



## **ANTI-SOCIAL BEHAVIOUR POLICY**

(Ore Valley Group Policy)



Issue No:	3
Responsible Officer:	Colin McInnes (Housing Manager)
Date Last Amended:	July 2020
Date Effective From:	May 2021
Review Date:	June 2024

### **ANTI-SOCIAL BEHAVIOUR POLICY**

#### **Policy Statement and Aims**

1. To be fair, efficient and consistent when dealing with neighbour disputes or reported incidents of anti-social behaviour
2. To support tenants to resolve disputes through preventative or management measures
3. To take appropriate action where tenants are responsible for serious or repeated incidents of anti social behaviour

### **Responsibility**

1. The Management Board and CEO - has responsibility for ensuring that this policy complies with regulatory and legislative requirements.
2. Housing Manager - has responsibility for ensuring that appropriate support and monitoring arrangements are provided to the Management Board, Management Team and any other relevant tenant groups involved in monitoring and improving the Association's performance in relation to estate management
3. Housing Manager - has responsibility for ensuring that all procedures relating to this policy are being used appropriately and comply with regulatory and legislative requirements.
4. Housing Manager - has responsibility for working with all relevant partners to ensure that all protocols and joint working arrangements are being used appropriately and comply with regulatory and legislative requirements.
5. Senior Housing Officer - has responsibility for supporting the Housing Officers to ensure that they are complying with all procedures relating to this policy
6. Housing Officer - has responsibility for investigating neighbour disputes and reported incident of anti-social behaviour, and taking appropriate action in accordance with this policy.

### **Equal Opportunities**

OVHA is an equal opportunities organisation and ensures equality of treatment for all customers without discrimination or prejudice based on a person's gender, sexual orientation, race, ethnic origin, nationality, religion, age, disability or illness.

The Association will always seek to follow best practice in order to ensure that the above group needs are understood and implemented.

In line with the Association's commitment to equal opportunities, this policy can be made available in a variety of formats, including large print, translated into another language or on audio tape. Please contact our office on 01592 721917 or email at: [housing@orevalleyha.org.uk](mailto:housing@orevalleyha.org.uk)

Both Ore Valley Housing Association and Ore Valley Enterprises own and lease

properties that are then let to tenants. This Policy aims to outline the measures that will be taken where anti-social behaviour has been demonstrated and proven.

Where the term 'the Association' is mentioned, it implies both Ore Valley HA and Ore Valley Enterprises.

The Association has adopted this policy for dealing with neighbour disputes and other forms of anti-social behaviour.

The Association will take prompt action against tenants who are not complying with tenancy conditions, resulting in nuisance or disturbance to neighbours and other members of the community. Although every effort will be made to resolve disputes through preventative and management measures, the Association will take legal action if this is appropriate.

The overall aim of the Anti-Social Behaviour Policy is to help tenants maintain their privacy and the quiet enjoyment of their homes. This will be achieved by operating procedures designed to prevent situations arising that might lead to neighbour complaints and by dealing quickly and effectively with problems when they do arise.

### **Definition of Anti-Social Behaviour**

The law says that someone is behaving in an anti-social manner if they:

act in a manner that causes or is likely to cause alarm or distress; or pursue a course of conduct that causes or is likely to cause alarm or distress and to at least one person not of the same household as them.

The law also further states that: "conduct" includes speech; "a course of conduct" must involve conduct on at least two occasions; Examples of anti-social behaviour could be:

- Excessively loud noise
- Graffiti or fly tipping
- Drinking or drug use which leads to people being rowdy and causing trouble.
- Large groups hanging about in the street (if they are causing, or likely to cause alarm and distress).
- Racist behaviour

We recognise that behaviour which may be upsetting and cause offence to one individual may not be a problem to someone else. We will consider all allegations of anti-social behaviour based on the merits and context of each case. However, the legal definition of anti-social behaviour forms the basis of our efforts to manage it.

## **What is not Anti-Social Behaviour?**

Activity that does not constitute a course of conduct or otherwise does not fall within the legal definition of anti-social behaviour, including noise related to reasonable household or everyday activity will not be treated as anti-social behaviour. Examples include: A neighbour using a washing machine The sound of a neighbour moving around normally in their adjoining property or children playing.

