



New Gorbals Housing Association

Unacceptable and antisocial behaviour policy

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This document can be produced in different formats, for example, in larger print or audio-format, and in other languages, as appropriate.

Contents

	Page
Section 1: Context	3
Section 2: Equality	3
Section 3: Legal and regulatory requirements	3
Section 4: Policy aims and objectives	6
Section 5: Unacceptable and antisocial behaviour	6
Section 6: Reducing conflict through preventative measures	7
Section 7: Responding to unacceptable and antisocial behaviour	7
Section 8: Our service standards	14
Section 9: Short Scottish Secure Tenancy (SSST)	14
Section 10: Staff training	15
Section 11: Links with other policies	16
Section 12: Consultation	16
Section 13: Complaints handling procedure	16
Section 14: Policy review	16

Appendices

Appendix 1: Extract of Housing (Scotland) Act 2001, Schedule 2, Part 1 referring to antisocial behaviour

Appendix 2: Extract of section 3 NGHA Scottish Secure Tenancy Agreement

Appendix 3: Unacceptable and antisocial behaviour complaint categories and timescales

Notes: New Gorbals Housing Association is generally referred to as “we” throughout this document.

Section 1: Context

This policy describes New Gorbals Housing Association's approach to dealing with unacceptable and antisocial behaviour. We believe that all residents have the right to live peacefully in their homes, and we take the issue of unacceptable and antisocial behaviour very seriously. By having a detailed written unacceptable and antisocial policy we are able to ensure that a uniform and professional approach is adopted throughout the organisation and the service delivered is compliant with law, best practice and internal policy.

Section 2: Equality

We are committed to providing fairness and equality of opportunity in order to prevent discrimination. Our unacceptable and antisocial behaviour policy will try to ensure that no person is discriminated on the grounds outlined in the Equality Act 2010. This includes the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

Our policy and procedures will be flexible and where possible, take into account the individual needs of our tenants and their households. We will ensure that the relevant arrangements are made for communicating with our tenants with particular needs. This may include those with sight, hearing or learning difficulties, or those who find it difficult speaking or understanding English.

Section 3: Legal and regulatory requirements

Our approach to dealing with incidents of unacceptable and antisocial behaviour is determined by our statutory and contractual obligations. The Antisocial Behaviour Etc. (Scotland) Act 2004, the Housing (Scotland) Act 2001 and the Housing (Scotland) Act 2014 are the three Acts that determine the main requirements of our policy.

The Antisocial Behaviour etc. (Scotland) Act 2004 sets out the main powers of enforcement available to housing associations and others in tackling unacceptable and antisocial behaviour. It defines antisocial behaviour as a person who:

- acts in a way that causes or is likely to cause alarm or distress to anyone; or
- behaves in a way that causes or is likely to cause alarm and distress to at least one person not of the same household as them.

The specific parts of the Housing (Scotland) Act 2001 that are most relevant to antisocial behaviour are:

- Schedule 2, Part 1, paragraphs 1,2, 3, 7 and 8 set out the grounds for recovery of possession of a house as a result of antisocial behaviour (see Appendix 1).

The Housing (Scotland) Act 2014 provides the Association with additional powers and obligations in tackling antisocial behaviour:

- by enabling social landlords to grant a Short Scottish Secure Tenancy (SSST) to new tenants, or to convert an existing tenancy to a SSST, where the applicant, tenant, a household member or a visitor has been involved in: antisocial behaviour in or near social housing within the last 3 years or an eviction order because of the antisocial behaviour or an Antisocial Behaviour Order (ASBO) is no longer required.
- by extending the minimum term of a Short Scottish Secure Tenancy from six months to one year, and allowing a further six months extension where further tenancy support is required.
- by requiring the landlord, when seeking to terminate a Short Scottish Secure Tenancy, to notify the tenant of the reason for the action and giving the tenant the opportunity to request a review of the decision
- Section 14 of the Act removes the 'reasonableness' test in actions for recovery of possession whereby the landlord does not require to prove it is reasonable to request recovery of the property in cases where the tenant has been convicted of using the house for immoral or illegal purposes or an offence punishable by imprisonment committed in, or in the locality of, the house within the past year. This can include instances where an Antisocial Behaviour Order has been breached or drugs offences.

