



Antisocial Behaviour Policy

The Highland Council Housing & Property Service

Change Control			
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1. Introduction	
1.1	The Highlands are widely recognised as being a safe place to live, work and visit. The Highland Council, with other Partner Agencies, seeks to strengthen and enhance this reputation. A key element of this work is to deal effectively with antisocial behaviour across all tenures.
1.2	The Highland Council and Partner Agencies are committed to ensuring that as far as is possible all of its residents are able to have quiet enjoyment of their homes, without being abused or harassed or subject to noise or other nuisance caused by those around them, through use of preventative measures and by responding firmly and effectively to complaints of antisocial behaviour.
1.3	This policy outlines the way in which Highland Council will respond to reports of antisocial behaviour.
1.4	Registered Social Landlords and other Partner Agencies also have relevant organisational policies for responding to reports of antisocial behaviour.
1.5	This policy outlines the definitions of antisocial behaviour. This Antisocial Behaviour Policy is not intended to address behaviour that is merely different and will not be used to promote the harassment of individuals or groups for behaviour that results from being of a different race or origin.
1.6	The Council aims to ensure that those who report incidences of Antisocial Behaviour are kept aware of the progress of their complaint and are made aware of the reasons for decisions taken.
1.7	While this policy reflects the principles of work with children and young people, there is additional guidance with regard to this area of activity, which is managed within children's services. Accordingly, this policy document is specifically in relation to Antisocial Behaviour by adults.
2. Principles	
The following principles will underpin The Highland Council's Antisocial Behaviour Policy:	
2.1	To ensure that The Highland Council apply this Policy taking account of wider Policy, Legislation and Guidance both nationally and locally.
2.2	To ensure that the Highland Council and Partner Agencies respond jointly to resolve issues of antisocial behaviour quickly and effectively.
2.3	To ensure that the Highland Council and Partner Agencies work together to identify preventative measures to reduce instances of antisocial behaviour occurring.
2.4	To ensure that where necessary, all legal measures are considered in instances of serious and persistent antisocial behaviour Appendix 1

2.5	To ensure that all complaints are treated in confidence if the complainant requests this. However, this may limit the action it is possible to take.
2.6	To ensure that those who report incidences of antisocial behaviour are kept aware of the progress of their complaint and are made aware of the reasons for decisions taken.
2.7	To comply with legal duties to promote equality by ensuring that all residents can live without threats, verbal or physical harassment or prejudice on the grounds of race, disability, gender, sexual orientation, disability, age or faith in line with the Council's and other partners' commitment to promote equal opportunities and good relations.
2.8	To ensure that information on the Antisocial Behaviour Policy is accessible to all and implemented in a manner consistent with equal opportunities; this includes the completion of an Equality Impact Assessment on the Policy.

3. What is Antisocial Behaviour?

A range of types of behaviour may be referred to as Antisocial Behaviour. To provide a framework for prioritisation and to indicate clearly what types of behaviour will be acted upon, antisocial behaviour needs to be categorised. The Highland Council have agreed the following categories :

A	<p>Minor breach of tenancy conditions, disputes solely between two neighbours e.g;</p> <ul style="list-style-type: none"> ▪ Not keeping garden tidy ▪ Parking in unauthorised areas ▪ Use of common areas ▪ maintenance/use of boundaries ▪ Low level domestic noise
B	<p>Antisocial Behaviour, where the behaviour is of a serious and persistent nature e.g;</p> <ul style="list-style-type: none"> ▪ Persistent noise nuisance ▪ Persistently failing to control pets ▪ Persistently failing to control children within household
C	<p>Severe Antisocial Behaviour, where the police are involved e.g;</p> <ul style="list-style-type: none"> ▪ violence towards another person ▪ threatening behaviour ▪ drug dealing ▪ Vandalism/damage to common areas ▪ Harassment (including hate incidents)

4. Prevention

The Highland Council and Partner Agencies work proactively to identify early signs of antisocial behaviour and respond using appropriate measures.