## **Categories of Anti-Social Behaviour**

The Association will group complaints of anti-social behaviour into one of the following categories and this will determine to some extent how the complaint is dealt with. It should be noted that some complaints will be dealt with by the Association working with other agencies, while more serious complaints relating to community safety concerns will be the overall responsibility of other agencies such as Police Scotland or Fife Council.

### Level One

This refers to cases where there is clear evidence of a breach of tenancy conditions but where this can be considered to be of a relatively minor nature. Examples of Level One cases include family disputes which disturb neighbours, control of pets, maintenance of garden ground, occasional noise and dumping or storing rubbish.

### Level Two

Level Two will indicates more serious anti-social behaviour and includes regular excessive noise, frequent disturbances, vandalism or damage to property, and frequent verbal abuse or harassment.

### Level Three

These cases will be of a very serious nature – for example threats of violence, assaults, drug-dealing, serious harassment and racial harassment.

Note: a case can be categorised initially at one level and then move to another, depending on how it develops. The level at which a case is being dealt with will determine who will take responsibility for it and which agencies should be involved.

### Uncategorised Complaints

We may receive complaints about disputes where there is no role for the Association or any of the other agencies we work with. This includes disputes that involve:

- a clash of personalities or lifestyles and the parties will not participate in community mediation, or it is not appropriate
- no evidence to support a complaint about a breach of tenancy
- no witnesses, evidence or corroboration of anti-social behaviour

In these circumstances we will provide advice to the parties involved but no further action will be taken by the Association.

### **Accepting Complaints**

Complaints can be made in writing, by telephone, email or in person at the Association's office. The name of the complainant will not be divulged to the person being complained about; however, the complainant should be made aware that in some cases the nature of the complaint means that it is not always possible for them to remain anonymous.

Full details should be noted by the Housing Officer using NC2 and NC3. Where possible the complainant should be asked to sign the report to confirm it is a true record of what has been discussed.

All complaints should be acknowledged within 3 working days of receipt using NC1 unless the situation demands an immediate response from either the Housing Manager or the Senior Housing Officer.

### **Closing a Complaint**

A complaint will be closed when appropriate action has been taken by the Association to resolve the complaint in accordance with this Policy.

If the complainant makes a further related complaint the case will be 'reopened' and action will be taken to resolve the complaint in accordance with the above timescales. Some cases may have multiple incidents over a period of time (eg noise, domestic abuse, pets). These should be recorded as one case and multiple incidents, across different categories of ASB.

### **Complaints & Appeals**

A tenant may submit a complaint if they feel that OVHA has failed to apply this Policy correctly, or if they are dissatisfied with the standard of service OVHA has provided.

All complaints will be dealt with in accordance with OVHA's Complaints Handling Procedure. Tenants also have the right to refer complaints to the Scottish Public Services Ombudsman, if they have exhausted OVHA's Complaints Handling Procedure and remain dissatisfied with our response.

## **Equalities and Human Rights**

In dealing with anti-social behaviour, we will be mindful of the need to ensure equality of opportunity to all across the nine protected characteristics outlined in the Equality Act 2010: Age, Disability, Gender reassignment, Marriage and civil partnership, Pregnancy and maternity, Race, Religion and belief, Sex and Sexual orientation.

In particular:

Where a complainant is vulnerable or at risk, we will endeavour to identify this at an early stage so that we can provide appropriate advice and support.

Where anti-social behaviour is attributable, either directly or indirectly, to problems of alcohol or substance misuse, mental health problems or other support needs, we will work with other agencies to facilitate intervention to support the perpetrator.

We will be mindful of the Disability Discrimination Act 1995 and relevant updates within the Equalities Act 2010 taking account of behaviour that may be related to a disability and making sure that any enforcement action is appropriate and proportionate to the individual circumstances.

We are opposed to all forms of discrimination and will give positive support and assistance to victims of racial harassment, or any other forms of harassment due to age, disability, gender identity, religion or beliefs and sex or sexual orientation.

In our approach to tackling nuisance and anti-social behaviour, we will have regard for Article 8 of the Human Rights Act 1998, which states:

‘Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except as in accordance with the law and as is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others’

We will take a balanced approach in our response to reports of anti-social behaviour, acting only where the effect of the anti-social behaviour to one or more residents outweighs the effect of the interference in the private lives of another resident.

