

Bridgewater Housing Association Ltd Policy

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Neighbour Disputes and Antisocial Behaviour

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1.0 Introduction

- 1.1 Where people live close together, there is always the potential for friction and disputes. Clashes of lifestyles can occur where, for example, people have different age groups or cultural backgrounds, or have different working or sleeping patterns. These 'differences' can easily give rise to arguments and lead to neighbour disputes and antisocial behaviour, which can range from fairly minor problems such as litter and garden maintenance to more serious issues such as noise, damage to property and crime.
- 1.2 Public perception is that instances of neighbour disputes and antisocial behaviour are on the increase and people's expectations of their landlords are high. Landlords are expected to be accountable, responsible and responsive to tenants and the wider community.
- 1.3 The Scottish Housing Regulator's Activity Standard AS1.9 requires us to demonstrate that:
'we deal appropriately with antisocial behaviour. Where appropriate, we work in partnership with others to manage such behaviour'.
- 1.4 The purpose of this document is to set out the Associations' Policy on Neighbour Disputes and Antisocial Behaviour and to provide guidance to staff on the policy and procedures to be followed when dealing with such complaints.
- 1.5 As Renfrewshire Council accepts referrals from the Association for its Antisocial Investigations Team (ASIST) and mediation services, this document pulls on the good practice contained within the Council's procedure manual for housing staff investigating neighbour disputes.

2.0 Objectives

- 2.1 Bridgewater Housing Association will take positive and decisive action to deal with cases of anti-social behaviour which prove detrimental to our tenants' rights to the peaceful enjoyment of their homes. This applies equally to owner occupiers who may be affected by antisocial behaviour from Association tenants.

We will deal with anti-social behaviour by:

- listening and acting on concerns
- investigating all incidents of antisocial behaviour
- working in partnership with tenants, the police, Renfrewshire Council's Antisocial Investigations Team (ASIST), mediation services, Social Work Department and other organisations
- taking any necessary action against the perpetrator(s).
- following good practice.

3.0 Legislation

- 3.1 The Association requires to comply with all relevant legislation. The main pieces of legislation which affect how we deal with antisocial behaviour are:

- The Housing (Scotland) Act 2001 - places duties and responsibilities on Registered Social Landlords (RSLs) in dealing with instances of neighbour disputes and antisocial behaviour. In addition, tenants' responsibilities are clearly defined within the terms of the Scottish Secure Tenancy Agreement with regards to antisocial behaviour and respect for others.
- The Antisocial Behaviour (Scotland) Act 2004 - set up a framework and a range of measures that can be used to tackle the blight of persistent antisocial behaviour. These include:
 - Antisocial Behaviour Orders
 - Dispersal of Groups
 - Closure of Premises
 - Noise Nuisance
 - The Environment – littering, fly tipping, abandoning vehicles and graffiti
 - Antisocial Behaviour Notices (covering the private rented sector)
 - Registration of certain landlords (covering the private rented sector)
 - Parenting Orders
 - Further criminal measures – including making it a criminal offence to sell spray paint to children under the age of 16.
 - Fixed Penalties – for low level or minor offences
 - Children's Hearings – additional powers.
- The Crime and Disorder Act 1998 – introduced Antisocial Behaviour Orders (ASBOs)
- The Criminal Justice (Scotland) Act 2003 – extended the ability to apply for ASBOs to registered social landlords.
- The Race Relations Act 1976 & Race Relations (Amendment) Act 2000 – 1976 Act makes it unlawful to discriminate, both directly and indirectly, on grounds of race, colour, nationality, ethnic or national origins. 2000 Act places a general duty on public bodies that 'perform functions of a public nature' to promote race equality.
- Dangerous Dogs Acts 1989 and 1991 - allow action to be taken against the owners of dangerous dogs.

The Association will require to work with other statutory agencies such as the Police and Environmental Services as such agencies can assist in enforcing powers against criminal activities.

4.0 Definition

4.1 Section 3 of the Scottish Secure Tenancy Agreement is entitled 'Respect for Others' and stipulates the tenant's obligations. Paragraph 3.1 states:

'You, those living with you, and your visitors, must not harass or act in an anti-social manner to, or pursue a course of conduct against, any person in the neighbourhood. Such people include residents, visitors, our employees, members of our Governing Body, agents and contractors and those in your house'

Paragraph 3.6 confirms that:

'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'.

4.2 Within the terms of the Scottish Secure Tenancy Agreement (paragraph 3.2):

'Anti-social' 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.

Anti-social behaviour can be defined as behaviour which affects a person's quality of life and the peaceful enjoyment of their home and which in Bridgewater Housing Association's opinion constitutes anti-social behaviour.

4.3 There are a wide range of issues which can be classified as neighbour disputes and anti-social behaviour and these are listed in Section 8 below. These can include activities such as excessive noise; failure to control pets properly; and leaving rubbish in unauthorised places. More serious forms of behaviour can include racial and other harassment; threatened or actual violence; the use or carrying of offensive weapons; and the use or selling of unlawful drugs.

5.0 Renfrewshire Antisocial Behaviour Strategy

5.1 Under the Antisocial Behaviour etc. (Scotland) Act 2004, every local authority, together with the relevant chief constable, must prepare, publish and review a strategy for dealing with antisocial behaviour in their council area.

The strategy will set out:

- Antisocial behaviour problems in the council area;
- The service already available for preventing and tackling them (including for people under 16, victims and witnesses of antisocial behaviour, and people who need mediation to help solve disagreements between neighbours);
- The new services that the council and other agencies will need to put in place to fill any gaps in services; and
- How the council and the police will co-ordinate their work and exchange information.

5.2 In preparing their strategies, local authorities must consult the principal reporter to the children's panel, registered social landlords (RSLs) and groups representing people affected by antisocial behaviour. Bridgewater, along with our partners in the Federation of Local Associations in Renfrewshire (FLAIR) was consulted on the draft strategy prior to the publication of the Council's 2005-2008 Strategy.

5.3 Renfrewshire Community Planning Partnership is developing a new community plan to cover the period 2008-2017. The Safer Renfrewshire Strategy will deliver the Safer and Stronger outcomes within the Plan, and support the delivery outcomes contained within the Single Outcome Agreement.

- 5.4 The range of antisocial behaviour initiatives and services provided by the Council and other partner agencies reflect a four pronged approach consisting of:
- Prevention
 - Early intervention and diversion
 - Enforcement
 - Rehabilitation and support.

6.0 Prevention

The Association acknowledges the importance to taking steps to prevent antisocial behaviour from taking place. Consequently this policy links to other policies such as allocations, estate management, void management and pets.