4.1	Mediation is recognised as an effective method in tackling some cases of neighbour disputes, it is particularly useful if the referral is made in the early stages of reports of antisocial behaviour. The Council will aim to provide referral for mediation to prevent antisocial behaviour.
4.2	The Highland Council provide a Community Warden Service within communities where signs of antisocial behaviour have been identified by Housing Officers and Police intelligence. The Community Wardens work jointly with the Council's Education and Enforcement Officers in patrolling problem areas.
4.3	The Highland Council employ Education and Enforcement Officers to work within communities in providing educational sessions and activities on environmental issues to various groups including schools. The Officers also issue fixed penalty fines in relation to dog fouling, fly tipping and litter control.
4.4	The Highland Council recognises that in some instances applicants applying for housing may have specific support needs in order to be able to maintain a tenancy. In these circumstances, support from relevant support providers is offered at the earliest stage of their application for housing.
4.5	The Highland Housing Register application form prompts a check in relation to any previous legal action taken regarding antisocial behaviour. In cases where this is found to be the case the applicant may be allocated a property using a Short Scottish Secure Tenancy (SSST) lease on the grounds of antisocial behaviour, this allows a probationary period where the tenancy is monitored by Housing Officers prior to a permanent lease being granted.
4.6	The Highland Council and Northern Constabulary work jointly to establish suitable diversionary activities in communities where early signs of antisocial behaviour are detected.
4.7	When a case involves more than one Service or Agency, it will be referred to the Antisocial Behaviour Partnership Group who in some cases may recommend a particular course of action, for example, to issue a warning letter advising of potential ASBO application or negotiate an Acceptable Behaviour Contract (ABC) as an alternative to legal action being progressed.
4.8	A Hate Incident campaign http://www.hatefreehighland.org/ has been developed to make reporting easier and record all hate incidents i.e an incident which is perceived by the victim, or any other person, as being motivated by prejudice or hate on the basis of a person's age disability, gender, race or ethnic origin, religion or belief, sexual orientation or social background.
5. Making a complaint	
5.1	Complaints will be accepted by letter, by email, by phone or in an interview.

5.2	Anonymous complaints will be recorded, but it will not normally be possible to act on such complaints unless the complaint can be verified visually by an officer, such as a complaint of an untidy garden.
5.3	The Highland Council and Partner Agencies are committed to responding to complaints of antisocial behaviour as quickly as possible. However, it is important to ensure that the most serious complaints are investigated without delay.

6. Timescales and Performance

The Council is committed to responding to complaints of Anti Social Behaviour as quickly as possible. It is important to ensure that the most serious complaints are investigated without delay. However these can be more complex cases which involve more than one Service or Agency and may take time to resolve. In some instances resolution will only be through criminal proceedings.

Target times for an **initial** response to the different categories of complaint are outlined below.

Timescales will be monitored by the Area Housing and Property Managers through reports available from the antisocial behaviour information system (TASBIT)

Note: - these are timescales for **initial** response to a complaint. Timescales for further action/involvement should be included in any action plan drawn up.

A	<p>Minor breach of tenancy conditions, disputes solely between two neighbours e.g;</p> <ul style="list-style-type: none"> ▪ Not keeping garden tidy ▪ Parking in unauthorised areas ▪ Use of common areas ▪ Maintenance/use of boundaries ▪ Low level domestic noise <p>Investigate complaint and update complainant by phone/letter or visit within 10 working days</p>
B	<p>Antisocial Behaviour, where the behaviour is of a serious and persistent nature e.g;</p> <ul style="list-style-type: none"> ▪ Persistent noise nuisance ▪ Persistently failing to control pets ▪ Persistently failing to control children within household <p>Carry out initial investigation and assess appropriate action. Contact complainant by phone call/letter/ visit within 5 working days to advise of assessment</p>
C	<p>Severe Antisocial Behaviour, where the police are involved e.g;</p> <ul style="list-style-type: none"> ▪ Violence towards another person ▪ Threatening behaviour ▪ Drug dealing ▪ Vandalism/damage to common areas ▪ Harassment <p>Visit/interview complainant and information requested from police within 2 days</p>

