



**The Highland Council
Draft Antisocial Behaviour Policy**

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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 definitions of antisocial behaviour. However it must be noted that in some cases differing lifestyles may cause clashes and conflict between neighbours. 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.
1.4	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.
1.5	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 and Partner Agencies 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 remedies are considered in instances of

	serious and persistent antisocial behaviour.
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 ensure that everyone receives equal opportunities in delivery of our services, by treating individuals fairly and being sensitive to the different beliefs, outlooks, circumstances and backgrounds of others, whilst meeting the diverse needs of the highland communities.
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 agreed categories are set out below:

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 involvement of the police is necessary e.g;</p> <ul style="list-style-type: none"> ▪ violence towards another person ▪ threatening behaviour ▪ drug dealing ▪ Vandalism/damage to common areas ▪ Harassment

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 detected, 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	Social housing providers in the Highlands recognise 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	Social housing providers undertake checks in the early stages of a housing application 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.
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 involvement of the police is necessary 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 contact police within 2 days</p>

7. Dealing with a complaint

7.1	<p>Incidents will be managed by the Lead Agency/Service depending on the incident as indicated in the Highland Partnership Antisocial Behaviour Protocol. This will be managed in accordance with approved policies and existing powers and duties.</p>
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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.
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. <i>e.g</i> ; warning letter advising of potential ASBO application , negotiate an Acceptable Behaviour Contract, or engage mediation services. 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.
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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 remedies 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 remedies 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, regardless of the recommendations of the Partnership Group, the decision will be that of the Sheriff, based on evidence heard in relation to the case.

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
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	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 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.