Antisocial Behaviour & Harassment Policy

2024

Approved On	**December 2024**
Reviewed	**September 2026**
Next Review Date	**December 2027**

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1. Policy Statement

1.1 This policy covers our approach to antisocial behaviour (ASB) and harassment. It outlines how West of Scotland Housing Association (WSHA) aims to deliver excellent customer service by preventing and dealing effectively with all forms of ASB.

1.2 This policy aims to give a clear and consistent message that ASB, harassment or hate crime in any form will not be tolerated and that there will be consequences of such behaviour. WSHA aims to address all forms of ASB effectively, fairly, timely and transparently.

1.3 Where there is behaviour that causes harassment, alarm, and distress, all the tools available to WSHA will be utilised in a prompt and proportionate manner based on the circumstances of the case.

1.4 Below is a summary of WSHA's policy commitments:

- To work to prevent ASB from happening in the first place
- To provide leadership and training in tackling ASB, harassment and hate crimes doing so effectively, and in a timely and appropriate manner
- Where possible look at modifying behaviour through support, persuasion and legal sanction with eviction or re-housing used as a last resort when all other options have been exhausted.
- To focus on the impact the ASB has on the victim, as this is likely to vary from one individual to another, and to respond appropriately given the severity of the impact.
- To work with partners to tackle all forms of ASB and refer people on to support services where appropriate.
- To enforce rigorously our tenancy agreements which cover issues of ASB.
- To identify vulnerable people, whether victim or perpetrator, and ensure employees work with them appropriately.
- To take all possible measures to support and protect victims and witnesses associated with incidents of ASB.
- To comply with all relevant legislation in relation to ASB.
- To increase awareness of ASB, harassment and hate crimes in order to adopt preventative or early intervention measures.

1.5 This policy and associated procedure are applicable to the housing management services delivered by WSHA to general needs, sheltered, amenity, factored and mid-market rent customers.

2. Roles and responsibilities

2.1 The Director of Housing & Community Services is responsible for ensuring adoption of, and adherence to, this policy and its associated procedures relevant to their operation.

2.2 The Director of Housing & Community Services has responsibility for ensuring that WSHA is compliant with legislative/regulatory requirements and good practice.

2.3 The Housing Manager has day-to-day responsibility for the implementation of this policy in practice. They are responsible for:

- Ensuring this policy is communicated with all staff;
- Ensuring suitable and sufficient training and instruction is provided;
- Ensuring this policy is followed by all staff; and
- Ensuring the necessary equipment and resources are available to make sure compliance can be achieved.

2.4 To assist WSHA in carrying out its obligations, employees must:

- Be aware of, understand and comply with this policy and any related operational guidance
- Participate in any training which WSHA makes available; and
- communicate any issues with implementing this policy to their line manager and identify opportunities for continuous improvement.

3. References and Sources

3.1 The following legislation, references and sources are relevant to the development and delivery of this policy and associated procedure:

- Antisocial Behaviour etc. (Scotland) Act 2004 sets out a range of relevant legislation including a legal definition of ASB, arrangements for information sharing, and tools available to local authorities to tackle ASB
- Data Protection Act 2018
- Domestic Abuse Policy
- General Data Protection Regulation
- Data Protection Handbook (WSHA)
- Equality Act 2010
- Hate Crime and Public Order (Scotland) Act 2021 – consolidates and extends existing hate crime legislation including updating the list of characteristics included in hate crime legislation

- Health and Safety Control Manual (WSHA) – Personal Safety
- Housing (Scotland) Act 2001 incorporates and adds to the Housing (Scotland) Act 1987 by including ASB as a ground for eviction
- Housing (Scotland) Act 2014 introduces new powers including streamlined eviction for ASB and increased powers to use Short Scottish Secure tenancies where the prospective tenant has a history of ASB.
- Private Housing (Tenancies) (Scotland) Act 2016 – includes details of the Private Residential Tenancy and associated measures for dealing with unacceptable behaviour in the tenancy
- Protection from Harassment Act 1997 sets a criminal definition of harassment
- Protection of Vulnerable Adults Policy and Procedure
- Safeguarding Policy and Procedure.

3.2 In implementing this policy WSHA complies with The Scottish Social Housing Charter outcome 6; 'tenants and other customers live in well-maintained neighbourhoods where they feel safe'.