7. Dealing with a complaint	
7.1	Incidents will be managed by the Lead Agency/Service depending on the incident as indicated in Appendix 2 . This will be managed in accordance with approved policies and existing powers and duties.
7.2	In the role as landlord, if the complaint relates to a Highland Council Tenant and is regarding breach of tenancy conditions, the Housing and Property Service will take the appropriate steps to manage the complaint. This may involve input from a Community Warden, a Housing Management Officer, referral for mediation or advice and guidance from an Antisocial Behaviour Investigator. This may result in the issue being resolved.
7.3	If the complaint relates to another tenure type (non Council Tenant) or is not regarding breach of tenancy conditions, the complainant will be directed to the appropriate Council service, landlord or agency in order to have their complaint investigated.
7.4	In cases where the complaint involves a dispute between two owner occupiers, the Council will provide advice and guidance, which may include referral for mediation. There is a limit to the involvement of public sector agencies in many disputes between neighbours and in many cases owner occupiers will be advised to seek their own legal advice.
7.5	The Housing and Property Service may also provide assistance in such cases through the Community Warden Service or the Antisocial Behaviour Investigator by means of advice, guidance and signposting. Referrals for mediation can be made by any Council service, Partner Agency, Housing Provider or by self referral.
7.6	Complaints may require to be handled by more than one of the Partner Agencies in order to intervene in the early stages of a potential antisocial behaviour situation. This may require joint working by more than one Agency and may result in the issue being resolved in the early stages.
7.7	If the issue cannot be resolved through any of these routes or is of a more serious nature affecting more than one Service or Agency, details will then be submitted to the Antisocial Behaviour Partnership Group for discussion and agreed action.
7.8	If people have suffered as a result of criminal behaviour, Victim Support Scotland provides a free confidential service to help people cope with the aftermath of this experience. http://www.victimsupporthighland.com/
8. Partnership Arrangements	
8.1	The Highland Council and Partner Agencies have agreed a joint protocol promoting joint working in investigating cases of antisocial behaviour and details the roles and responsibility of each Council Service, Agencies and the Anti Social Behaviour Partnership Groups.

8.2	The multi agency work referred to in The Highland Partnership Antisocial Behaviour Protocol will be overseen by the Joint Highland Community Tasking Group who have the remit in relation to the antisocial behaviour strategy and wider community safety outcomes measured against the Council's Single Outcome Agreement.
8.3	The Antisocial Behaviour Partnership Groups (Partnership Group) meet 6/8 weekly and are held in areas across the Highlands
8.4	The Area Housing and Property Manager and a member of their area team will resource and manage the business of the Partnership Group and other Council Services and Partner Agencies will attend as described in the Highland Partnership Antisocial Behaviour Protocol.
8.5	The Agencies/Services will submit details of serious and persistent antisocial behaviour cases for discussion at the Partnership Group and a course of action will be agreed following discussion between the agencies/services involved.
8.6	All available information relevant to the subject under consideration will be shared between those present, in accordance with legislation and agreed protocols. This will ensure the group is fully informed, and able to decide what action is required, by whom, and to authorise a recommended course of action, in appropriate cases.
8.7	The Partnership Group may recommend a course of action based on known information about the subject, without need for further investigation. e.g ; warning letter advising of potential ASBO application , negotiate an Acceptable Behaviour Contract (ABC), Unacceptable Behaviour Notice (UBN), engage mediation services, or use of restorative justice processes. These interventions must be justified by evidence available. This could include a referral for further investigation by the Antisocial Behaviour Investigator and or an action plan involving more than one agency whatever the tenure of the complainer and perpetrator(s).
8.8	The 'Chair' of the partnership Group, or their designated staff member, will notify the complainer/s and perpetrator of the action proposed.
8.9	Any agency represented on the Partnership Group can request an emergency case conference of the group, to address an urgent, serious or emerging issue. Arrangements for such an emergency meeting should be made in consultation with the Area Housing and Property Manager.
8.10	Urgent cases which arise between meetings will be referred to the Area Housing and Property Manager or their representative to determine what liaison is required with other agencies regarding emergency action.
8.11	The Partnership Group will review 'live' cases at each meeting until the issue has been resolved at which time the case will be closed.
8.12	The Partnership Group members will ensure that appropriate issues are highlighted through their representative on the Joint Highland Community Safety Tasking Group.