## **Investigation and Action**

There can be no standard solution to neighbour complaints or other forms of anti-social behaviour so each case really has to be dealt with on an individual basis. Equally difficult then is to specify a procedure for dealing with disputes,

however general guidelines are provided below.

In order to investigate a complaint the complainant must agree to make themselves available to discuss their complaint with the Investigating Officer either in person or on the phone, or the complaint will be closed due to lack of evidence.

If the tenant requires an advocacy worker or additional support to help them with reporting their complaint provision will be made for this.

### Level One

The responsibility for dealing with Level One cases lies with the Housing Officer and the aim is to deal with the complaint within 15 working days.

The files of the complainant and the person being complained about will be checked for any previous complaints. If the complaint is of a minor nature and likely to be a one-off situation it will be at the discretion of the Housing Officer to decide whether or not to act. It is essential, however, that even where no action is being taken a record of the complaint is kept in the appropriate house files using NC3.

In some cases it may be appropriate to encourage the complainant to speak to their neighbour themselves before involving the Association. It is possible that the person being complained about is unaware that their behaviour is causing a nuisance and they may prefer an informal approach from their neighbour rather than a visit from Association staff.

The value of the Housing Officer's experience and knowledge of the tenants cannot be underestimated in deciding what course of action is most appropriate.

If it is felt that action is required, for this level of complaint the most appropriate approach is to speak to the person being complained about. This should be done as tactfully as possible. It is not for Association staff to divulge the name of the complainant; however it should be borne in mind that the very nature of a complaint will often make this obvious. A record of any interview which takes place should be kept in the house file and any points agreed at interview will be confirmed in writing. The complainant must be advised of the outcome and asked to keep the Association advised if there are any further developments using incident diary NC5.

### Level Two

Level Two complaints will be the responsibility of the Housing Officer, however the Senior Housing Officer will be more involved and should be advised of all developments in the case. It is also likely that other agencies may be involved at this level, i.e. Night Time Noise Team, Police or Social Work.

Complaints categorised as Level Two should be attended to within 10 working days. It should be noted that this does not mean that the case will have been

resolved, but as a minimum clear attempts should have been made to speak to all parties involved and to discuss the case with any other relevant parties whose evidence may have a bearing on how the case is dealt with.

On receipt of a complaint, as with Level One, the relevant files will be checked to establish if there have been previous complaints or breaches of tenancy.

If there is no corroboration of the initial complaint, with the agreement of the complainant the person being complained about should be visited and made aware that a complaint has been made. Details will be recorded and the person being complained about will be given appropriate advice.

If there is corroboration, arrangements should be made to interview the person being complained about. Again Housing Officer's experience and knowledge of the tenants will be invaluable in deciding where this interview should take place and whether there is a need to have more than one member of staff present.

During the interview, the details of the complaint should be outlined and the person being complained about should be given an opportunity to give their version of events. If the Housing Officer is satisfied that there is a case to answer, a verbal or written warning should be given advising that the anti-social behaviour must stop and indicating that legal action may be taken if the conduct is repeated. This must always be followed by a letter confirming details and the outcome of the interview.

In all cases the complainant should be provided with written confirmation of the action that has been taken and they should also be advised to keep the Association informed of any future incidents.

### Level Three

The Senior HO will assume overall responsibility for dealing with Level Three cases, with guidance being given by the Housing Manager as required.

The Housing Officer will continue to be responsible for managing and investigating the case. At this level other agencies will also be involved and it is quite possible that the initial complaint may have come directly from another agency such as the Police.

The procedure to be followed in dealing with a Level Three case is the same as Level Two (seeking corroboration, interviewing relevant parties, etc), however the extremely serious nature of the complaints being dealt with at this level mean that immediate action will often be required, but as a minimum requirement all serious complaints of this nature will be attended to within 3 working days with a recommendation being made for further action.

### Personal Safety



In dealing with all cases of anti-social behaviour staff will take account of the following of the Association's Policies and will not take any action that could put them at risk:

- Personal Safety and Lone Working Policy
- Driving and Road Safety Policy

Where cases involve violence or a threat of violence, staff will conduct interviews with at least one other person in attendance; this can either be another member of the Housing Management Team, or a representative from another agency, i.e. Police or Social Work.