4. Equalities

4.1 We will not unlawfully discriminate against any person within the protected characteristic groups as contained within the Equality Act 2010. To ensure equal access to the information contained in this policy for all, we are happy to provide copies in Braille, in larger print, translated into other languages or on tape to you or anybody that you know upon request and where practicable.

4.2 WSHA will seek to ensure that tenancies are managed in a manner that is fair to all sections of the community regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation.

4.3 As with all Association policies and practices, the Association will adhere to Outcome 1 of the Scottish Social Housing Charter (Equalities):

'Social Landlords perform in all aspects of their housing services so that 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'.

5. Consultation

5.1 The Tenant Advisory Group and Tenant Scrutiny Panel were consulted on the proposed changes to this Policy and no further recommendations for changes were received.

6. Monitoring and compliance

6.1 This policy will be monitored to ensure that the operational arrangements are compliant with legislation and reflect best practice. The Director of Housing & Community Services will commission cases to be audited on a regular basis. Records of ASB cases stored on the appropriate systems will be reviewed to ensure cases are dealt with in a timely, fair and transparent manner.

7. Period of Review

7.1 Until a new policy is formally adopted this document will remain in force and operational.

7.2 This policy will be reviewed in accordance with the policy review programme agreed by the Corporate Management Team (CMT).

7.3 If there are significant changes to legislation or regulation or there are found to be deficiencies or failures in this policy, as a result of complaints or findings from any independent organisations, the Director of Housing & Community Services will initiate an immediate review.

7.4 Where appropriate, key stakeholders and interested parties will be consulted as part of any review of this policy.

8. Approval

8.1 This policy is approved by WSHA's Board of Management.

9. Operational arrangements

9.1 Antisocial Behaviour

9.2 The key factor in deciding whether any specific behaviour is antisocial or not is the impact of the behaviour on others. The definition of ASB in the Antisocial Behaviour (Scotland) Act 2004 is that a person engages in ASB if he/she:

- Acts in a manner that causes or is likely to cause alarm or distress; or
- Pursues a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not in the same household.
- ASB mentioned in the tenancy agreement also includes nuisance and annoyance.

9.3 Types of Behaviour

9.4 The following types of behaviour will always be considered antisocial:

- **Any kind of criminal or alleged criminal behaviour**: including sale or misuse of drugs; handling stolen goods; criminal damage; prostitution, theft or assault.
- **Noise nuisance**: for example, loud music, shouting, noise from televisions and hi-fi systems, owners failing to control the behaviour of their dog leading to excessive barking.
- **Intimidation and harassment**: including malicious phone calls, putting offensive materials through letter boxes, etc.
- **Aggressive and threatening language and behaviour**: including using verbal and physical abuse including threatening and offensive gestures and language.
- **Actual violence against people and property**: including vandalism, fire raising or attempted fire raising, and criminal damage.
- **Hate related behaviour that targets members of identified groups because of their perceived differences**: for example, their race and ethnicity, gender, age, religion, sexual orientation, mental health or disability.
- **Local environment quality issues**: including vandalism, litter, dog fouling, garden nuisance in circumstances where a complaint is made, graffiti, fly tipping, abandoning of vehicles, dumping of rubbish in communal areas, failing to control pets, storing vehicles in shared or undesignated areas etc.
- **Using housing accommodation for unlawful purposes**: for example, to grow, sell and/or consume drugs or to store stolen goods or unlicensed firearms.
- **Heated, aggressive, physical or unruly disputes between neighbours**.
- **Alcohol abuse and drunken behaviour in communal or public areas**.
- **Loitering in communal areas**.

9.5 Harassment and Hate Incidents

9.6 Harassment is a very specific type of ASB. The following definition of harassment is used for this policy and procedure:

Unwanted and unwarranted conduct which is either intended to or causes a person(s) alarm or distress; violating another's dignity; creating an intimidating, hostile, degrading, humiliating or offensive environment for another person.

9.7 WSHA adopts a zero-tolerance policy in the occurrence of harassment. This means that WSHA will seek a decree for eviction where the case is considered to be hate crime and/or harassment, where such a course of action is considered to be reasonable and proportionate. WSHA will make known that there will be consequences of such behaviour and that all forms of ASB will be addressed effectively, fairly, timely and transparently.

9.8 If a decree is granted, the CMT will then decide on whether to pursue eviction or not. This will be based on the circumstances of the perpetrator and taking into consideration:

- The scale of the offence;
- The material quantity or value created as a result of the offence (this could be cost of damages, or value of illegal substances with the intent of selling);
- The duration of the criminal conduct;
- The frequency of the criminal conduct; and
- Whether the perpetrator has a learning disability or mental health condition.

