

**Anti Social Behaviour, Neighbour**

**Nuisance and Hate Crime Policy**

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| **Govan Housing Association can provide this document on request, in different languages and formats, including Braille and audio formats.** |



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**1.0 Introduction**

1.1 This policy aims to set a framework for the Association to address estate management problems, anti social behaviour, neighbour nuisance issues and hate crime. These can range from failing to clean a close or backcourt area to nuisance such as persistent noise pollution and more serious matters such as drug dealing and attacks or harassment because of race, sexual orientation, religion, disability or transgender identity.

**2.0 Aims and Objectives of the Policy**

In line with the Association’s visions, values and aims, this Policy aims:

* To promote good practice in the planning and delivery of the housing services
* Adopt a zero tolerance approach to anti-social behaviour affecting Govan HA tenants
* Recognise that neighbour nuisance and anti-social behaviour is a multi-tenure issue and to ensure appropriate mechanisms are in place to deal with the complex legal and practical issues associated with this
* Pursue early intervention and the use of all available approaches to conflict resolutions, to prevent escalation and ultimately to stop the anti-social behaviour
* To promote and facilitate inter agency co-operation as a means of meeting the housing, social and economic needs of the people of Govan.

2.1 The Objectives of the policy are to ensure that: -

* All tenants and their neighbours may enjoy their tenancies while causing the minimum of disturbance to others and being undisturbed by the activities of other neighbouring residents.

• We establish the methods and preventative measures which will be used by Govan HA to prevent and respond quickly to antisocial behaviour complaints.

• Help tenants and communities find their own solutions to problems of nuisance neighbours and provide advice and details on ways to address neighbour problems.

• We give clear guidelines to staff, supported by written procedures, on how to deal effectively with reports or incidents of anti-social behaviour, providing a high quality accountable and transparent service to meet the needs of all residents and wider community interests.

1. **Equalities And Diversity**

3.1 Govan Housing Association is committed to equality and diversity and will not discriminate in the operation of this policy on the basis of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex or sexual orientation.The Association will regularly test this policy for Equal Opportunity implications and take appropriate action, where necessary.

3.2 In line with our commitment to equal opportunities, this policy can be made available free of charge in a variety of formats including large print, translated into another language or on audio tape.

**4.0 Legal and Regulatory Framework**

4.1 Legislation

4.1.1 The following is a brief summary of the legislation that is taken into consideration when dealing with neighbour nuisance and estate management issues:

* Protection from Harassment Act 1997
* Human Rights Act 1998
* Data Protection Act 1998
* Housing (Scotland) Act 2001
* Criminal Justice (Scotland) Act 2003
* Antisocial Behaviour (Scotland) Act 2004
* Housing (Scotland) Act 2010
* Equality Act 2010

4.2 Regulatory Guidance

4.2.1 The Housing (Scotland) Act 2010 asks Ministers to consult on and then set the outcomes that social landlords should achieve.   The Scottish Social Housing Charter will be the document which contains these outcomes.

In formulating this policy the following Charter outcomes have been taken into consideration:

***1: Equalities***

Social landlords perform 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.

***3: Participation***

Tenants and other customers find it easy to participate in and influence their landlord’s decisions at a level they feel comfortable with.

***6: Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes***

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

***11: Tenancy sustainment***

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

***13: Value for Money***

Tenants, owners and other customers receive services that provide continually improving value for rent and other charge that they pay.

**5.0 Defining Anti-Social Behaviour**

5.1 The legal definition of anti-social behaviour is set out in the Anti-Social Behaviour (Scotland) Act 2004:

“A person engages in anti-social behaviour if they: Act in a manner that causes or is likely to cause alarm and distress; or Pursues a course of conduct that causes or is likely to cause alarm and distress to at least one person not of the same household as them. Anti-social behaviour may include what a person says, and a course of conduct means something done on at least two occasions.” Neighbour Nuisance issues are also less serious forms of anti social behaviour.