9. Antisocial Behaviour Notices	
9.1	The Antisocial Behaviour (Scotland) Act 2004 makes provision for the registration of landlords and introduces measures designed to ensure landlords tackle antisocial behaviour from tenants where it occurs. These provisions are contained in parts 7 and 8 of the Act.
9.2	Where an occupant of, or visitor to, a house let by a private landlord engages in antisocial behaviour at or in the locality of the house, the Local Authority have powers to serve an antisocial behaviour notice on the landlord.
9.3	Where a landlord is willing, the Council will work to support the landlord and complement the action the landlord is taking.
9.4	Where the landlord is not willing to take action or is not co-operating with the Council in tackling and reducing antisocial behaviour, the Council, as a last resort, may serve an Antisocial Behaviour Notice (ABN) on the landlord.
9.5	Such cases will be discussed by the Partnership Group and if appropriate it will provide a report to the Registration Review Panel who will consider whether further action is needed. This could include the serving of an ABN, a rent penalty notice or even in extreme cases a Management Control Order.
9.6	The Registration Review Panel has delegated authority to serve antisocial behaviour notices where appropriate. Referrals to the Registration Review Panel will be made to the Head of Housing.
9.7	The Head of Housing will convene a meeting of the Registration Review Panel to consider whether further action is needed.
10. Legal Actions	
10.1	If a complaint cannot be satisfactorily resolved legal action will be considered where appropriate. In such cases the evidence gathered will be passed to Legal Services for their consideration and advice. All possible legal measures will be considered, subject to the level of evidence required being available. At all times the use of Antisocial Behaviour Orders and eviction will be considered only as a last resort where other appropriate forms of action have been tried.
10.2	The Council will actively seek to use legal measures where appropriate in order to ensure that all types of antisocial behaviour are kept to an absolute minimum. Anti Social Behaviour Orders which can apply to all tenures are described in Section 11 of this Policy.
10.3	In cases where legal actions are being pursued, the decision will be that of the Sheriff, based on evidence heard in relation to the case, regardless of the recommendations made by the Partnership Group.

11. Anti Social Behaviour Orders (ASBOs)

11.1	The Antisocial Behaviour Scotland Act 2004 allows the Council and Registered Social Landlords to apply to the sheriff for an ASBO to protect persons in the Council's own area. Where the case refers to the tenant of a social landlord, the landlord must ensure that appropriate investigation of complaints is carried out to enable consideration of any appropriate course of action to deal with specific complaints. All registered social landlords are required to have a policy in place for dealing with anti social behaviour.
11.2	An ASBO can be applied for where a person has acted in an antisocial manner (i.e. causes alarm or distress to one or more people not in the same household as himself) or pursued a course of anti social conduct, defined as involving conduct on at least two occasions.
11.3	All applications for an ASBO will be discussed at the Partnership Group. The decision to apply for an ASBO will be taken by the Partnership Group through consultation with the Council's Legal Services, relevant Council Services and Northern Constabulary. This decision will also encompass the terms of the order to be sought and its duration.
11.4	Registered Social Landlords will coordinate the approach to ASBOs relating to people residing in or likely to be in property managed by them or a person likely to be in the vicinity of a property managed by them. In doing so the landlord will work closely with Council Services and Partner Agencies. The role and responsibilities of Services in relation to the enforcement of other legislation will continue.
11.5	The Council is required to maintain statistics in relation to ASBOs in their Council area, therefore Registered Social Landlords will inform the Area Housing and Property Manager of any ASBOs granted relating to their tenancies.
11.6	The Housing and Property Service will take the lead in co-ordinating the approach to ASBOs in relation to all other applications for a person within the Council area. In doing so, it will work closely with other Council Services, and Partner Agencies. The role and responsibilities of Services in relation to the enforcement of other legislation will continue.
11.7	The Council will only consider applications for ASBOs where it can be demonstrated that all other appropriate courses of action have been considered, pursued and failed.
11.8	The Council will not apply for an ASBO where it considers that there is insufficient evidence to support it, or where it decides that the behaviour is not serious enough, or of the character, to warrant an ASBO application.
11.9	Where an ASBO application is being considered by the Council, the Area Housing and Property Manager will write to the person against whom the order would be sought to advise them of this. The letter should also offer a meeting to discuss the matter and advise them to seek legal advice from a solicitor or citizen's advice bureau.