9.9 The Protection from Harassment Act 1997 sets out that for harassment to be a criminal offence, the conduct must be intended to amount to harassment, occurs in circumstances where it would appear to a reasonable person that it would amount to harassment, and involve conduct on at least two occasions.

9.10 The reason why harassment is often separated out from the generic ASB is that harassment is generally premeditated, targeted and reoccurring whereas ASB can be unintentional and spontaneous.

9.11 Harassment is often unlawful whereas ASB may not be. Harassment on the grounds of sex, race, religion, disability, sexual orientation, or any other protected characteristic may amount to unlawful discrimination under the Equality Act 2010 and may also breach other legislation. Harassment which meets the description above, and is carried out on more than one occasion, is a criminal offence under the provisions of the Protection from Harassment Act 1997.

9.12 Harassment on the grounds of a protected characteristic including race, colour, nationality, religion/belief, disability, sexuality, gender identity, gender or age becomes such if it is perceived that way by the recipient of the harassment. This is regardless of the intent behind the harassment. This type of harassment is often termed a '**Hate Incident**'. For harassment to fall into the category of a hate incident it must be perceived as such by the victim or by any other person and if so, it must be treated and investigated as such.

9.13 WSHA is committed to preventing and eliminating all forms of harassment and hate crimes towards tenants and owners where the alleged perpetrator is a WSHA tenant. WSHA will respond swiftly and effectively to any report of harassment and hate incidents received with the aim of protecting the complainant, stopping and preventing further incidents. Where WSHA believes a criminal offence has taken place WSHA will either report it to the police or encourage the resident or service user to do so.

9.14 WSHA recognises that harassment and hate crimes are generally under reported and will provide positive support and advice to all tenants, owners and service users who ask for help or assistance.

9.15 Behaviour which can be defined as harassment includes, but is not limited to:

- Physical attacks
- Threats of violence
- Racist graffiti
- Damage to property
- Nuisance incidents such as noise or door knocking
- Written or verbal abuse
- Offensive or dangerous material through a letterbox
- Behaviour such as wearing racist badges or insignia.

9.16 All hate incidents need to be fed into local hate incident reporting and monitoring procedures in addition to recording and investigating the incident on the ASB system. The local hate incident reporting and monitoring procedures differ between local operation areas and each local operation area (and business area) needs to be fully aware of the procedures to be followed in each local authority area within which they work. These procedures must be documented in a shared environment for all to access. If employees are unsure of these procedures, they should seek advice from the Housing Manager or equivalent.

9.17 <u>Reports of antisocial behaviour</u>

9.18 The initial report of an ASB incident may be reported by:

- The victim;
- A third party, for example a relation, employee, contractor, neighbour or another service user; or
- A specialist organisation, for example Police, Social Work Services, Citizen's Advice or Shelter.

9.19 Anonymous complaints will also be investigated as it is acknowledged that they are sometimes an indication of fear of reprisal or intimidation.

9.20 If a victim or alleged perpetrator of ASB requires an advocate to act on their behalf or help with interpretation, then WSHA will contact the relevant organisations for assistance.

9.21 Incidents of ASB will be investigated if it is reported that the behaviour has been carried out by a WSHA tenant in a particular property owned by us, in the vicinity of a particular property, or in the neighbourhood where WSHA owns properties.

9.22 Incidents of ASB can be reported in person, by telephone, in writing, via email, text, or through a third party to any employee.

9.23 WSHA defines ASB as either Category One, Two or Three depending on the seriousness of the behaviour and the impact on the victim.

9.24 Category One investigations will start within one working day.

9.25 Category Two investigations will start within three working days and,

9.26 Category Three investigations will start within five working days.

9.27 Employees will aim commence investigation to all ASB complaints within these timescales.

9.28 The Table below illustrates the type of complaint falling under each category:

Category	Type of Complaint	Target Timescale (Working days)
High	Complaints which concern a conviction for drug dealing; criminal behaviour involving serious incidents of violence or threats of violence towards any member of the public including members of staff; serious assault; serious harassment; hate crime; and serious damage to property, including fire raising. Typically, it is expected the Police will also be involved in these types of incident.	1 day
Med	Complaints which concern aggressive/abusive behaviour; frequent disturbance; vandalism; drug/solvent/alcohol abuse; verbal/written harassment; and frequent or persistent noise.	3 days
Low	Complaints which concern simple breaches of tenancy conditions or minor neighbour disputes (these would normally be dealt with in line with the Estate Management Policy, Tenancy Management Policy or the Tenancy Agreement)	5 days

9.29 Resolving antisocial behaviour complaints

9.30 WSHA will aim to resolve ASB complaints within our locally agreed target timescale which is 20 working days.

9.31 All reports of ASB will be taken seriously and individuals will be provided with the opportunity to discuss their concerns with a WSHA employee.