In addition, we strive to maintain our properties, as far as practicable, to standards that minimise the impact of antisocial behaviour on residents through our on-going major component replacement improvement (MCRP), and through involvement in wider action activities such home security projects.

As noted at 4.0 above, our SST contains terms which refer to antisocial behaviour.

6.1 Pre-tenancy Advice and Assistance

The Association recognises the importance of communicating effectively with housing applicants and prospective new tenants, offering pre-tenancy advice and assistance. In addition, it is important to be aware of an applicant's history of antisocial behaviour when processing applications for housing.

Housing Applicants

Our Housing Application Form includes a declaration about antisocial behaviour. This requires applicants to disclose whether they or anyone moving with them have been subject to any action relating to antisocial behaviour.

Our Allocations Sub Policy on Suspension states that an application for housing may be suspended where:

'An applicant is in serious breach of his/her tenancy agreement. 'Anti-social' behaviour and harassment are as defined in the tenancy agreement and in assessing whether to suspend such applicants we will take account of the nature, frequency and duration of the conduct; the extent to which the conduct is the consequence of acts or omissions of people other than the tenant; the effect which the conduct is having on other people; and any other action taken by the landlord to address the conduct.

An applicant has previously been evicted for antisocial behaviour or has had a decree or an Anti Social Behaviour Order (ASBO) granted against him/her in relation to a tenancy in the last three years. In such cases, we will seek clear evidence, such as Police reports, on current or recent behaviour in order to determine whether the suspension should be lifted'.

Prospective New Tenants

Where an applicant has been selected for housing, a pre allocation visit will normally be carried out. Part of the purpose of the visit will be to discuss tenancy responsibilities with the prospective tenant.

Where applicable, references will be requested for current/former landlords in order to determine if the applicant has been in breach of his/her tenancy agreement; the nature, frequency and duration of the conduct; if the applicant or an other person was responsible; and if the applicant has previously been evicted for antisocial behaviour or a decree or an Antisocial Behaviour Order (ASBO) granted against him/her in the last 3 years.

6.2 Signing Up Interview

Where an applicant has accepted an offer of housing, a signing up interview will take place in the Association's office. At the interview:

- The terms of the tenancy will be explained on a clause by clause basis.
- Joint tenants will be advised that they are responsible individually as well as jointly

6.3 Tenancy Agreement

We may grant a Short Scottish Secure Tenancy if an applicant has been evicted for anti-social behaviour in the last three years. A Short Scottish Secure Tenancy under these circumstances:

- Will be for at least six months (or a year); and
- Must be provided with support.

6.4 New Tenancy Visit

The Housing Officer will visit the new tenant within six weeks of the start of the tenancy. The conduct of the tenancy will be one of the topics discussed. Where any complaints of antisocial have been received, they will be dealt with in accordance with this policy.

7.0 Receipt of Complaints

7.1 Housing Assistants have responsibility for dealing with nuisance cases, other breaches of tenancy and youth disorder. Housing Officers have responsibility for dealing with all aspects of an antisocial complaints. The Housing Services Manager will only get involved in exceptional circumstances. Where a complaint about antisocial behaviour or a neighbour dispute is received at the office, it must immediately be forwarded to the Housing Assistant/Officer. The complaint may be received:

- verbally
- in writing
- by e-mail
- by the observation of a member of staff
- through a third party, for example, the Police or Renfrewshire Nuisance Helpline.

7.2 Anonymous complaints should be accepted and recorded. Staff must use discretion and judgement in deciding whether anonymous information warrants further investigation. One advantage of using anonymous information is that it may help identify a

problem at an early stage, or may help to corroborate information provided from other sources.

7.3 Complaints which do not require an immediate response should be acknowledged in writing within 3 working days with the complainant advised of the likely timescale for investigation. This letter can often take the form of arranging an interview or merely an acknowledgement of a complaint.

7.4 Complaints received from visitors to the office will be dealt with by the Housing Assistant/Officer, who will assess the seriousness of the complaint and take appropriate action. All complaints received in writing will also be assessed by the Housing Assistant/Officer. This assessment will determine the seriousness of cases prior to any action. When assessed, complaints will fall into one of the undernoted four categories and handled accordingly.

8.0 Category of Complaints and Timescales

8.1 Category A – Serious Antisocial Behaviour

This category will include cases such as drug dealing, assault, sex offences, harassment and violence towards neighbours. Racial Harassment would also fall into this category.

Time-scales

There should be an immediate response to complaints in this category

| | |
|-----------------------------|---------------|
| Visit/interview complainant | 1 working day |
| Visit witnesses/neighbours | 1 working day |
| Visit alleged offender | 1 working day |
| Liaise with other agencies | 1 working day |
| Case assessment | 1 working day |

Category B – Antisocial Behaviour

This will include cases of frequent disturbances, excessive noise, nuisance as a result of alcohol or drug abuse and clashes of lifestyle.

Time-scales

| | |
|-----------------------------|----------------|
| Visit/interview complainant | 2 working days |
| Visit witnesses/neighbours | 2 working days |
| Visit alleged offender | 3 working days |
| Liaise with other agencies | 4 working days |
| Case assessment | 5 working days |

Category C – Nuisance Cases

This will include infrequent disturbances, running a business and vandalism.

Time-scales

| | |
|-----------------------------|----------------|
| Visit/interview complainant | 3 working days |
| Visit witnesses/neighbours | 5 working days |
| Visit alleged offender | 5 working days |

| | |
|----------------------------|----------------|
| Liaise with other agencies | 5 working days |
| Case assessment | 7 working days |

Category D – Other Breaches Of Tenancy

This category will cover basic breaches of the Tenancy Agreement and will include complaints about stair cleaning, garden upkeep and litter. With such cases it may not always be necessary to interview the complainant or witnesses.

Time-scales

| | |
|-----------------------------|----------------|
| Visit/interview complainant | 5 working days |
| Visit witnesses/neighbours | 5 working days |
| Visit alleged offender | 5 working days |
| Liaise with other agencies | 7 working days |
| Case assessment | 9 working days |

Category Y – Youth Disorder

This will include complaints of youth disorder which are not covered under the other categories as a neighbour dispute.

Time-scales

| | |
|-----------------------------|----------------|
| Visit/interview complainant | 3 working days |
| Visit witnesses/neighbours | 5 working days |
| Pass case to ASIST | 7 working days |
| Visit alleged offender | ASIST |
| Liaise with other agencies | ASIST |
| Case assessment | ASIST |

- 8.2 The person who lodges a complaint must be kept informed at all stages of the action taken.
- 8.3 Cases in category B, C and D will be closed where no complaints have been received within a 12 week period, and a letter will be sent to the complainant confirming this.