Our policy complies with the Scottish Social Housing Charter:

- **Outcome 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.”

- **Outcome 6 - Estate management, antisocial behaviour, neighbour nuisance and tenancy disputes**

Social landlords, working in partnership with other agencies, help to ensure as far as reasonably possible that:

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

- **Outcome 11 - Tenancy sustainment**

Social landlords ensure that:

“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.”

Our tenancy agreement also confirms the contractual responsibilities and rights in the case of antisocial behaviour by our tenant. The relevant section is:

- Section 3: Respect for others (see Appendix 2).

Section 4: Policy aims and objectives

The aims and objectives of our unacceptable and antisocial behaviour policy are to comply with legislation and best practice. We will do this by:

- being pro-active in fulfilling our legal obligations as a landlord by taking all complaints about unacceptable and antisocial behaviour seriously.
- reminding our tenants of their legal obligations in their tenancy agreement.
- adopt policies and practices which allows tenants to live peacefully in their community.
- focusing on prevention and early intervention to minimise the opportunities for conflict.
- encouraging a multi-agency approach to prevent, intervene and resolve incidents of conflict and criminality.
- developing a range of possible actions for dealing with antisocial behaviour, including pursuit of legal action where no other solution can be found.
- monitoring and reviewing incidents for trends and targeted intervention.

Section 5: Unacceptable and antisocial behaviour

Unacceptable and antisocial behaviour is a complex issue. The impact and response to an incident can vary as it is subjective and unique to the individual - often what one person reports as being a nuisance can be totally offensive and negative to another. The behaviour can range from relatively minor disputes involving noise and lifestyle clashes to major incidents including serious harassment and drug dealing.

We assess each case of unacceptable and antisocial behaviour against the legal definition of antisocial behaviour and then consider whether it is reasonable or unreasonable behaviour.

Unacceptable and antisocial behaviour may include, but is not limited to the following:

- aggressive or abusive behaviour
- dog fouling in communal areas
- drug-related activity
- graffiti and vandalism
- hate crime – based on race, sexual orientation, gender, disability or belief
- neighbour disputes
- noise nuisance/disturbance
- serious assault
- serious damage to property
- serious harassment
- verbal and written harassment

It is not:

- boundary issues
- cooking smells
- dog fouling in public spaces
- car parking issues
- untidy gardens

Section 6: Reducing conflict through preventative measures

Our tenants are entitled to live in their homes free of harassment, fear and disruption from others. We believe that reducing opportunities of conflict and neighbour disputes is best achieved through prevention and early intervention. We will not simply react to problems but will also be pro-active to prevent them from occurring.

Tenant responsibilities

We make sure that all our existing and prospective tenants are fully aware of their responsibilities and of the action that will be taken against them if they (or anyone for whom they are responsible) behaves in an unacceptable and antisocial manner in their tenancy. We do this at different stages within their tenancy by:

- discussing what is acceptable and unacceptable behaviour and the importance of being a good neighbour at the sign up stage.
- reminding our tenants of their tenancy agreement responsibilities and issuing our tenants' handbook which gives information on how we deal with unacceptable and antisocial behaviour.
- carrying out settling in visits within six weeks of a new tenancy to discuss any issues and potential areas of conflict with neighbours.
- carrying out annual house visits to check how our tenant is managing and if there are any issues or concerns they wish to raise with us.

Allocation of our houses

We aim to achieve settled communities whilst providing access for those in housing need and helping our tenants sustain their tenancies. When allocating tenancies, we recognise that insensitive or inappropriate lets can contribute to potential clashes of lifestyles and neighbour disputes. We will therefore seek to manage potential risks and identify support needs including:

- undertaking risk assessments and support planning prior to, and during, the tenancy to achieve tenancy sustainability.
- ensure that support arrangements are identified and agreed by working in partnership with organisations and agencies and that, where appropriate, the support is ongoing.

