



MORAY COUNCIL HOUSING AND PROPERTY SERVICE

Neighbour Nuisance And Antisocial Behaviour Policy

Author	Housing and Property Services
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Date of next review	2027 or earlier if required by changes to legislation or guidance

1. Scope of the policy

- 1.1 The scope of this policy is to provide a clear and transparent framework for the Council Housing Service to deal effectively with complaints and incidents of neighbour nuisance and antisocial behaviour throughout Moray. The Council recognises that neighbour nuisance and antisocial behaviour can occur in any housing tenure and that issues may arise between Council tenants and neighbouring owners or private tenants.

2. Strategic Context

- 2.1 The Neighbour Nuisance and Antisocial Behaviour Policy will contribute towards the [Moray Local Housing Strategy \(LHS\) 2019-24](#) which focuses on promoting sustainable communities while promoting social inclusion, [Moray Council's Corporate Plan 2024](#) as well as priorities within [Moray 2027- Local Outcome Improvement Plan](#).
- 2.2 Whilst recognising that Moray is a safe place to live, the Council and its partner agencies commit to protecting our neighbourhoods, particularly those who feel most vulnerable and at risk, in an attempt to ensure that its communities feel safe. Through the [Community Safety Strategy for Moray 2022-2026](#), the Moray Council Community Planning Partnership (CPP) and Community Safety Strategic Group (CSSG) provides the strategic direction that is required. The

CPP will co-ordinate and oversee the activities of the partnership that relates to ensuring community safety, reducing crime and tackling antisocial behaviour. As a result the Housing Service will operate this policy in conjunction with the Moray Council's:

- Corporate Antisocial Behaviour Policy – which covers non-Moray Council Housing tenures
- Corporate Antisocial Behaviour and Acceptable Behaviour Contract (ABC) Procedures

3. Principles and objectives of the policy

3.1 The principles underpinning the Council's Housing Neighbour Nuisance and Antisocial Behaviour policy are:

- Legality - the Council will seek to ensure that the policy reflects the legal framework and is consistent with associated professional good practice guidance;
- Early prevention - the Council will take early action to address initial behaviour(s) and prevent issues escalating where possible and appropriate;
- Action - the Council recognises that neighbour nuisance and antisocial behaviour can cause distress to individuals and communities and will work to try and lessen the stress and impact caused within neighbourhoods and communities;
- Multi-agency approach – the Council will, wherever possible and necessary, seek to work in partnership with relevant agencies in an attempt to achieve more effective, collaborative and sustainable outcomes;
- Equality - the Council will make sure that it does not act in a discriminatory manner when dealing with neighbour nuisance or antisocial behaviour complaints.

3.2 The specific objectives of this policy are to:

- prevent, where possible, and alleviate neighbour nuisance and antisocial behaviour by responding to complaints in a timely, effective and efficient manner;

- address complaints at the source and as early as possible, objectively and proportionately;
- encourage acceptable behaviours within our local neighbourhoods and communities; and
- find acceptable resolution(s) to complaints within the parameters of the legislation and guidance to ensure sustainable outcomes.

4. Legal framework, guidance and the Scottish Housing Charter

4.1 The primary legislation that governs the Council's statutory duties and powers in relation to antisocial behaviour is contained within the [Antisocial Behaviour \(Scotland\) Act 2004](#) and accompanying [Guide to the Antisocial Behaviour etc. \(Scotland\) Act 2004](#), the [Housing \(Scotland\) Act 2001](#), as amended by the [Housing \(Scotland\) Act 2010](#) and the [Housing \(Scotland\) Act 2014, Part 2](#).

4.2 Other associated legislation includes [Part 3 of the Housing \(Scotland\) Act 2010](#) which governs the performance of social landlords in relation to the prevention of harassment and antisocial behaviour through Outcome 6 of the [Scottish Social Housing Charter](#) – Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes. This sets out the standards and actions tenants can expect from social landlords, through fundamental partnership working, to help ensure as far as reasonably possible that 'tenants and other customers live in well-maintained neighbourhoods where they feel safe.' It covers action to enforce tenancy conditions on estate management and neighbour nuisance, to assist in resolving neighbour disputes, and to ensure tenancy support is arranged or provided where needed.

4.3 The Scottish secure tenancy agreement (SST) is a legally binding contractual agreement between social landlords and social housing tenants derived from the above housing legislation. It protects both the tenants' and the Council's interests as well as setting out the responsibilities of both parties. [Sections 2 and 3 of the SST](#) sets out the tenants' responsibilities in relation to the use of their home, estate management and respect for others. This means tenants, those living with them, and their visitors, must not harass or act in an

antisocial manner to, or pursue a course of antisocial conduct against, any person in the neighbourhood. Such people include residents, visitors, our employees, agents, contractors and those in your house. More detailed information is provided in the link to the tenancy agreement above.

4.4 Other relevant legislative provisions include but are not restricted to the following:

- [Hate Crime and Public Order \(Scotland\) Act 2021](#)
- [Local Government in Scotland Act 2003](#);
- [Dog Fouling \(Scotland\) Act 2003](#);
- [The Regulation of Investigatory Powers \(Scotland\) Act 2000](#);
- [Dangerous Dogs Act 1991](#) as amended by the [Control of Dogs \(Scotland\) Act 2010](#);
- [Protection from Harassment Act 1997, Sections 8-11](#);
- [Environmental protection act 1990, Part III, Sections 80-81](#);
- [Public Order Act 1986, Section 18](#); and
- [Civic Government \(Scotland\) Act 1982](#).