8.4 Case Monitoring

It is important for the Association to maintain an accurate register of neighbour complaints and antisocial behaviour. This is to allow us to easily identify the number of cases received; the category they fall into; and whether the response times are being met. The Housing Assistants/Officers will complete a Monthly Complaint Reporting Form (**appendix 1**) to record the number of complaints received. This will assist in the completion of the Key Performance Indicators Report and with other statistical requirements. Regular review meetings will be held with the Housing Services Manager to evaluate the Housing Assistants'/Officers' handling of their case load.

9.0 Multi Agency Working

9.1 Households involved in antisocial behaviour may have complex social and support needs. For certain complaints it will be necessary to work with other agencies to tackle antisocial behaviour. Staff will form links with named officers in other organisations who can be contacted either to discuss a case and obtain advice from, or to request action by another agency. The agencies with which it will most often be appropriate to liaise with are:

- the Police, particularly in cases involving violence and drug dealing
- Renfrewshire Council Environmental Services which have responsible for dealing with noise control and situations which pose a health hazard such as the accumulation of rubbish and problems caused by animals.
- Renfrewshire Council Social Work Departments in cases where children or older people are thought to be at risk, or if there are problems due to people suffering or recovering from mental health, drug abuse or alcohol problems.
- Renfrewshire Council's Anti-Social Investigation's Team (ASIST) for investigation and resolution of serious cases and for mediation services.

9.2 A close working relationship with the Police can be mutually beneficial particularly where crime is a problem and can provide a formal mechanism to ensure that there is regular liaison, co-operation, dialogue and exchange of information. The Association already has in operation an agreement with the Police on the disclosure of criminal conviction information.

9.3 Renfrewshire Council has obtained Building Strong Safe and Attractive Communities (BSSAC) funding for 2004/08, to enable the Council to provide support to residents from all tenures. This support continues to include:

- The Antisocial Investigations Team (ASIST) - the team can provide support to the Association in compiling cases to court action stage, for example, for Antisocial Behaviour Orders, and staff members can attend court as professional witnesses. The team includes a Youth Worker who deals with children under the age of sixteen.
- Mediation Service – early intervention from trained mediators providing practical and realistic support. This can only be used when legal action has not been instructed. The 'Buddy System' entails us having a dedicated Mediation Officer who will meet with the Housing Assistants/Officers on a regular basis and provide advice on cases suitable for mediation.
- Nuisance Helpline – a freephone helpline open daily.
- Neighbourhood Warden Service (Community Wardens) – which operates on ad hoc basis within the Erskine area.

A representative from ASIST attends the Federation of Local Associations in Renfrewshire (FLAIR) Housing Managers Meeting every two months and provides statistics on referrals for the current and preceding month.

9.4 The Scottish Executive provides a free, national telephone and e-mail Advice Line which provides practical advice and assistance to antisocial behaviour practitioners across Scotland.

9.5 A range of legal powers which can be used to deal with neighbour nuisance and antisocial behaviour are available to other agencies. Details are provided at **Appendix 2** on the powers available to other agencies to deal with some of the common nuisances.

10.0 Supported Housing

10.1 Where a complaint is received about a tenant in supported housing - sheltered, extra care, HMO or general needs tenants supported in the community – staff will follow the procedure outlined in this policy.

10.2 In all cases, staff will liaise with development staff, next of kin or advocate, support workers and other appropriate agencies to support the tenant in resolving the behaviour.

10.3 The Association acknowledges that in some cases, antisocial behaviour may be the result of increasing age and mental frailty, and consequently staff will deal with such cases in a sympathetic manner. Alternative housing and housing support/care solutions may be considered in conjunction with Social Work Department, to better meet the needs of the tenant.

10.4 In cases where a supported tenant refuses to engage with support workers, staff will seek advice, support and intervention from Social Work Department. Where it becomes clear that the tenant's mental health is deteriorating, and that the tenant or others may be at risk, additional intervention will be sought from the tenant's GP (if known), Police and other relevant parties. Advice will be sought from the Association's solicitor should a decision be taken to repossess the tenancy.

11.0 Follow-up Action

11.1 Neighbour complaints can cover a wide range of issues but the majority will be about minor problems. A small number of complaints could, however, develop into a serious problem if they are not or cannot be resolved at an early stage.

11.2 Those who lodge a complaint should be asked if they have spoken to the offending tenant in an attempt to resolve the problem. It should be explained to the complainant that some problems are better dealt with amicably and without the involvement of the landlord. This approach will not, however, be appropriate in all cases and will depend on the nature of the complaint.

11.3 All complaints must be recorded on the Case Report which is provided at **appendix 3**. The Case Report is intended as a checklist for staff which will also help provide a brief summary of the stage a complaint has reached.

11.4 Before interviewing the tenant who is making the complaint the Housing Assistant/Officer must research the house files both of the tenant complaining and of the person they are complaining about. It is useful to check house files as this can often identify whether there is a history of similar complaints involving the persons concerned and provide details on the nature of any previous complaints. Colleagues may also be able to provide details on previous complaints.

- 11.5 Where it is necessary to interview the complainant this must be carried out within the appropriate timescale indicated at section 8 above. During the interview with the complainant the Interview Report supplied at **appendix 4** should be completed. It is important to try and obtain as much information as possible from the interview in an attempt to get a clear understanding of what happened. The Housing Officer must try and get an accurate picture of what happened by finding out and recording all relevant circumstances including what day it happened, what time, how often and who caused the problems. In addition try and establish if there are any witnesses who can substantiate the complaint. If the Police attended try and find out from the complainant the name of the Police Officer(s) concerned.
- 11.6 A Diary Note form is provided at **appendix 5** which can be supplied to complainants for the purpose of recording incidents.
- 11.7 Complainants should be advised that every effort will be made to ensure that any information they provide will be treated in confidence. They should, however, also be made aware that such information may be used in the preparation of a court case should the need arise.
- 11.8 Any witnesses must be visited with statements being obtained and recorded using the Statement Form provided at **appendix 6**. Taking such action is intended to help clarify what has been happening and to assess if the complaints are justified. When interviewing witnesses or others, staff must be sure to protect the anonymity of the complainant. In serious cases neighbours should be asked if they are willing to appear in court as witnesses in any future legal action. Witnesses should be made aware that any statement they make may be used at a later date in court.
- 11.9 In some investigations corroboration may be obtained from other staff, for example, technical services staff, or from the Police and Social Work Department.
- 11.10 The tenant who is the subject of the complaint should be interviewed as soon as the complainant and any other witnesses have been interviewed. On occasion it may be appropriate for the Housing Assistant/Officer to be accompanied by another colleague or for the interview to take place in the office. Staff undertaking home visits should be aware of the contents of the Violence to Staff section within the Association's Health and Safety Manual. The Housing Assistant/ Officer will inform the tenant(s) of the nature of the complaint made against them and ask for their comments. The Response Form supplied at **appendix 7** should be completed once the tenant(s) has given their comments on the complaint made against them. The name of any person(s) who can confirm the version of events as advised by the alleged offending tenant should be noted on the Response Form. Again the identity of the complainant should not be revealed.
- 11.11 When the investigations have established what has been happening the Housing Assistant/Officer and the Housing Services Manager will jointly decide on the course of action to be taken. The complainant and the person complained about should be advised of the decision taken and the action proposed.
- 11.12 The action proposed will be based on the individual circumstances of the case. Some of the possibilities in terms of the proposed action may include:

- no further action
- no immediate action but with continued monitoring
- warning interview

11.13 First Warning

The warning interview will be carried out when the complaint has been corroborated. It will always be an interview by appointment as this will be a formal interview which may lead to Court action and therefore requires to be accurately documented. Again for legal reasons but also for reasons of safety it may be appropriate for the Housing Officer to be joined by another colleague or for the interview to take place in the office. The offending tenant must be made clear about the incident(s) to which the warning relates. In addition the tenant must be advised of the action including legal action that the Association would be prepared to take if there is no change in behaviour. A letter must be sent to the offending tenant within 5 working days of the warning interview. This letter should refer to the interview giving details of the corroborated complaints and the further action that will be taken if there is no change in behaviour. Proof of posting must be held on file, this is, Recorded Delivery slip or certificate of service for hand-delivery.

11.14 In certain circumstances it may be decided not to hold a warning interview but merely to send a warning letter. This may be considered more appropriate for less serious cases such as complaints about litter, pets, stair cleaning and garden upkeep.

11.15 Second Warning

If a situation does not improve, a further warning interview will be arranged, emphasising the seriousness of the situation. A representative from ASIST will be invited to attend the interview. A second warning letter will be issued and proof of posting must be held on file.

11.16 Where a problem persists following a second warning interview and letter, the matter should be discussed with the Housing Services Manager for consideration of further action. At this stage, the options for further action will likely include referring the case to the Council's ASIST team so that an ASBO can be pursued (appendix 8). At **appendix 9** a number of possible options together with a description of each are provided which officers will wish to consider. The procedure to be followed for Requesting an Anti-Social Behaviour Order is shown at **Appendix 10**.

11.17 Some types of nuisance behaviour will satisfy grounds for repossession. The grounds on which the court may order recovery of possession under Scottish secure tenancies are specified within Part 1 Schedule 2 of the Housing (Scotland) Act 2001, a copy of which is provided at **appendix 11**.

Renfrewshire Council Social Work Department and Housing Advice will be formally notified prior to any court proceedings where decree is being requested, and at any scheduled eviction.

11.18 Professional Witnesses

The use of professional witnesses should be considered in certain circumstances such as persistent, extreme and serious cases where tenants are reluctant to give evidence in court or in addition to verbal or written evidence from tenants. Professional witnesses can include

staff from ASIST, Police, Social Workers and our own staff. The decision to use professional witnesses will rest with the Director.

11.19 The Housing Officer will decide whether and what form of legal action will be taken after consultation with the Housing Services Manager. The Association's Solicitors will be able to provide advice on the most suitable form of legal action available. When seeking advice from the Association on a particular case they will require detailed information. At **appendix 12** a checklist is provided outlining the information which should be passed to the Solicitors to help them advise on the most appropriate course of action.

11.20 The powers of landlords to deal with anti-social tenants are limited and largely depend on the ability to prove a case in court. It is therefore important that an accurate record of all complaints, incidents and action taken by staff is held as this will form the basis of the proof.

12.0 Mediation

12.1 Mediation is an alternative to legal remedies and can be a positive and effective means to resolving conflict. Mediation involves an impartial third party helping people in dispute to reach a mutually acceptable agreement. A solution is not imposed and the process empowers neighbours to find their own resolution.

12.2 Not all cases are suitable for mediation. Cases as defined as Category A in section 8 are unsuitable because of the seriousness of the situation. In addition, cases where legal action has been instructed cannot be referred.

12.3 Renfrewshire Council provides a mediation service to all residents in the Renfrewshire area. Cases are suitable for referral where there are:

- Relatively new disputes
- No overriding fear of violence or intimidation
- Parties are able to negotiate
- No legal proceedings pending.

12.4 It is our policy to refer cases for mediation, with the customer's consent, except where the above exclusions apply. Where a Housing Assistant/ Officer considers a case to be suitable for referral to the mediation service, he/she should complete the 'Referral for Mediation Assessment form at **Appendix 13** and fax or e-mail it to the Mediation Services. We will also advise our customers that they can self refer by telephone or by completing the Council's mediation leaflet.

12.5 The lead Mediator will have responsibility for liaising with the Housing Assistant/Officer. If the parties subject to the mediation agree, we will receive a copy of their written agreement. When a case has been concluded, we will be informed.

13.0 Owner Occupier Complaints

13.1 Owner v Tenant

Complaints made by owner occupiers against Association tenants will be investigated under the same procedures as complaints made by tenants with any appropriate action being taken.

13.2 Tenant v Owner

When complaints are made by a tenant against an owner occupier these should be investigated in the usual manner.

13.3 Following the reforms to the Feudal System, the Association is no longer the Feu Superior, and consequently can no longer take such steps as to irritate the feu when dealing with cases of neighbour disputes and antisocial behaviour. However, as a neighbouring owner, we have the ability to enforce the terms of the Deed of Conditions, and to take court action against an owner occupier where this is deemed appropriate.

13.4 Where a case reaches the stage that a warning letter requires to be sent to an owner, this should contain the detail of the corroborated complaint received, and where relevant, advise that there has been a breach of the Deed of Conditions. When writing to the owner it may be relevant to refer to the clause in the Deed of Conditions that has been breached.

13.5 The Deed of Conditions contains a number of clauses which require to be adhered to by owner occupiers. In terms of taking action against an owner in relation to anti-social behaviour and neighbour nuisance it is likely the most commonly used clauses shall be Clause Fourteenth and Clause Eighteenth. The wording of these two clauses is provided at appendix 14.

13.6 In certain circumstances it may also be appropriate to send a letter to an owner occupier's lender to alert them to the behaviour that is giving cause for concern. This could be done by supplying the lender with a copy of the letter sent to the owner describing the antisocial behaviour and warning of the possible action which might be taken. The circumstances when we may wish to proceed with this option would include cases where a property has been sub-let and it is the behaviour of the tenant that is causing concern and instances where the condition of a property is deteriorating to the extent that the lender's interest is not secure. Our Solicitors can give advice on taking this approach which would include providing information on other circumstances where this option may be appropriate.