**6.0 Defining Hate Crime**

6.1 An incident should be treated as a hate crime if a victim or witness perceives it to be a hate crime. That is to say, if a victim believes they have been targeted for harassment or assault, verbal or physical because of their race, sexual orientation, religion, disability, or transgender identity then the offence will be recorded and investigated as a hate crime. Even where a victim does not necessarily believe that this is the case, where a witness to the incident views it as being motivated by prejudice, then that is also sufficient to categorise an incident as a hate crime.

6.2 Nearly all forms of crime can potentially be motivated by hate. Hate crimes can include:

• Physical assault  
• Criminal damage to property, e.g. graffiti, arson, vandalism.  
• Intimidating or threatening behaviour including obscene calls or gestures.  
• Offensive literature such as letters, leaflets, posters  
• Cyber bullying such as abusive posts on Face Book  
• Verbal abuse or insults, including name calling or offensive 'jokes'

6.3 Govan HA is a registered third party reporting office for Hate crimes to Police Scotland.

**7.0 Preventative Action**

7.1 The Association will ensure that obligations relating to anti social/neighbour nuisance issues and hate crime will be reinforced when tenants sign their Scottish Secure Tenancy Agreement [SST] or Short SST and again when settling in visits are carried out. Staff will explain in detail what the responsibilities of the tenant, their household members and visitors are. A Tenants’ Handbook is also issued which includes relevant sections on estate management and neighbour nuisance issues.

7.2 Partnership Working:

7.2.1 Recognition is given to the fact that much of the behaviour causing concern is criminal behaviour and should be addressed in the first instance by Police Scotland and the criminal justice system (with support and evidence from Govan HA where appropriate).

7.2.2 It is also recognised, however, that there may be other legal mechanisms (e.g. civil actions such as ASBO’s) that can be used by both Govan HA and Police Scotland and these may afford a more effective response in some instances (e.g. where evidence for a criminal conviction is difficult to obtain). In such instances we will work closely with Police Scotland to agree the course of action and jointly pursue such civil actions where appropriate.

* + 1. The Association has also been supported by GCSS and other partners where they have been able to assist in dealing with other estate management and neighbour nuisance issues, graffiti removal, community patrol wardens, disclosure information and requests, etc.

**8.0 Complaints Against Owner Occupiers and Tenants of Owner Occupiers**

8.1 The Association recognises that mixed tenure exists in the areas in which it operates. If a tenant of the Association is experiencing problems with owner occupiers or the tenants of an owner, the Association will liaise with Glasgow Community and Safety Services who provides a service for dealing with anti social complaints against owners. If an owner occupier or tenant of an owner makes a complaint about another owner occupier or tenant of an owner, they will be advised to contact GCSS directly.

8.2 In these cases Govan HA will endeavour to assist where appropriate to resolve any issues between Owner Occupiers and tenants of owners in conjunction with other agencies such as Police Scotland and GCSS.

**9.0 Classification of Complaints**

9.1 A system will be adopted using the following classifications:

* Estate Management Issues
* Anti Social and Neighbour Nuisance Issues and Hate Crime
* Agency Issues

Anti Social and Neighbour Nuisance Issues will be divided into three categories based on the severity of the behaviour (Categories A: Very Serious, B: Serious or Persistent and C: Routine).

9.2 ROUTINE: Category C

Cases in this category relates to minor breaches of the Association’s tenancy conditions. These are often relatively straightforward and the most common problems that the Association will deal with.

Category C Complaints include:

* + - * Failing to maintain common parts
      * Rubbish dumping
      * Pet fouling
      * Isolated cases of noise pollution

9.3 SERIOUS or PERSISTENT: Category B

This form of anti social behaviour tends to be more serious in nature and often is the most difficult to alleviate. The Association may be involved alone but the nature of these complaints can necessitate the involvement of other agencies such as Environmental Protection Services, Social Work and Police.

Category B complaints would include:

* Excess and regular noise
* Vandalism to Association property
* Lack of pet control
* Persistent rubbish dumping
* Persistent pet fouling
* Persistent noise pollution

9.4 VERY SERIOUS AND HATE CRIME: Category A

This form of anti social behaviour is the most serious and often includes criminal behaviour. These may not be solely breaches of the tenancy agreement and may therefore require inter agency liaison.