We may suspend any offers of our houses to applicants, existing and prospective tenants, if we are aware of previous or current substantiated legal action against them or members of their household for antisocial behaviour. In such cases our suspension procedure detailed in our allocation policy will be implemented.

Managing our homes

We believe that pro-active, consistent and effective management of our homes and the environment helps to reduce opportunities for unacceptable and antisocial behaviour.

In managing our homes we:

- have clear guidelines on the responsibilities of tenants in relation to unacceptable and antisocial behaviour.
- have systems to monitor activities and standards in our closes, properties and wider environment and use these to identify our tenants who breach their tenancy responsibilities.
- work in partnership with residents on the management of their estate by attending local group, close and individual meetings.
- work in partnership with Glasgow City Council and other organisations to minimise the possibility of conflicts arising from poor service delivery or lack of support.
- have a joint protocol to share information with Police Scotland and meet regularly to discuss issues impacting on our community.

We also have a zero tolerance to:

- any drug activity involving supply and criminal intent.
- any forms of harassment.
- graffiti and vandalism and have positive and speedy response measures in place.

Section 7: Responding to unacceptable and antisocial behaviour

We aim to resolve complaints about behaviour as quickly as possible. We will try to resolve them at an early stage to avoid them escalating into more serious problems.

When dealing with unacceptable and antisocial behaviour we recognise that a wide range of solutions and actions are required to tackle the various types of behaviour that exist. Our response needs to be proportionate to the behaviour.

When complaints are minor we will encourage neighbours to resolve their own problems. However, we accept that in some cases that this approach is not always possible or appropriate. We treat all cases of unacceptable and antisocial behaviour seriously and will ultimately take action against any tenant breaking their tenancy agreement.

Good practice in dealing with unacceptable antisocial behaviour

Our staff will:

- respond appropriately to all behaviour complaints in line with our agreed standards, targets and good practice.
- ensure that early action is taken in response to a complaint.
- listen sympathetically to all parties and not pre-judge or make assumptions.
- respect a complainant's wish to remain anonymous and where appropriate, identify alternative methods of providing evidence.
- communicate regularly with complainants to keep them informed of progress.
- advise residents of the direct action they can take in response to antisocial behaviour (for example, call the police and Glasgow Community Safety Service).
- record all complaints and action taken in a clear and confidential manner.
- respond sensitively, fairly and consistently in all cases
- investigate and evaluate all more serious cases to assess the most appropriate action required.

Advice and support

We will offer both the complainant and perpetrator advice and support during the complaint process. Our main objectives are that:

- the complainant no longer has to deal with the challenging behaviour and is not disturbed in their tenancy.
- the perpetrator modifies their offending behaviour and gets the support to continue within their tenancy.

The complainant

When dealing with the complainant we will:

- keep them fully informed of progress with actions taken and expected outcomes.
- where appropriate issue them with a diary to record further incidents of unacceptable behaviour.
- follow up each antisocial complaint to ensure that the problem has been resolved.

The perpetrator

When dealing with a perpetrator we will:

- respond to issues at an early stage by clearly challenging them about their behaviour and explaining their responsibilities.
- consider using specialist support service to help them to understand and adhere to the tenancy obligations.
- explain the potential actions which may be taken against them and the possible outcomes of such actions.
- make all reasonable attempts to engage with them to improve their behaviour or increase their consideration for their neighbours and other residents.
- continue to liaise with agencies supporting them to make sure that there is an ongoing 'joined-up' approach.
- make sure that any action taken against them is appropriate and proportionate.

Taking action

As part of our investigations, and with the agreement of the complainant, we will:

- consider the use of mediation to resolve neighbour disputes before further action is taken by staff.
- where mediation fails or is refused, take action against antisocial tenants to include visits, letters and legal action.
- only act where there is proof of unacceptable and antisocial behaviour.