11.10	The Area Housing and Property Manager will keep the complainer, the police and anyone else affected by the anti social behaviour informed of what action is being taken throughout the process.
11.11	Once an order is made by the Court, the Area Housing and Property Manager will inform the complainer and anyone else likely to be affected by a breach of the order. The Area Housing and Property Manager in consultation with other Council Services, Northern Constabulary and other housing providers, where appropriate, will assess and review the effect that the order is having on a quarterly basis. At least once per year the Council in consultation with Northern Constabulary and other housing providers, where appropriate, will consider whether an order can be varied or revoked. The decision on this will be recorded.
11.12	If an individual against whom an order has been made moves to another local authority area, the Area Housing and Property Manager will inform that authority that an ASBO was granted against the individual.
12. Eviction	
12.1	The Housing (Scotland) Act 2001 and the Highland Council tenancy agreement gives powers to recover tenancies where a person connected to the tenancy has engaged in incidents of persistent antisocial behaviour or where a person connected to the tenancy has been convicted of using the house or allowing it to be used for immoral or illegal purposes; or of an offence punishable by imprisonment committed in, or in the locality of the house.
12.2	The Highland Council takes seriously the issues described in 12.1 and will seek to recover a tenancy if the conditions have been breached
12.3	In cases where eviction is being considered on the grounds of antisocial behaviour it will be discussed at the Partnership Group taking account of the individual circumstances and the future multi agency arrangements for managing the household.
12.4	In cases where recovery action is being considered the Housing and Property/Social Work Services Eviction Protocol will also be followed.
13. Review	
13.1	This Policy will be reviewed in November 2012
13.2	An annual monitoring report on trends in antisocial behaviour will be presented to the Housing and Social Work Committee.

Appendix 1 LEGAL MEASURES

NOISE

Police powers

The police can use common law powers (breach of the peace) against a person making excessive noise. Additionally, under section 54 of the Civic Government (Scotland) Act 1982, as amended by section 24 of the Crime and Disorder Act 1998, the police have powers to confiscate sound equipment immediately for up to 28 days if a person fails to stop the noise on being asked to do so by a police officer. The owner can ask for the equipment to be returned to him, but will have to pay whatever charge the police consider reasonable to cover their costs. Courts in Scotland also have the power to order forfeiture of such equipment.

Under sections 80 and 81 of the Environmental Protection Act 1990 local authorities have a duty to deal with any noise which they consider to be a statutory nuisance. Section 79 of the 1990 Act lists various statutory nuisances, including noise. The Council may send an environmental health officer to visit a house and record noise levels to determine whether a statutory nuisance exists. If the officer concludes the noise is indeed a nuisance, he can take action immediately. If the noise is intermittent, the officer may ask that a diary is kept of the days and times of the noise, or alternatively leave equipment to record it. The officer may measure the noise in investigating the complaint. There is no specific level at which noise becomes a statutory nuisance - the environmental health officer must decide if the law is being breached according to the specific circumstances.

The local authority may try to solve the problem informally - by persuading the person making the noise to stop. If this fails, and they are satisfied that the noise amounts to a statutory nuisance, they must, under section 80(1) of the 1990 Act, serve an abatement notice on the person responsible. The notice may require the noise to be stopped completely, reduced, or limited to certain times of the day. A person on whom an abatement notice has been served can appeal within 21 days. If a person on whom an abatement notice has been served fails, without reasonable excuse, to comply with the notice, he may be prosecuted in the Sheriff Court (section 80(4) of the 1990 Act). Conviction may result in a maximum fine of £5,000, plus a daily fine of £500 for each day on which the offence continues after conviction. The Local Authority also has the option of offering a fixed penalty notice to those who they believe have committed an offence and where an abatement notice has not been complied with.