## **Reporting and Performance**

The Association is required to report our performance to the Scottish Housing Regulator (SHR) on an annual basis.

Indicator 15 requires us to report on the % of anti-social behaviour cases reported in the last year which were resolved. This performance indicator is also reported to the Board on a quarterly basis.

The Association also reports on our performance to [HouseMark](#) on a monthly and annual basis. This indicator includes all 'new' ASB cases with a recorded start date in the period benchmarked. A new incident or report about an individual, group or household previously recorded should not be counted as a 'new case' unless the previous case has been closed. A new case should be recorded when a previous case regarding the same individual, group or household has been closed.

Several complaints may be received about the same alleged perpetrator(s) or issue(s). For example, several people complain about one noisy party at the same household. These instances should be recorded as one case and one incident with several complainants.

Some cases may have multiple incidents over a period of time (eg noise, domestic abuse, pets). These should be recorded as one case and multiple incidents, across different categories of ASB.

## **The Fife Community Safety Partnership**

The Fife Community Safety Partnership was established in 1998 to build a partnership approach to the promotion of safer communities in Fife. The partnership is responsible for the "Making Fife Safer" theme within the Fife Community Plan. Members aim to work in partnership to ensure that people in Fife can live in confidence and without fear for their own or other people's safety. Partners include Fife Council, Police Scotland, Fife Fire & Rescue Service, NHS Fife, the voluntary sector and local communities.

The Partnership currently maintains an information sharing protocol, providing guidance for practitioners on best practice when sharing information relating to community safety. It details when data can be shared, the process that should be followed and sources of further advice and support. The Association is included in this protocol.

We will, where necessary, liaise closely with other agencies in dealing with cases of anti-social behaviour. These agencies include Police Scotland, Fife Council (Environmental Health, Housing Investigations Team, and Social Work), Fife Community Mediation and various support providers.

## **Legal Action**

The Association will make every effort to resolve cases of anti-social behaviour without recourse to legal action, however legal action will be used where the anti-social behaviour is serious and persistent.

In the most serious cases, the Association will issue a Notice of Proceedings for Recovery of Possession. These should only be issued in cases where the Association is willing to take the matter to Court.

Other forms of legal action that may be considered include interdicts, anti-social behaviour orders, acceptable behaviour contracts and closure orders.

## **Conversion to a Short Scottish Secure Tenancy**

A short SST is one of a range of measures that landlords can use to tackle antisocial behaviour. It is aimed at encouraging tenants, or members of their household who repeatedly engage in antisocial behaviour, to stop the behaviour and sustain their tenancy, by taking away some of their tenancy rights without the need for court action.

Where neither of the existing antisocial behaviour grounds for giving a short SST are satisfied, landlords will need to consider all of the circumstances of the individual case when deciding whether it is appropriate to offer a prospective tenant a short SST, or convert an existing SST to a short SST on 'other antisocial behaviour' grounds. We will balance the need to support the tenant, household member or visitor to change their behaviour and sustain the tenancy, with the impact the anti-social behaviour has had, or continues to have, on neighbours and others in the community.

Where an existing tenant acts anti-socially, our Anti-Social Behaviour case management arrangements should be followed. We will make it clear to the tenant the behaviour that must stop and the action that may be taken if it does not. This could include conversion to a short SST with a reduction in their tenancy rights and also potentially eviction action.

In cases where we are considering converting an existing SST to a short SST on 'other antisocial behaviour' grounds, or offering a prospective tenant a short SST we will need to have:

- reliable evidence of the anti-social behaviour;
- evidence of the steps taken to manage or resolve the anti-social behaviour; and
- considered what support may be required to manage or resolve the anti-social behaviour and assist in sustaining the tenancy

Some examples of the steps that may need to be taken to manage or resolve the anti-social behaviour could include, communication and engagement with the tenant, issue of written warnings, Acceptable Behaviour Contracts/Agreements, consideration of support needs in consultation with the tenant and/or other partner agencies and the uptake of support offered.