13.7 Close liaison with our Solicitors is necessary when taking action against an owner occupier particularly in relation to legal action.

13.8 If considered appropriate legal action can be taken against an owner occupier where there is a breach of a real condition in the Deed of Conditions. The options available include:

- an interdict could be raised in relation to the behaviour contravening the obligation. If this is ignored, further action can be taken for breach of interdict.
- an action of specific implement can be raised. This would be raised where the objective was to make the owner take some action to fulfil an obligation.

13.9 Owner v Owner

Where a dispute is between two owner occupiers they will be advised that the Association will not get involved and they should contact their solicitors. We will, however, provide details of the Council's mediation service and nuisance helpline and advise of any other agencies which may be able to assist them in resolving their difficulties.

14.0 Qualifying Occupiers

14.1 Under the terms of the Housing (Scotland) Act 2001 anyone staying in the tenant's house, either as a member of the family or someone whom the Association gave permission to stay in the house, must be given the opportunity to be included in court proceedings and be notified of further action.

14.2 The Association has a statutory responsibility to make reasonable enquiries to establish, as far as reasonably practicable, whether there are any qualifying occupiers in the house. A qualifying occupier is someone who occupies the house as their only or principal home and is:

- A member of the tenant's family aged 16 or over;
- A person to whom the tenant has assigned, sublet or otherwise given up the possession of the house or any part of it; or
- A person whom the tenant has taken in as a lodger.

14.3 In order to establish if a qualifying occupier is living in the house, the Housing Officer will check the following:

- The census form
- Where the tenant is in arrears, the household composition disclosed by the tenant at arrears interviews
- Any lodger or sub-let application
- Any household information noted in the file from ad hoc or routine visits to the tenant's home.
- Any changes of household composition disclosed by the tenant.

15.0 Short Scottish Secure Tenancy Agreement

15.1 Paragraph 6.7 of the Scottish Secure Tenancy (SST) confirms that if an anti-social behaviour order has been made against the tenant, or anyone living with him/her, the Association may serve a notice on the tenant converting the tenancy to a Short Scottish Secure Tenancy. The SST would end on the service of that notice. The tenant has a right to make application to the Sheriff if we do this. The short SST may convert back to a SST if certain conditions are met.

15.2 A short SST may also be given to a new tenant who has had an order for repossession made against him/her in the UK on the grounds of anti-social or similar behaviour in the previous 3 years. The other conditions apply as noted at 15.1 above.

16.0 Equality and Diversity

- 16.1 The Housing (Scotland) Act 2001 places an overarching duty on registered social landlords to exercise the functions conferred on them by the Act in a manner which encourages equality of opportunity and observes equal opportunity requirements laid down in other legislation and regulations.
- 16.2 The Association's Equality and Diversity Policy covers a range of issues such as access to housing, disability and age and has the overarching aim of mainstreaming equality in all that we do. The Neighbour Disputes and Antisocial Behaviour Policy also reflects the principals of the Equality and Diversity Policy.

17.0 Training

- 17.1 Staff and Committee Members require training to ensure that they understand the complexity of dealing with cases concerning neighbour disputes and antisocial behaviour.
- 17.2 Staff will be encouraged to regularly attend courses and we will seek opportunities for joint training with our partners.

18.0 Tenant and Community Consultation

- 18.1 The Housing (Scotland) Act 2001 provides tenants with new rights in relation to information and consultation. The Scottish Secure Tenancy Agreement states that the Association will consult the tenant about making or changing a range of issues such as policies regarding housing management if the proposals are likely to significantly affect him/her, and performance standards or targets in relation to housing management. Consequently tenants and community groups will be consulted over the review of this policy.

19.0 Policy Review

This policy will be reviewed at least every three years.

Appendix 1

Neighbour Disputes and Antisocial Behaviour – Complaint Reporting Form

Month:

Complaints against Tenants

| Date Rec'd | Complainant | | Complainee | | Category | Start investigation | Finish investigation | No. of days |
|------------|-------------|---------|------------|---------|----------|---------------------|----------------------|-------------|
| | Name | Address | Name | Address | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Complaints against Owner Occupiers

| Date Rec'd | Complainant | | Complainee | | Category | Start investigation | Finish investigation | No. of days |
|------------|-------------|---------|------------|---------|----------|---------------------|----------------------|-------------|
| | Name | Address | Name | Address | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Appendix 2

Powers of Other Agencies to Deal with Common Nuisances

Environmental Protection Act 1990 - gives local authorities certain additional powers to deal with a variety of nuisances, including noise.

Civic Government (Scotland) Act 1982

Section 47 – provides powers where any person urinates or defecates in circumstances as to cause, or likely to cause, annoyance to another person.

Section 49 – provides powers for dealing with the conduct of creatures in public places. Also for annoyance caused to someone at the place that he or she resides.

Section 50 – provides powers where someone is drunk and incapable in a public place

Section 54 - provides powers for prosecution in certain cases of noise nuisance, including operating sound producing devices so as to give any person reasonable cause for nuisance.

Public Order Act 1986 - provides powers where someone intends to stir up racial hatred. Also gives the Police powers to tackle criminal damage, including offensive graffiti.

Social Work (Scotland) Act 1968 and **Mental Health Act 1984** – provide powers for the care and support of people who have mental health problems.

Children (Scotland) Act 1985 – requires Social Work to provide support and make care and supervision orders for children.

Motor Vehicle Regulations Act 1986 – provides powers to deal with obstructions caused by parking on pavements, grass verges and private driveways.

Road Traffic Act 1988 – Section 22 covers a range of offences but section 2 makes it an offence for a person to leave a vehicle at the side of the road in a range of positions.

Dangerous Dogs Act 1989 And 1991 – these Acts allow the Police to take action against the owners of dangerous dogs not complying with the Act.

Misuse of Drugs Act 1971 – gives powers to the Police to tackle the production and supplying of controlled drugs or possession with intent to supply.