Our investigation will involve:

- collecting evidence from the complainant and other witnesses, including keeping full and accurate records of the complaints, visits, letters and conversations.
- encourage those complaining to sign statements.
- obtain police reports where the police are involved.

In cases where there is reluctance from neighbours to give initial evidence or additional evidence to substantiate an ongoing complaint we may consider the use of professional witnesses.

We will re-charge tenants for any vandalism caused by them, a member of their household or by their visitors. This includes repairs to communal areas and the removal of graffiti.

Resolution of unacceptable and antisocial behaviour

We will decide on the action taken on a case by case basis. We will consider the nature of the complaint, the history of unacceptable behaviour and our professional judgment as to what would be an effective solution to the problem.

Non-legal remedies

Where a complaint has been investigated and substantiated there are a number of non-legal remedies available to us to resolve the situation. These are:

- tenancy warnings - this could either be a verbal, first, second or final warning.
- an acceptable behaviour contract (ABC) - this is where the perpetrator willingly agrees to modify their behaviour by signing a witnessed agreement.
- an unacceptable behaviour contract (UBC) - this is where the perpetrator refuses to willingly sign an agreement and we impose conditions of acceptable behaviour.

Legal action

Where all other attempts to resolve a serious antisocial behaviour problem have failed, we will take legal action against a tenant who is in breach of their tenancy agreement and if necessary ultimately seek a court order to evict the antisocial tenant.

The legal actions available to us are:

- interim interdicts – a court order requiring the person to stop doing something that is legally wrong.
- action for specific implement – a court order requiring the person to carry out the terms of their tenancy agreement.
- antisocial behaviour orders (ASBO) - a court order issued for individuals over 12 years old who are involved in antisocial behaviour within any given area.
- re-possession of the tenancy (eviction) – an action to re-possess and end the tenancy through eviction under the terms of the tenancy agreement.

When a case reaches the legal action stage, the most suitable course of action will be discussed and agreed with our solicitor who will offer advice on the reasonableness of the action. Legal action will only begin where suitable evidence has been gathered and our solicitor agrees a substantial case has been built.

Section 8: Our service standards

We will prioritise complaints of unacceptable and antisocial behaviour depending upon the seriousness of the incident reported. Our three categories are:

High - this includes complaints where there appears to be criminal activity. We will refer such matters directly to the police and advise the complainant of the legal process.

Medium - this includes complaints where there appears to be a breach of the tenancy agreement. Our Housing Officer will investigate and update the complainant as appropriate.

Low - this includes personal disputes and minor disagreements that may be unrelated to the tenancy. In such cases we may advise the complainant of their responsibility to resolve the situation without our involvement.

Appendix 3 sets out how we classify and prioritise unacceptable and antisocial behaviour and our target timescales for responding to complaints.

Section 9: Short Scottish Secure Tenancy (SSST)

The Short Scottish Secure Tenancy (SSST) was introduced by the Housing (Scotland) Act 2001. A SSST is a short term or probationary tenancy agreement that can be given to tenants.

There are two main reasons why we may offer a Short Scottish Secure Tenancy (SSST), one of which is due to antisocial behaviour. If there is confirmation of antisocial behaviour we will consider using an SSST when:

- if a potential tenant was evicted for antisocial behaviour in the last three years, or a court has given our tenant, or a member of their household, an Antisocial Behaviour Order, we would give a Short Scottish Secure Tenancy to allow us to monitor the tenancy. We can end the tenancy if we need to protect our neighbourhood or community against antisocial behaviour.

The SSST must be for a term of at least 12 months and thereafter, it can be extended for a period of 6 months or it must convert back to a Scottish Secure Tenancy (SST). We will convert the SSST to a full Scottish Secure Tenancy at the end of 12 months, provided the tenant has not behaved in a manner deemed unacceptable.

If antisocial behaviour recurs after conversion to a full Scottish Secure Tenancy, we can seek re-possession through the courts or a further ASBO can be sought, and if granted the tenancy can once again be demoted to a SSST.