9.32 WSHA will monitor the number of cases of ASB reported each year, and satisfaction with this service, by regular performance review, customer satisfaction results and complaint reporting.

9.33 An impartial stance will be maintained when dealing with complaints received, with an overall aim for reconciliation between those involved and encouragement for people to live in harmony.

9.34 It is recognised that many complaints received and dealt with refer to 'neighbour disputes' than ASB and in these circumstances a more measured approach may be taken. However, it is also recognised that these disagreements can impact significantly upon tenants' and owners' quality of life and employees will take appropriate measures to facilitate harmonious relations.

9.35 Support, including regular feedback/updates on action taken or progress of cases, will be provided to the victims of ASB. This feedback may include advice on the limitations of our powers to deal with specific incidents or circumstances, and on the most appropriate agency to be contacted or involved.

9.36 Confidentiality of all parties involved in cases of ASB will be respected, except where an offence is disclosed, and WSHA has other duties such as those detailed in our policies for the protection of children or vulnerable adults. It is recognised, however, that parties involved in cases can often be identified from the nature of the complaints made.

9.37 In responding to reports of ASB WSHA may have to approach other tenants, owners, or residents to seek confirmation or corroboration of events. In cases of persistent or widespread ASB the support of community groups may be sought to assist in addressing problems and to support the initiatives being pursued.

9.38 A range of non-legal measures to prevent and address ASB will be adopted. Non-legal measures will always be pursued first with formal legal action as a last resort. Only when preventative and management approaches have failed to resolve the problem WSHA will consider using legal remedies. The only exception to this is when the incident involves harassment, hate crime and/or serious criminal offences such as drug dealing. The decision to commence

legal action is taken by the Housing Manager and governing body approval will be sought if a Decree has been obtained and eviction proposed. With regards to ASBOs, approval does not need to be sought from the governing body, but WSHA is expected to report on any granted. Where legal action is taken, the Housing Manager should provide updates on cases referred for court in their reports to Sub Committees where required.

9.39 Non-legal preventative measures include but are not limited to:

- Assessing tenants needs at sign up and subsequent visits;
- Working with tenants, owners and residents' groups to ensure that they are aware of their responsibilities with regards to preventing incidents and the support that they can receive if they are ever a victim of harassment or hate crime
- Forming links with partners; and
- Using Good Neighbourhood Agreements.

9.40 Non-legal interventions include but are not limited to:

- Mediation
- Tenancy Support
- Antisocial Behaviour Contracts (ABCs)
- Verbal/Written Warnings
- Unacceptable Behaviour Notice (UBNs)
- Local Authority action against noise nuisance
- Management Transfers.

9.41 WSHA recognises that drugs and other harmful substances can have a serious effect on those who misuse them, their families, and their communities. Involvement with drugs can often have a direct link to ASB, particularly where the supply or sale of drugs is taking place. WSHA therefore adopts a zero-tolerance policy and will pursue a decree for eviction in cases where its tenants or members of their families have been convicted of the sale or supply of drugs to others in their communities, where such a course of action is considered to be reasonable and proportionate.

9.42 WSHA will as far as possible attempt to reach a satisfactory resolution without resorting to enforcement or legal interventions but there will be times when this is not possible. There is a range of enforcement measures/legal action that WSHA can use including:

- Seeking compensation from the perpetrators for damage to property;
- Possession proceedings;
- Interdict;
- Closure orders (have to be led by the Police)
- ASB orders, and conversion to a Short Scottish Secure Tenancy (SSST)

- Refusing mutual exchange.

9.43 Performance indicators and targets on ASB will be set by, and reported regularly to the relevant governing bodies.

9.44 Where reported conduct constitutes domestic abuse, the case will be managed taking into account the principles in the Domestic Abuse Policy. WSHA will consider all relevant legal remedies, including the specific domestic abuse tenancy provisions available under the Housing (Scotland) Act 2001 as amended.