Taking independent action through the courts

If the local authority does not take action, an individual can take the complaint directly to the Sheriff Court under section 82 of the Environmental Protection Act 1990. The court will need to be persuaded that the noise problem constitutes a statutory nuisance.

DOG FOULING, PETS AND ANIMALS

Dogs and other animals are often the subject of complaint in neighbour nuisance cases.

Dog Fouling (Scotland) Act 2003

The Act makes it an offence for a person in charge of a dog, who, after allowing that dog to foul, fails to clear away and dispose of the excrement appropriately. The Act applies to all public places, including common passages, closes, courts, stairs, back greens and other similar areas subject to a number of specified exceptions. Dog fouling is made an offence in respect of which the evidence of only one witness is sufficient.

Authorised local authority officers and police constables have the power to issue fixed penalty notices to any person who is suspected on reasonable grounds of committing an offence under the

Act. When a fixed penalty notice has been issued criminal proceedings can be brought against the suspected offender unless he or she requests a hearing within 28 days of the notice being issued or the notice is withdrawn. The Act provides that failure either to pay a fixed penalty notice or to request a hearing within the 28 day period will result in the fixed penalty being increased by 50% and being enforceable as if it were a court decree.

Civic Government (Scotland) Act 1982

Section 49: this provides that any person who suffers or permits any creature in his charge to cause danger or injury to any other person who is in a public place or to give such a person reasonable cause for alarm or annoyance shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 2 (currently £500).

Section 49 also provides that a district court, if satisfied that any creature kept in this vicinity of any place where a person resides is giving that person reasonable cause for annoyance, may make an order requiring the person keeping the creature to take, within such period as may be specified in the order, such steps (short of destruction of the creature) to prevent the continuance of the annoyance as may be so specified. Any person who fails to comply with the order is guilty of an offence and liable to a fine not exceeding level 3 (currently £1,000).

Dangerous Dogs Act 1989 and 1991

The Dangerous Dogs Acts 1989 and 1991, allow the police to take action against the owners of dangerous dogs not complying with the Act.

Other Animals

Under section 49(2) of the Civic Government (Scotland) Act 1982 a district court may make an order to control (but not destroy) any creature where that creature is giving a neighbouring resident 'reasonable cause for annoyance'. 'Any person' can apply for such an order, but this will not include a local authority acting either as a public health authority or on behalf of neighbouring residents.

HOUSING

Housing (Scotland) Act 1987 - Section 320: this provides that anyone who wilfully, or by culpable negligence, damages a house or any appurtenances of a house shall be guilty of an offence, liable on summary conviction to a fine without prejudice to any remedy for recovery of the amount of the damage.

Housing (Scotland) Act 2001 - sections 14-22

These sections provide for recovery of possession of a house let on a secure tenancy, with grounds 2, 7 and 8 of Schedule 2 to that Act being most relevant to behaviour which is anti-social.

Ground 2 allows for the possession of a house where the tenant, a person residing or lodging in the house with the tenant, or a person visiting the house has been convicted of using the house or allowing it to be used for immoral or illegal purposes; or of an offence punishable by imprisonment committed in, or in the locality of the house. By way of example a landlord could seek recovery of possession in the event that a tenant is convicted of or is found to have allowed the house to be used for the supply of drugs.

Ground 7 allows for the possession of a house on the ground that the tenant, a person residing or lodging in the house with the tenant, or a person visiting the house has acted in an anti-social manner. "Anti-social" is defined as meaning, in relation to an action or course of conduct, "causing

or likely to cause alarm, distress, nuisance or annoyance". It also provides that "conduct" includes speech and a course of conduct must involve conduct on at least two occasions.

Ground 8 allows for possession where the tenant or any person residing or lodging in the house with the tenant has been guilty of conduct in or in the vicinity of the house which is a nuisance or annoyance, or has pursued a course of conduct amounting to harassment of a person residing in, visiting or otherwise engaged in lawful activity in the locality.

Anti-social behaviour orders

This is an order which can be applied for by a local authority or registered social landlord in consultation with the police against an individual whose behaviour is anti-social (i.e. causes alarm or distress to one or more people not in the same household as himself). The order will prohibit the person from doing whatever is considered necessary to protect people in the area from further anti-social acts by the person.