Category A complaints include:

* + - * **Any** form of harassment or hate crime
      * Physical abuse
      * Persistent vandalism / property damage
      * Drug dealing

**10.0 Dealing with Serious Neighbour Nuisance Issues and Hate Crime.**

10.1 The Association will develop a detailed set of procedures identifying actions, roles and responsibilities in implementing its policies. These procedures will be subject to regular review and audit.

10.2 The Association is committed to ensuring the safety and security of people in their homes and neighbourhood. As part of a comprehensive fair housing policy we will take firm action to eradicate any form of hate crime or serious neighbour nuisance.

10.3 All reports of hate crime or neighbour nuisance issues will be accepted and investigated as fully as possible by the Association whether given verbally, in writing or in person. Anonymous complaints will also be investigated as fully as possible. Written evidence may be required if court action is necessary. Reports of any Hate Crimes will be recorded and processed through our third party reporting service.

10.4 The Association operates a victim centred approach, i.e. where the complainant believes that the harassment is a hate crime or serious neighbour nuisance, the investigation will begin on that premise.

10.5 The Association will make every effort to ensure that victims of hate crime or serious neighbour nuisance issues are aware of their rights and what remedies are available to protect them. The support and advice of community groups and other agencies will be sought to enable an effective response.

10.6 In consultation with the victim, the Association will consider all the evidence and information available and taking account of the wishes of the victim will pursue an appropriate course of action.

10.7 We will, through our investigations where reasonably practical, aim to establish the identity of the perpetrator of the complaint based on our evidence and the balance of probability, which is the test for civil action cases.

10.8 Confidentiality regarding the source of the complaint will be maintained unless the complainant specifically gives permission for their identity to be revealed or, if the case is pursued in court, the complainant may at that point be identified.

10.9 If the complainant cannot speak English, the Association will take all reasonable steps to ensure that a professional interpreter is present to assist at the interview.

10.10 We will keep the complainant and any witnesses fully updated on the progress of their complaint and the outcome of such complaints.

**11.0 Non Legal Remedies**

11.1 Written Warnings

The Association can issue written warnings to perpetrators advising them that if further incidents occur, then legal action may commence.

11.2 Mediation

This is a voluntary process. It works by offering everyone the support of a neutral, third party, through each stage. Because mediators are not personally involved, they are able provide a fair, balanced opinion and people are more likely to take part.

11.3 Acceptable Behaviour Contracts (ABC’s)

ABC’s are complimentary to Anti-Social Behaviour Orders rather than an alternative. The aim of the Contract is to make people personally responsible for their actions. ABC’s are not legally enforceable and a perpetrator cannot be compelled to enter into such an agreement.

The agreement sets out the behaviour that the person has agreed to stop, for example, playing loud music, having noisy parties, verbal abuse towards another, playing games in restricted areas etc.

11.4 Unacceptable Behaviour Notices (UBN’s)

An Unacceptable Behaviour Notice is complimentary to the ASBO’s and is an alternative to the ABC where the person responsible for the neighbour nuisance issue declines to be party to an ABC. The aim of the Notice is to make people personally aware of their actions and the consequences should they continue with the behaviour.

**12.0 Legal Remedies**

12.1When preventative, management approaches and non legal remedies have failed to resolve the problem, the Association will consider using legal remedies. The following is a list of the legal options available.

12.1.1 *Notice of Proceedings (NOP)*

Where a tenant or member of their household’s behaviour reaches a level that gives the Association concern, a NOP will be served on the tenant and anyone over the age of 16 who is part of the household. A NOP is the first step in the legal action process. It is a document which states what the Association’s legal intentions are should the tenant’s behaviour not improve.

12.1.2 *Anti Social Behaviour Orders (ASBO) and Interim Anti Social Behaviour Orders (Interim ASBO)*

An ASBO is a civil preventative measure for anti social behaviour that can be applied to persons of 12 or over. An ASBO, once it has been granted, can be for an indefinite period and it will be specific about the acts which the offender is prohibited from carrying out. A breach of an ASBO is a criminal offence and is punishable by a fine and/or imprisonment up to five years.