Case Report

Date Complaint received: _____ Time _____

Name of Complainant _____

Address _____ Tel Nr. _____

Nature of Complaint _____

Name of Alleged Offender _____ Address _____

Category A B C D Y

No Action

Housing Officer's Investigation/Comments _____

| Procedure | <input checked="" type="checkbox"/> | Date of Action and Initials | Comments |
|---------------------------------------|-------------------------------------|-----------------------------|----------|
| 1. Check House File | <input type="checkbox"/> | _____ | _____ |
| 2. Visit/Interview Complainant | <input type="checkbox"/> | _____ | _____ |
| 3. Visit Witnesses | <input type="checkbox"/> | _____ | _____ |
| 4. Visit Alleged Offender | <input type="checkbox"/> | _____ | _____ |
| 5. Complete Report | <input type="checkbox"/> | _____ | _____ |
| 6. Issue Warning Letter | <input type="checkbox"/> | _____ | _____ |
| 7. Inform Complainant | <input type="checkbox"/> | _____ | _____ |
| 8. Officer Interview | <input type="checkbox"/> | _____ | _____ |
| 9. Issue Final Warning Letter | <input type="checkbox"/> | _____ | _____ |
| 10. Inform Complainant | <input type="checkbox"/> | _____ | _____ |
| 11. Liaise with ASIST | <input type="checkbox"/> | _____ | _____ |
| 12. Inform Complainant/ Respondent | <input type="checkbox"/> | _____ | _____ |
| 13. Close case | <input type="checkbox"/> | _____ | _____ |

Action Note _____

| Other Action - Contact | <input checked="" type="checkbox"/> | Date | Outcome - Summary |
|------------------------|-------------------------------------|-------|-------------------|
| SWD | <input type="checkbox"/> | _____ | _____ |
| Environmental Services | <input type="checkbox"/> | _____ | _____ |
| Police | <input type="checkbox"/> | _____ | _____ |
| ASIST | <input type="checkbox"/> | _____ | _____ |
| Others: Specify _____ | | _____ | _____ |

Signed _____ Date _____

Name & Designation _____

Appendix 4
Interview Report

Please note - Every effort will be made to ensure that the information on this form will be treated in confidence. It may however, be used in the preparation of a court case should the need arise.

1. Complaint made by

Name _____

Address _____ Tel No _____
D.O.B _____

2. Who are you complaining about?

Name _____ Name _____

Address _____ Address _____

3. What are you complaining about? _____

4. When did it happen

Date _____ Time _____

5. Witnesses

Name _____ Name _____

Address _____ Address _____

6. Has it happened before? If yes, when _____

7. Has it been previously reported? If yes, to whom and when? _____

8. Have you reported it to anyone else? Who _____ When? _____

I have read the above information and confirm that it is true and accurate.

Tenant's Signature _____ Signature (H.O) _____ Date _____

Date _____ Name & Designation _____

Diary Note for Tenant

| | | |
|----|---------------------|---------------|
| 1. | Name _____ | Address _____ |
| | Telephone No: _____ | |

| | | |
|----|--------------------------------|---------------|
| 2. | Who are you complaining about? | |
| | Name _____ | Address _____ |

| 3. Record of Incident | | | |
|-----------------------|-------|---------------------|----------------------|
| Date | Time | Details of Incident | Report to Police Y/N |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
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| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

| | | |
|----|--------------------------|------------|
| 4. | Tenants Signature _____ | Date _____ |
| | (complainant) | |
| | Signature (H.O) _____ | Date _____ |
| | Name & Designation _____ | |

Statement Form

1. Name _____ Address _____
 Telephone No: _____ Date of Birth _____

2. Details of Incident

3. Signature of Witness _____ Date _____
 Signature (H.O) _____ Date _____
 Name & Designation _____

Response Form

Date _____

1. Details of Tenant Subject of the Complaint

Name _____ Address _____

Telephone No: _____ Date of Birth _____

2 Details of Complaint

3. Tenant's Response

4. Were there any witnesses?

Name _____ Name _____

Address _____ Address _____

Telephone Nr: _____ Telephone Nr _____

5. Has anyone explained Bridgewater Housing Association Procedures to you? (issue leaflet or explain).

6. Follow-up Action

Interviewers Signature _____ Date _____

Name & Designation _____

Interviewers Signature _____

ASIST REFERRAL SHEET

REFERRING AGENCY _____ DATE _____

| NAME, ADDRESS, DOB, OF PERPETRATOR & HOUSEHOLD DETAILS: |
|---|
| |

| SUMMARISED DESCRIPTION OF COMPLAINT INCLUDING DATES, TIMES, LOCATION ETC... |
|---|
| |

COMPLAINER DETAILS:

| NAME | ADDRESS | TELEPHONE NUMBER |
|-------|---------|------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

REFERRING OFFICER _____(PRINT)
_____(SIGN)

All correspondence relevant to the case should accompany this referral sheet.

Options for Further Action

Specific Implement

A decree awarded to the Pursuer in a civil action to enforce the performance of a contractual or common law obligation, other than payment of money. It is enforced by decree ad factum praestandum (for the performance of an act).

This action could be raised wherever there is a positive obligation on the tenant stated in the Tenancy Agreement or at common law. This could include keeping the house properly heated and ventilated. It cannot be used for arrears of rent. This could be useful where a tenant is wilfully refusing to perform an obligation of tenancy and can be used to remedy a number of different omissions by a tenant.

Interdict/Interim Interdict

A decree of Interdict is a judicial remedy granted by a court forbidding an act or course of action (in England an Injunction).

The body raising the action must have 'title to sue' but where one of Bridgewater Housing Association tenants is carrying out a course of behaviour which is contravening his tenancy agreement an action of Interdict to prevent the behaviour could be tried. In addition an attempt to obtain an Interdict action could be made where the tenant is guilty of behaviour which is outwith the implied conditions of tenancy.

An Interim Interdict may also be obtained which means that decision by the Sheriff is reached immediately, possibly the next day, but is limited for a period of several weeks to allow the full action to reach court.

Interim/Interim Interdict (cont'd)

A decree of Interdict or Interim Interdict will set out the behaviour by the tenant is prohibited. Breach of Interdict is punishable by fine or imprisonment. Bridgewater Housing Association would, however, have to go back to court to prove Breach of Interdict.

This option is a civil and not a criminal remedy so there is no Police involvement or power of arrest (unlike a Matrimonial Interdict). This remedy can be considered to be a good stepping stone which could lead to repossession on the grounds of anti-social behaviour. For really difficult anti-social behaviour cases this option is of little use. Breach of Interdict could, however, be used in rules of evidence to help strengthen a repossession action.

Voluntary Management Transfer

In cases of one to one neighbour disputes, a management transfer may be considered where other avenues such as mediation have been exhausted. This course of action would normally be used where it has not been possible to take legal action or where legal action has been tried has failed. When using this option the conditions of consenting to a management transfer should be strictly complied with.

Compulsory Management Transfer

Section 23 of the Crime and Disorder Act 1998 relates to the use of compulsory management transfer. Compulsory management transfer could be used where there is the chance that moving the tenant will solve the problem. It is necessary to decide at the outset if this ground is to be pursued and if so, advice taken from the Association's Solicitors. There is no requirement for the landlord to show reasonableness. It is however necessary to show that the alternative accommodation is suitable (as defined by statute). This means it must:

- be a secure, protected or assured tenancy
- be suitable to the needs of the tenant and family
- be as convenient as the previous dwelling for work/school etc
- be similar to the previous property – number of bedrooms etc
- if furniture is provided by the landlord, be much the same as before
- meet any special needs of the tenant and their family.

