be subjected to the test of reasonableness. The court must have due regard for the points listed below before awarding a decree for eviction in anti-social behaviour cases:

- The nature, frequency and duration of the alleged conduct;
- The extent to which the conduct is or was a consequence of acts or omissions of persons other than the tenant member;
- The effect that the conduct had, is having and is likely to have on any person other than the tenant member; and
- Any action taken by the landlord, before raising proceedings, with a view to securing the cessation of that conduct.

This makes the process of preventative action (gathering evidence and recording incidents etc.) very important in terms of arguing the case of reasonableness in court.