Applications can be made by the local authority against owner-occupiers; private sector tenants; and tenants of public sector landlords, including local authorities. Orders can only be made against those aged 12 or over.

Applications will be made to the sheriff court acting in its civil capacity. The Sheriff may make an order on an interim basis pending a final disposal.

Breach of an order without reasonable excuse is a criminal offence with a maximum penalty on indictment of five years in prison

By-laws for regulation of local authority's houses

Section 18 of the Housing (Scotland) Act 1987 : A local authority may make by-laws for the management, use and regulation of houses held by them for housing purposes. These could be used to tackle nuisance and anti-social behaviour.

Conversion to Short Scottish Secure tenancy

Housing (Scotland) Act 2001 Section 35 : This section allows a landlord to serve notice upon a secure tenant with the effect of converting the tenancy to a short Scottish secure tenancy. The landlord may only serve a notice where the tenant (or any one of joint tenants) or a person residing or lodging with, or subtenant of, the tenant is subject to an anti-social behaviour order. A tenant who is aggrieved by the conversion may raise proceedings by summary application.

PUBLIC NUISANCE AND DRUNKENNESS

Civic Government (Scotland) Act 1982 Section 47: this provides that any person who urinates or defecates in circumstances so as to cause, or be likely to cause, annoyance to any other person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 2 (currently £500).

Section 50: this provides that any person who is, while not in the care of a suitable person, in a public place, drunk and incapable of taking care of himself shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 (currently £500).

It also provides that any person who is drunk in a public place while in charge of a child under the age of 10 or while in possession of a firearm (including a crossbow, air gun, air rifle or air pistol) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 (currently £500).

Protection from Harassment Act 1997 Sections 8-11 : this gives individuals the right to be free from harassment and allows them to bring an action of harassment in the civil courts. Remedies available are:

- Interdict (or interim interdict)
- Non-harassment Order
- Damages (including for any anxiety or financial loss)

A Non-harassment Order can also be made in the criminal court where a person is convicted of an offence involving harassment.

Breach of a Non-harassment Order made either by a civil or criminal court in Scotland would be a criminal offence punishable on indictment by imprisonment for up to 5 years and/or an unlimited fine, or summarily by up to 6 months' imprisonment and/or up to a £5,000 fine

Public Order Act 1986

Section 18 of the Act provides that the use of words or behaviour or display of written material intended to stir up racial hatred is an offence. This is an arrestable offence with a maximum prison term of six months and/or a fine of £5,000. The Act also gives the police powers to tackle criminal damage, including offensive graffiti.

COMMON LAW

Under common law almost all offences which cause public disturbance are a breach of the peace and the police should be involved.

Intimidation: Scots common law recognises an offence of making "criminal threats", which may be charged where serious injury is threatened. In other circumstances, intimidatory behaviour may be charged as a breach of the peace. The penalty for a common law crime is only restricted by the sentencing powers of the court in which the case is tried. For example, a sheriff sitting with a jury may impose up to 3 years imprisonment and/or an unlimited fine.

Harassment: Harassment may be charged as a breach of the peace in Scotland, since breach of the peace is defined as behaviour likely to cause alarm or annoyance to the public. Breach of the peace is a common law crime, the maximum penalty is only limited by the sentencing powers of the court in which the case is tried.

Interdict: This is a remedy, obtained by an order of the civil court, to prevent wrong, harm or injury being done to a person or his or her property. It also would be available where a person anticipates that wrong, harm etc may be done to him or her or to his or her property. The conduct on which the complaint is based must amount to some appreciable wrong, harm or injury (not necessarily physical injury). Reasonable grounds for fearing such conduct is sufficient. If the court grants interdict, it must state precisely what acts it is designed to prevent. Interdict may be obtained on an interim basis to preserve affairs in their existing state pending a decision of the court. The

remedy is not available if some statutory remedy, which would achieve the desired end, is available.

Racially aggravated offences

Sections 33 and 96 of the Act introduce a new offence of racially aggravated harassment and provide an obligation for the court to take account of any established racial motivation in any offence as an aggravation when determining the appropriate sentence.