10. Partnership Working and Information Exchange

10.1 WSHA will work in partnership with other organisations to ensure that all available measures are used effectively to tackle ASB, regardless of tenure.

10.2 Antisocial Behaviour Strategies

10.3 Local Authorities and the police have a joint responsibility for preparing an ASB strategy for each local authority area. WSHA co-operates in the preparation and implementation of ASB strategies. In implementation of ASB strategies employees will work with other agencies, including other local landlords, in appropriate community-wide initiatives aimed at achieving a consistent approach to tackling ASB.

10.4 External Service Providers

10.5 WSHA will enter into service level agreements with other service providers, such as local authority conflict resolution services, where appropriate. These services will normally be employed for cases of serious ASB, and/or where there are particularly vulnerable victims or perpetrators, where initial interventions have not resulted in a successful resolution. When using such services, employees may rely on the content of service level agreements and the service provider's own policies and procedures to determine the action to be taken.

10.6 Employees will consider referring cases to any specific projects or services provided locally where it is considered that this will be of benefit, such as tenancy support and family intervention.

10.7 Identifying Lead Responsibility

10.8 WSHA will normally take responsibility for investigating and dealing with reported ASB in the neighbourhoods in which our tenants and owners live. However, depending on the nature of the ASB being carried out and the identity of the alleged perpetrator it may be more appropriate for other organisations to take the lead with close liaison and support from ourselves.

For example:

- Where there has been criminal damage, assault or harassment, it is not usually appropriate for WSHA employees to lead the investigation. In these cases, employees should take the advice of the other organisations involved, e.g. the police, about the most appropriate level of involvement.
- If the case involves another council or housing association tenant, then the case may be referred to the responsible manager in that organisation's housing department.
- If the alleged perpetrator is an owner occupier or a private service user, the case may be referred to a solicitor, the police or local authority ASB team.

10.9 Information Exchange

10.10 Information sharing protocols will be established with partner organisations who are willing. Protocols will list all the organisations involved in sharing the data, name the officers responsible for ensuring compliance, identify the information authorised to be exchanged, set out the process for exchange and agreed timescales, outline how the data will be held securely, explain the reasons for sharing the data, and must be signed by all the parties involved.

10.11 Under section 139 of the Antisocial Behaviour (Scotland) Act 2004, any person has the power to release information to a relevant authority where it is necessary for the purposes of any measure in the 2004 Act or any piece of legislation which relates to tackling ASB.

10.12 Relevant authorities are a Local Authority, a Chief Constable, Principal Reporter, Registered Social Landlord, or an authority or organisation administering housing benefit or providing services related to housing benefit.

10.13 Section 139 applies to the whole of the Antisocial Behaviour (Scotland) Act 2004, and other legislation which deals with ASB and its effects; it does not only apply to applications for ASBOs or eviction. This means that it includes disclosure and sharing of information to support ASB strategies, prevention and early intervention as well as legal measures.

10.14 In general, all information received from victims and witnesses of ASB will be treated as being given in confidence. Where WSHA passes on information under section 139 to a relevant authority, the authority will be told where information is confidential, and the authority must respect that confidentiality. Similarly, if WSHA receives any confidential information from another party, that confidentiality will be respected.

10.15 For further information please see the Data Protection - Group Procedure.

11. Governing Body Members Involved in Antisocial Behaviour/Harassment

11.1 Governing body members cannot remain or be re-elected if they are party to any legal proceedings involving us.

11.2 Where a case of ASB or harassment involving a governing body member is referred to a governing body, the individual concerned will be asked to either declare an interest where the case is being discussed or take leave of absence pending investigation.

Appendix 1

Local Authority Agencies Involved in Tackling Anti-social Behaviour and Harassment

Ayrshire:

We have informal agreements for advice and support with all the Anti-social Behaviour sections in East, North and South Ayrshire Council areas. Contact numbers:

East Ayrshire **0345 724 0000**
North Ayrshire **01294 314 640**
South Ayrshire **0845 603 9213**.

North Lanarkshire:

The service level agreement with North Lanarkshire Council offers a free advice service and out of hours response service to locally operating RSLs. Council responders will attend out of hours incidents as required and may serve as witnesses in court cases if necessary.
Contact number: **0300 123 1382**

South Lanarkshire:

South Lanarkshire has a Problem Solving Unit which links community safety with Police. The unit is a valuable source of help and information which we can freely access. We also have a Service Level Agreement with South Lanarkshire Council for use of anti-social behaviour investigators.
Contact number: **0800 389 1105**