Usually in such cases the alternative accommodation is decided between the landlord and tenant without the involvement of the Sheriff. When taking forward a compulsory management transfer it is necessary to liaise closely with the District Council, Scottish Homes offices and Housing Associations on the availability of suitable alternative accommodation.

Anti - Social Behaviour Orders

An ASBO is a civil preventative measure. It is intended to tackle both behaviour which is likely to escalate to the criminal level, and patterns of behaviour which cumulatively cause considerable alarm or distress to the community, but which do not consist of single acts which are sufficiently serious or sufficiently clear-cut to be prosecuted individually as criminal offences. An ASBO is not intended to be a substitute for criminal proceedings where these are appropriate, and is intended to be complementary to other civil proceedings such as interdict (where use of these is appropriate).

The behaviour which is to be used as justification for an application must have taken place after the provisions in The Crime and Disorder Act 1998 came into force on 1 April, 1999. Previous behaviour, can, however be used to support the argument that the behaviour has continued over a period of time and that an ASBO is required to protect the community from further anti-social acts or conduct.

Under Section 19 of the Act, the Local Authority has the statutory role for applying to the Sheriff for an ASBO to protect persons in the authority's own area. An ASBO can be made against persons of all housing tenure types.

**REQUESTING AN ANTI-SOCIAL
BEHAVIOUR ORDER (ASBO)**

1. The government guidelines (Police Circular No. 3/1999) make it quite clear that ASBOs are intended to deal with patterns of behaviour which are “likely to escalate to the criminal level” and “cause considerable alarm or distress to the community but do not consist of single acts which are sufficiently serious or sufficiently clear cut to be prosecuted individually as criminal offences”. These guidelines clearly state that ASBOs are not intended to be used:-
 - i) “...to address what would be considered civil disputes between neighbours over, for example, boundaries.”
 - ii) “...to address behaviour which is merely different, or behaviour which is the result of a mental disorder and should be used to promote the harassment of individuals or groups for behaviour that results from being of a different race or origin.”
 - iii) “...as a means of requiring parents whose children are misbehaving to take a particular action.”

These guidelines go on to state that:-

“It is not the role of the local authority to become involved in individual disputes nor to take action to interfere with activities which, while they may irritate or even upset some members of the community, are not sufficiently serious to warrant such intervention.”

2. Renfrewshire Council is not under any legal obligation to act on behalf of other landlords or private owners, who would usually be expected to take appropriate action themselves (see section 3.0.6 of the draft policy). However, the Council will take action on behalf of other organisations or individuals where:-
 - i) the information provided meets the criteria set out in the legislation:
 - and ii) the Council considers that the behaviour complained about is sufficiently serious, and has implications for the wider community.
 - and iii) there is sufficient evidence to warrant an application to the Court for an ASBO.

3. Section 3.0.5 of the draft policy outlines those circumstances where the Council would expect to become involved. Some of the terms used may require further clarification:-

“Sufficiently serious nature” – The behaviour concerned should normally involve violence or the threat of violence. The threat of violence need not be explicit.

“The wider community” – The Council would not normally expect to be involved where all of the complaints received were from the antisocial individual’s immediate neighbours. Neighbour disputes should be referred to the relevant landlord, if appropriate, or through a Solicitor.

These should not be taken as exhaustive definitions, however, Renfrewshire Council accepts that there may well be other circumstances which could satisfy these criteria.

4. It is expected that private individuals who wish Renfrewshire Council to seek an ASBO on their behalf will already have engaged a solicitors to act for them, and that any approach to the Council will be made by that solicitor. Where a solicitor has been engaged by a private individual, all future correspondence will be sent to them, as the complainant’s agent, rather than to the complainant themselves. Direct contact with the complainant will only be established to confirm statements made and incidents witnessed.

Some complainants may wish to contact the Council directly, however if they do so, they will be required to provide the necessary information in the format, and to the standard, specified in 5, below.

Where a complainant is the tenant of another landlord, all approaches to the Council should be made through that landlord, who will act as the complainant's agent.

5. Where it is considered that criteria (i)-(v) of section 3.0.6 of the draft policy have been met, the case should be discussed in more detail with the Senior Investigator (ASIST). The Senior Investigator will require to be satisfied that these criteria have been met, and will ask to view any files on the case. These should be structured in such a way that the facts of the case can be easily ascertained:-
 - i) all incidents, verbal and written warnings etc should be listed in chronological order;
 - ii) all file entries should be typed, and abbreviations should not be used;
 - iii) all witness statements should be signed and dated. Where given verbally they should also be certified by the officer who takes the statement. The full name and address of all witnesses should be given, as should their telephone number and their National Insurance Number of date of birth;
 - iv) originals of all letters received or sent in connection with the case should be included in the file;
 - v) copies of all warning letters sent to the anti-social individual regarding their behaviour should be included in the file. Where a warning letter has been issued, proof of posting should also be included in the file;
 - vi) details of any other remedies which have been tried and proved ineffective should be fully itemised in the file;
 - vii) details of any other remedies considered but not pursued should be included in the file, along with a full explanation of why they were not (e.g. Mediation) pursued.
6. Where it is considered that the information required cannot be easily extracted from the file, or is incomplete, the complainant or their agent will be so advised in writing. The file will then be returned to them in order that the information required may be clarified.
7. After the contents of the file have been considered, the complainant or their agent will be advised, in writing, whether or not this particular case warrants further investigation by Council staff at this stage. If it is decided not to proceed, the complainant or their agent will be advised, in writing, of the reasons for this decision.
8. If, however, it is decided to proceed further, arrangements will then normally be made to have the complainant, witnesses and the anti-social neighbour interviewed. All of the relevant evidence will then be reviewed by both the Senior Investigator and by a solicitor assigned to the case by the Council's Head of Legal Services, and a decision will be taken whether or not there is sufficient evidence to pursue court action. If it is decided not to proceed at this stage, the complainant or their agent will be so advised in writing.
9. If the appropriate Council officers decide that they would wish to proceed with the case, the designated Council solicitor will consult with Strathclyde Police.
10. Where it is decided to seek an ASBO, the Council shall be responsible for any court costs incurred.

SCHEDULE 2 SCOTTISH SECURE TENANCY: GROUNDS FOR RECOVERY OF POSSESSION OF HOUSE

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

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.