A person is guilty of racially-aggravated harassment if he-
follows a racially-aggravated course of conduct which amounts to harassment, either intended or where it would appear to a reasonable person that it would amount to harassment, or
acts in a manner which is racially aggravated and which causes or is intended to cause alarm and distress.

A course of conduct is defined as being racially aggravated if it is-
one motivated by racial hostility; or if
racial hostility was demonstrated towards the victim either at the time of committing the offence, or immediately before or after.

It covers cases where a person is attacked because of his relationship with a member of a racial group. Racial group is defined as a "group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins."

The maximum penalty for racial harassment is six months' imprisonment or a fine not exceeding the statutory maximum or both on summary conviction, and on indictment, seven years' imprisonment or a fine or both.

Appendix 2 Defining and referring issues of antisocial behaviour

Any definition of antisocial behaviour needs to be flexible and recognise that behaviour which is merely different may not be antisocial.

The Antisocial Behaviour Etc (Scotland) Act 2004 provides the following definition;

"A person engages in antisocial behaviour 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 to at least one person not of the same household as them"

The Act further states that: "conduct" includes speech; "a course of conduct" must involve conduct on at least two occasions; "likely to cause" has the effect that someone other than a victim of the antisocial behaviour can give evidence of its occurrence. This is intended specifically to enable the use of professionals as witnesses where those targeted by antisocial behaviour feel unable to come forward, for example, for fear of reprisal or intimidation. This list is not exhaustive and includes behaviour which may be or may contribute to antisocial behaviour. Individual perception of what constitutes antisocial behaviour will differ. Tolerance and awareness of other individuals' circumstances and problems is important. The underlying causes of antisocial behaviour are complex, however, it is crucial that where it occurs, antisocial behaviour is identified and addressed.

Nature of problem	Lead Agency/Service
Neighbour disputes e.g. noise, children's behaviour, parking, pets, lifestyle clashes	Anyone living in the Highland Council area can self refer to Highland Community Mediation to discuss issues and look at options available. If tenant of a Registered Social Landlord or the Council is involved and you feel formal action may be required– complaint should be made to the respective Landlord If not tenant of above – consult with Citizens Advice Bureau or a Solicitor of choice as an independent civil matter
Boundary disputes	Anyone living in the Highland Council area can self refer to Highland Community Mediation to discuss issues and look at options available. If tenant of a Registered Social Landlord or the Council is involved and you feel formal action may be required– complaint should be made to the respective Landlord If not tenant of above or the dispute does not involve land owned by either the Council or other landlords – consult with Citizens Advice Bureau or a Solicitor of choice as an independent civil matter
Untidy or unsafe property	Landlord/owner Private Rented Housing Panel http://www.prhpscotland.gov.uk/prhp/1.html
Houses of Multiple Occupancy licensing	Chief Executive's Service, Licensing Section - Administration of licenses TECS Environmental Health Officer – Enforcement & Inspection of HMO Licenses
Registration of Private Landlords	Chief Executive's Service, Licensing Section – Administration of registration applications Registration Panel - Consideration of applications where there is doubt if the applicants is a 'fit and proper person' to act as a landlord Registration Review Panel – Consider appeal cases and cases where action is required regarding persistent issues of antisocial behaviour by tenants of a registered landlord
Any form of harassment and or intimidating behaviour	Northern Constabulary
Behaviour that causes alarm	Northern Constabulary If the behaviour is as a result of alcohol or drug misuse, referral may be made to the NHS and or the Community Mental Health Service
Vandalism and graffiti	Northern Constabulary TECS Education & Enforcement Officer
Littering and fly-tipping	TECS Education & Enforcement Officer
Abandoned vehicles	TECS Education & Enforcement Officer
Dog fouling	TECS Education & Enforcement Officer
Animal Welfare	TECS Animal Health & Welfare Officer
Noise nuisance	Northern Constabulary, TECS Environmental Health Officer, landlord/owner
Fire setting/raising hoax fire calls	Northern Constabulary/Fire Service
Antisocial use of vehicles	Northern Constabulary