Interim ASBO’s may be applied for in cases where immediate protection is required from anti social behaviour pending the more substantive application for a full ASBO. The Sheriff needs to be satisfied that, were the alleged behaviour to be established at a full hearing, an order would be required to protect relevant persons from further acts. Breach of an interim ASBO is also a criminal offence.

12.1.3 *Interdicts*

An interdict is an order of the court requiring a person to whom it is addressed to stop doing something legally wrong. For an interdict to be granted by the court the defender must have done something, or be about to do something, that infringes the pursuer’s legal rights. An interdict may be and usually is, granted 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.

Now that other more robust remedies are available, for example ASBO’s, interdicts will seldom be used. However, the Association may advise a person to pursue an interdict independently if that is felt to be the best and most appropriate course of action.

12.1.4 *Short Scottish Secure Tenancy (Short SST)*

Where a full ASBO has been granted against a tenant, the Association has the right to convert their SST to a Short SST. The Association also has the power to offer a Short SST to applicants for housing where an ASBO, or other legal action, has been previously awarded against them.

The offer of a Short SST can be given to applicants who have a history of demonstrating serious anti social behaviour or harassment in previous tenancies. This is a means of providing support and ensuring they can now conduct a tenancy satisfactorily. In these circumstances, a Short SST will be made available for a minimum of six months and a maximum of 12 months. If the tenancy is conducted in a satisfactory manner the Short SST will be converted to a full SST. Before a Short SST is formally offered to an applicant, they must accept the support provided either by the Association or other agreed agency as a condition of the tenancy.

12.1.5 *Eviction*

Eviction for breach of the terms of the Scottish Secure Tenancy Agreement

The Association recognises that pursuing eviction action is a measure of last resort when all other options have failed to resolve hate crime or serious neighbour nuisance. For a decree to be awarded to allow the Association to evict a tenant, the crucial legal issue is one of reasonableness. This means that a Sheriff, in deciding whether to evict, must have regard for the points listed below:

* the nature, frequency and duration of the conduct leading to the eviction proceedings;
* how far the tenant was personally responsible for the conduct leading to the eviction proceedings or whether it was the consequence of acts or omissions by others;
* the effect of the conduct on others, for example, whether there are serious adverse consequences for other local residents; and
* whether the landlord has considered and, if appropriate tried, other courses of action to stop the conduct before opting for eviction

**13.0 Auditing, Monitoring and Reporting**

13.1 Auditing

13.1.1 The Association has a responsibility to ensure that our tenants and their neighbours have peaceful enjoyment of their homes and the local environment.

We will take effective action against any tenant where they or members of their household cause nuisance or annoyance at or in the vicinity of their home. In order to ensure that the Anti Social Behaviour, Neighbour Nuisance and Hate Crime Policy is being followed in a correct, fair and efficient manner we will undertake an audit of the process. This self assessment audit will measure our compliance with the provisions of our policies, procedures, legislative and good practice requirements. It will ensure that our management of ASB shows that we have an audit trail to evidence effective action against tenants who breach their tenancy.

13.2 Monitoring and Reporting

13.2.1 The Head of Housing will present information on all anti-social behaviour, Neighbour Nuisance and Hate Crime issues on a quarterly basis to Operations Sub Committee, which will include: -

Percentage of anti-social behaviour cases reported in the last month which were resolved within locally agreed targets

* number of cases of anti social behaviour reported in the last month
* number of cases resolved in the last month
* number of cases resolved within locally agreed targets in the last month

13.2.2 We will use this monitoring information to inform strategies to improve our management of anti social behaviour, as well as ensure our policy continues to support our work in this area.

**14.0 Review**

14.1 This Policy is scheduled for review every 3 years and will take account of: -

* Legislative, regulatory and good practice requirements
* Association performance
* The views of tenants, other residents, the Service Scrutiny Panel, staff and members of our Management Committee.