Section 10: Staff training

We are committed to managing the implementation of our unacceptable and antisocial behaviour policy and making sure a quality service is delivered by our staff. We, therefore, provide ongoing training for all staff to make sure that:

- staff and tenants are made aware of the range of actions which can be taken in response to dealing with unacceptable and antisocial behaviour.
- There are clear guidelines and procedures for the use of non-legal remedies and legal action.

Section 11: Links to other policies

Our unacceptable and antisocial behaviour policy links to the following policies:

- Allocation Policy
- Complaints Policy

- Estate Management Policy
- Tenancy Sustainment Policy (being reviewed early 2020)
- Privacy Policy

Section 12: Consultation

We promote consultation with our tenants and other service users. We do this through a wide range of methods, including consultation in writing, meetings, forums and working groups.

Section 13: Complaint handling procedure

We use a complaint handling procedure that was developed for housing associations throughout Scotland. A complaint is defined as being:

“An expression of dissatisfaction by one or more members of the public about the housing association’s action or lack of action, or about the standard of service provided by or on behalf of the housing association.”

If you are dissatisfied with the level of service you have received from us, our complaints handling procedure is simple and easy to use.

Our complaint handling procedure, including advice on how to make a complaint, is available from our office and on our website. Our complaint handling procedure explains each step of our process, and how you can appeal to the Scottish Public Services Ombudsman (SPSO). Generally, you must use our internal complaints system before contacting the Ombudsman.

If you are not satisfied with our final response, you can ask the Scottish Public Services Ombudsman to investigate.

Section 14: Policy Review

We review our organisational policies every five years, or earlier if required. For example, we may review sooner to reflect changes in law or, if guidance changes occur. We may also decide to make changes requested by our tenants.

Appendix 1: Extract from the Housing (Scotland) Act 2001, Schedule 2, Part 1 referring to antisocial behaviour

Housing (Scotland) Act 2001 (asp 10)
Schedule 2—Scottish secure tenancy: grounds for recovery of possession of house
Part 1—Grounds on which court may order recovery of possession

SCHEDULE 2 (introduced by sections 14, 16, 19, 21 and 22)

SCOTTISH SECURE TENANCY: GROUNDS FOR RECOVERY OF POSSESSION OF HOUSE

PART 1

GROUNDS ON WHICH COURT MAY ORDER RECOVERY OF POSSESSION

- 1 Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken.
- 2 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.
- 3 (1) The condition of the house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant (or any one of joint tenants) or any person residing or lodging with, or any subtenant of, the tenant; and in the case of acts of waste by, or the neglect or default of, a person residing or lodging with, or subtenant of, a tenant, the tenant has not, before the making of the order in question, taken such steps as the tenant ought reasonably to have taken for the removal of that person.
 - (2) In sub-paragraph (1), “the common parts” means any part of a building containing the house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other houses.

.....

- 7 (1) The tenant (or any one of joint tenants), a person residing or lodging in the house with, or any subtenant of, the tenant, or a person visiting the house has—
 - (a) acted in an antisocial manner in relation to a person residing in, visiting or otherwise engaged in lawful activity in the locality, or
 - (b) pursued a course of conduct amounting to harassment of such a person, or a course of conduct which is otherwise antisocial conduct in relation to such a person,

and it is not reasonable in all the circumstances that the landlord should be required to make other accommodation available to the tenant.

(2) In sub-paragraph (1)—

“antisocial”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,

“conduct” includes speech, and a course of conduct must involve conduct on at least two occasions,

“harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).

8 (1) The tenant (or any one of joint tenants) or any person residing or lodging with, or any subtenant of, the tenant—

(a) has been guilty of conduct in or in the vicinity of the house which is a nuisance or annoyance, or

(b) has pursued a course of conduct amounting to harassment of a person residing in, visiting or otherwise engaged in lawful activity in the locality,

and in the opinion of the landlord it is appropriate in the circumstances to require the tenant to move to other accommodation.

(2) In sub-paragraph (1), “conduct” and “harassment” have the same meanings as in paragraph 7.