4 The condition of any furniture provided for use under the tenancy, or for use in any of the common parts (within the meaning given in paragraph 3(2)), has deteriorated owing to ill-treatment by 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 ill-treatment by 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.

5 The tenant and—

- (a) the tenant’s spouse, or
- (b) any person with whom the tenant has, for a period of at least 6 months immediately prior to the commencement of the period referred to below, been living in the house as husband and wife or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex,

have been absent from the house without reasonable cause for a continuous period exceeding 6 months or have ceased to occupy the house as their principal home.

6 The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by the tenant.

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 anti-social 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 anti-social 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)—

“anti-social”, 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.

9 The house is overcrowded, within the meaning of section 135 of the 1987 Act, in such circumstances as to render the occupier guilty of an offence.

10 (1) It is intended within a reasonable period of time to demolish, or carry out substantial work on, the building or a part of the building which comprises or includes the house, and such demolition or work cannot reasonably take place without the landlord obtaining possession of the house.

(2) For the purposes of sub-paragraph (1), “demolition” is to be construed in accordance with section 338(3) of the 1987 Act.

11 The house has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the house and—

(a) there is no longer a person with such special needs occupying the house, and

(b) the landlord requires it for occupation (whether alone or with other members of the person’s family) by a person who has such special needs.

12 The house forms part of a group of houses which has been designed, or which has been provided with or located near facilities, for persons with special needs, and—

(a) there is no longer a person with such a need occupying the house, and

(b) the landlord requires it for occupation (whether alone or with other members of the person’s family) by a person who has such a need.

13 The interest of the landlord in the house is that of a lessee under a lease and that lease either—

(a) has terminated, or

(b) will terminate within a period of 6 months from the date of raising of proceedings for recovery of possession.

14 The landlord is Orkney Islands Council, Shetland Islands Council or Western Isles Council and—

(a) the house is—

(i) held by the council for the purposes of its functions as education authority, and

(ii) required for the accommodation of a person who is or will be employed by the council for those purposes,

(b) the council cannot reasonably provide a suitable alternative house for the accommodation referred to in sub-paragraph (a)(ii), and

(c) the tenant (or any one of joint tenants) is, or at any time during the tenancy has been or, where the tenancy passed to the existing tenant under section 22, the previous tenant at any time during the tenancy was, employed by the council for the purposes of its functions as education authority and such employment has terminated or notice of termination has been given.

15 The landlord wishes to transfer the tenancy of the house to—

(a) the tenant’s spouse (or former spouse), or

(b) a person with whom the tenant has, for a period of at least 6 months immediately prior to the date of the application for transfer, been living in the house as husband and wife or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex,

who has applied to the landlord for such transfer; and the tenant or (as the case may be) the spouse or other person no longer wishes to live together with the other in the house.

PART 2 SUITABILITY OF ACCOMMODATION

16 For the purposes of sections 16(4), 19(5), 21(5) and 22(7), accommodation is suitable if—

(a) it consists of premises which are to be let as a separate dwelling under a Scottish secure tenancy or under an assured tenancy, and

(b) it is reasonably suitable to the needs of the tenant and the tenant’s family.

17 In determining whether accommodation is reasonably suitable to the needs of the tenant and the tenant's family, regard is to be had to—

- (a) its proximity to the place of work (including attendance at an educational institution) of the tenant and of members of the tenant's family, compared with the tenant's existing house,
- (b) the extent of the accommodation required by the tenant and the tenant's family,
- (c) the character of the accommodation offered compared to the tenant's existing house,
- (d) the terms on which the accommodation is offered to the tenant compared with the terms of the tenant's existing tenancy,
- (e) if any furniture was provided by the landlord for use under the existing tenancy, whether furniture is to be provided for use under the new tenancy which is of a comparable nature in relation to the needs of the tenant and the tenant's family,
- (f) any special needs of the tenant or the tenant's family.

18 If the landlord has made an offer in writing to the tenant of new accommodation which complies with paragraph 16(a) and which appears to it to be suitable, specifying the date when the accommodation will be available and the date (not being less than 14 days from the date of the offer) by which the offer must be accepted, the accommodation so offered is deemed to be suitable if—

- (a) the landlord shows that the tenant accepted the offer within the time duly specified in the offer, or
- (b) the landlord shows that the tenant did not so accept the offer, and the tenant does not satisfy the court that the tenant acted reasonably in failing to accept the offer.

Appendix 12

Legal Pro-forma

1. Name of Tenant who is the subject of the Complaint _____

2. Address _____

3. Where available copies of the following should be passed to Legal Services:

- original complaint (proforma or letter)
- first warning letter,
- final warning letter,
- case report, interview report, response form and tenant diary note,
- witness statements

4. Legal action already taken by Bridgewater Housing Association.

5. Miscellaneous information (please specify)

6. Response required by: _____

Signed _____ Date _____

Name & Designation _____

Appendix 13
Referral for Mediation Assessment Form

From :
Tel Number :
Position :
Location :.

1st Party :
Address :
Tel No:

2nd Party :
Address :
Tel No:

Nature of Complaint

Additional Parties:

Letter and leaflet sent to both parties?

If No please give reason

Extract from Deed of Conditions

CLAUSE FOURTEENTH

Each of the feus and the dwellinghouse erected or to be erected thereon shall be used for private residence only and for no other purpose whatsoever; and none of the said dwellinghouses shall be sub-divided or occupied by more than one family at a time; and no trade; business, profession or occupation of any kind shall be carried on, in or upon any feu or any of the buildings thereon and no business nameplate, board, card, sign, notice or advertisement of any kind or any external television aerial shall be affixed, or displayed in, on or about any feu of the buildings thereon without the prior consent in writing of the superiors; each feu so far as not occupied by buildings shall be used as ornamental or garden ground and shall be maintained in a neat and tidy condition and free from all rubbish and refuse and weeds to the satisfaction of the superiors in all time coming.

CLAUSE EIGHTEENTH

The feus and the buildings thereon shall not be occupied or used in any manner or form or for any purpose which may be an injury to the amenity of the neighbourhood or a nuisance to nearby feuars, proprietors, tenants and others; declaring that it shall be within the sole discretion of the superiors to determine what constitutes such injury to amenity or nuisance and all such injury to amenity or nuisance on being so determined and intimated to the feuars responsible shall be discontinued or removed forthwith at the expense of the feuars and without prejudice to the foregoing generality it is hereby expressly provided and declared that no caravans, trailers, boats or others shall be parked or kept in or about any feu except a) in any garage erected on the feu or b) on any unbuilt-on part of the feu behind the building line of the feu; declaring, however, that in the event, the superiors shall be entitled at their sole discretion to call upon any feu concerned to screen any caravan or others so parked or kept.