We will have given at least one written warning to an existing tenant before a short SST on 'other anti-social behaviour grounds' is considered. We will also have to be satisfied following our investigations into the anti-social behaviour, that a short SST on 'other antisocial behaviour' grounds is a reasonable step to take in any individual case.

A Short SST on 'other anti-social behaviour' grounds is subject to continual review, and will either be converted to a Scottish Secure Tenancy, or the Association will seek recovery of possession.

### **Extension to the term of a Short Scottish Secure Tenancy**

We will review the existing provision of housing support services well in advance of the expiry of the 12 month tenancy in cases where we are considering applying a 6 month extension. This is to allow sufficient time for housing support services to be in place if this is not already the case. It is also to give sufficient time to provide the tenant with the 2 months' notice of the extension and the reasons for this, to prevent the tenancy automatically converting to an SST at the end of the 12 months. Any decision to apply a 6 month extension can only be used once.

### **Allocations**

The Association will work in partnership with the Fife Housing Register (FHR) to minimise the possibility of an allocation resulting in anti-social-behaviour for neighbours and other local residents.

Landlord references will be sought in respect of applicants for housing, and allocations may be refused where the Association can demonstrate it is reasonable to do so.

Where an applicant, or a member of their family is subject to an ASBO; or where an applicant has previously been evicted for Anti-Social Behaviour; the

Association will work with other relevant agencies to identify a suitable support provider prior to making the offer of a Short SST on 'other anti-social behaviour' grounds.

A Short SST on 'other anti-social behaviour' grounds is subject to continual review, and will either be converted to a Scottish Secure Tenancy, or the Association will seek recovery of possession.

### **Management Transfer(s)**

The Association will not approve a management transfer unless there is good reason to believe that such a transfer will resolve the situation. Management Points will only be awarded where a suitable alternative property can be identified.

### **Urgent Housing Need Points**

UHN Severe Harassment Points (100) will be awarded by the Housing Manager if other agencies such as the Police, Social Work or the Housing Investigation Team support and confirm a high level of harassment including threats to life, racial harassment or threats of sexual violence. These points should be awarded after consulting with FHR partners to confirm if suitable alternative properties are available in the applicants preferred areas of choice.

### **Social Need – Harassment Points**

The Housing Officer can allocate medium and low level harassment points where a complaint is ongoing and difficult to resolve without the co-operation of both parties, i.e. where there is a lifestyle clash or a complete breakdown in the relationship between two or more neighbours. All alternative options should be explored (including mediation) before taking the decision to award these points.

If an applicant would like to appeal their award of harassment points they can do so by contacting OVHA who will review the decision within 28 days of receiving the appeal request.

### **Data Protection and Confidentiality**

In dealing with complaints of anti-social behaviour, it is necessary for us to respect the confidentiality of all those involved. We will seek the complainant's permission to disclose their identity before sharing this information with the perpetrator or any other third party.

We will ensure that we adhere to Data Protection legislation, paying particular attention to the provisions of our agreed Information Sharing Protocols with Police Scotland.

### **Monitoring and Review**

The Housing Manager will be responsible for monitoring the use of this policy; and reporting on performance as required.

This Policy will be reviewed every 3 years.

### **Complaints**

If anyone feels that their complaint has been dealt with unfairly, they should make a formal complaint in accordance with the Association complaints procedures.

### **Policy Availability**

This Policy will be available on <https://www.orevalleyha.org.uk/page/policies>. Additional copies are available on request and free of charge from the Association's office. A summary can be made available in a number of other languages and in large print.

## **ORE VALLEY GROUP ANTI-SOCIAL BEHAVIOUR POLICY**

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Policy drawn up with reference to the following statutory framework:

- Equality Act 2010
  - Housing (Scotland) Act 2001 as amended
  - Housing (Scotland) Act 2010
  - Housing (Scotland) Act 2014
  - The Data Protection Act 2018
  - The Criminal Justice (Scotland) Act 2003
  - The Crime and Disorder Act (Scotland) 1998.
  - The Antisocial Behaviour Etc. (Scotland) Act 2004
  - Regulation of Investigatory Powers (Scotland) Act
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### **Dates to be approved**

Ore Valley Housing Association Board: 18th May 2021

Next Review Date: June 2024

Colin McInnes  
Housing Manager