Appendix 2: Extract of section 3 NGHA Scottish Secure Tenancy Agreement

3 RESPECT FOR OTHERS

- 3.1 You, those living with you, and your visitors, must not harass or act in an antisocial manner to, or pursue a course of antisocial conduct against, any person in the neighbourhood. Such people include residents, visitors, our employees, agents and contractors and those in your house.
- 3.2 'Antisocial' means causing or likely to cause alarm, distress, nuisance or annoyance to any person or causing damage to anyone's property. Harassment of a person includes causing the person alarm or distress. Conduct includes speech. A course of conduct must involve conduct on at least two occasions.
- 3.3 In particular, you, those living with you, and your visitors must not:
- make excessive noise. This includes, but is not limited to, the use of televisions, hi-fi's, radios and musical instruments and DIY tools;
 - where pets are allowed, fail to control such pets properly, or allow them to foul or cause damage to other people's property; (see also paragraph 2.5);
 - allow visitors to your house to be noisy or disruptive;
 - use your house, or allow it to be used, for illegal or immoral purposes;
 - vandalise or damage our property or any part of the common parts or neighbourhood;
 - leave rubbish in unauthorised places;
 - allow your children to cause nuisance or annoyance to other people by failing to exercise reasonable control over them;
 - harass or assault any person in the house, or neighbourhood, for whatever reason. This includes that person's race, colour or ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief, or other status;
 - use or carry offensive weapons.
 - threaten or commit any act of violence or any form of harassment against any member of the Association's staff, or Committee or any person authorised to act on behalf of the Association whether within or outwith the vicinity of the house.
- 3.4 In addition, you, those living with you, and your visitors must not do the following in an antisocial way:
- run a business from your house;
 - park any vehicle, caravan or trailer;
 - carry out work to any type of vehicle, caravan or trailer;
 - sell alcohol or use or sell illegal drugs.

The particular prohibitions on behaviour listed in paragraphs 3.3 and 3.4 do not in any way restrict the general responsibilities contained in paragraph 3.1 above.

- 3.5 You, those living with you, and your visitors, must not bring into the house or store in the house any type of firearm or firearm ammunition unless you have a permit.
- 3.6 You will be in breach of this Agreement if you, those living with you, or your visitors do anything which is prohibited in this part of the Agreement.
- 3.7 If you have a complaint about nuisance, annoyance or harassment being caused by a neighbour (or anyone living with him/her or his/her visitors), you may report it to us. We will investigate your complaint within fourteen days. If, after investigation, there are good grounds in our opinion for your complaint, we will take reasonable steps to try to prevent the behaviour happening again. These steps may include mediation or legal action. A copy of our written policy about dealing with these kinds of complaints is available from us.
- 3.8 We will act fairly to you in all matters connected with your tenancy. We will not unfairly or unlawfully discriminate against you in any way on the grounds of your race, colour, ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief or other status. If you believe we have acted unfairly to you in any way, you may wish to use our complaints procedure. You may also wish to take independent advice.

Appendix 3: Unacceptable and antisocial behaviour complaint categories and timescales

Complaint	Category	Response	Resolve
<p>There appears to be a very serious complaint which may include criminal activity, if proven eviction proceedings will be pursued.</p> <p>These may include drug dealing, threats of violence and attack, serious harassment involving any of the equality characteristics, serious damage to property.</p>	high	1 day	12 weeks
<p>There appears to be a serious breach of the tenancy agreement which may result in legal action being pursued.</p> <p>These may include allegations of aggressive and abusive behaviour, frequent disturbances and noise and vandalism.</p>	medium	3 days	8 weeks
<p>Personal disputes and minor disagreements between neighbours that are unlikely to result in legal action unless incidents escalate.</p> <p>These normally include minor clashes of lifestyles, occasional parties, children playing and minor complaints of noise, smells etc.</p> <p>In such cases we may advise the complainant of their responsibility to resolve the situation without our involvement.</p>	low	5 days	4 weeks