5. Equality and diversity

5.1 The Council is committed to preventing discrimination and promoting equality for everyone who makes a complaint for neighbour nuisance and antisocial behaviour. In accordance with the [Equality Act 2010](#), Moray Council seeks to ensure that this policy does not discriminate between, or promote the harassment of individuals with one or more of the following protected characteristics: age, disability, gender reassignment, marital status/civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation.

5.2 In delivering the policy, full consideration will be given to the Council's Public Sector Equality Duty (PSED). This requires public authorities to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not.

5.3 The [Human Rights Act 1998](#) incorporates the European Convention on Human Rights (ECHR) and associated guidance [Human Rights at Home: Guidance for Housing Providers](#). The Equality and Human Rights Commission (EHRC) placed a duty on local authorities for all front line staff to be involved in identifying vulnerable persons, particularly in relation to incidences of antisocial behaviour. The Council is committed to Equalities Incidents Monitoring, which aims to eliminate discrimination and promote equality. Where incidents occur, they must be reported using the [Equalities Incidents Monitoring Form](#).

5.4 The Council will develop information and advice upon request in a variety of formats such as large print, tape and braille.

6. Confidentiality, data protection and information sharing

6.1 The Council will ensure that any information given as part of the neighbour noise nuisance and antisocial behaviour complaints process will be stored, used and disposed of in accordance with the [General Data Protection Regulations \(GDPR\)](#) and [the Data Protection Act 2018](#). The 2018 Act regulates the handling of lawfully obtained personal data. This data can be legitimately shared with Police Scotland so long as the Council is satisfied it is necessary and proportionate and is disclosed for the prevention, investigation, detection or prosecution of criminal penalties including the safeguarding against and the prevention of threats to public security. Any information will be treated as 'confidential and restricted'

6.2 Liaison with other agencies is critical to the effective management of antisocial behaviour complaints. The Council has a Moray Community Safety Information Sharing Protocol, in line with [Section 139 of the Antisocial Behaviour etc. \(Scotland\) Act 2004](#), with relevant partners. This allows relevant and appropriate information to be shared to assist with identifying the most suitable course of action or intervention required to address the behaviours. Data Sharing requests can be made to Police Scotland for relevant information needed to inform the investigation and any allegations made, particularly where there is criminal activity in relation to the property, where there are concerns

that may affect the safety of occupants and/or any neighbours or the Officer decides that the Police should be made aware of the incident.

6.3 Additional vulnerabilities, social issues and /or needs can be prevalent in cases of antisocial behaviour. These issues may include drugs, alcohol or other substance misuse / addiction, mental health issues, domestic violence and any other vulnerabilities. Community Safety Hub meetings provide a forum for operational staff to share information and consider the multi-agency response to cases using a trauma-informed, person-centred approach to ensure the most appropriate service / case worker is integral for relevant specialist support and / or accommodation prior to considering any legal remedies.

6.4 The Council is committed to encouraging households to report incidents of neighbour nuisance or antisocial behaviour. Complainants, alleged perpetrators and any witnesses will be treated fairly, in an unprejudiced and non-accusatory manner with sensitivity and in complete confidence where possible but where the complainant wishes to remain anonymous, this may limit the action that the Council is able to take and they will be informed of this. Depending on the type of complaint it may not always be possible to prevent the perpetrator from deducing the origin of the complaint.

7. Definitions of neighbour nuisance and antisocial behaviour?

7.1 The spectrum of neighbour nuisance and antisocial behaviour is wide. Neighbour nuisance might refer to a dispute between two neighbours whilst antisocial behaviour might threaten the physical or mental health, safety or security of other households, individuals, disrupt neighbourhoods and communities. Where people live within close proximity to each other there is always scope for clashes and conflict caused by differing lifestyles. People from different age groups, cultural backgrounds or with different working or sleeping patterns can easily give rise to friction and/or disagreements. This policy is not intended to address behaviour that is merely different.

Legal definition

7.2 [Section 143 of the Antisocial Behaviour \(Scotland\) Act 2004](#) sets out the legal definition of antisocial behaviour as:

'a person is involved in antisocial behaviour if they:

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

In this definition 'conduct' includes speech and a course of conduct must involve conduct on at least two occasions.

8. Categorisation

8.1 To provide a framework for prioritisation and to indicate clearly what types of behaviour the Council will act upon, the following categories exist corporately for dealing with of neighbour nuisance and antisocial behaviour complaints across all tenures:

Category A – Very serious antisocial behaviour, which normally includes criminal activity, causing danger and putting others at risk.

Category B – Situations where the behaviour may stop short of criminal activity but could be a deliberate attempt to cause disturbance or annoyance to a neighbour. It is likely to be more than a clash of lifestyles and has disregard for others where behaviours are recurring, becoming more frequent or persistent and early intervention attempts to change behaviour is not working.

Category C – Minor issues between two neighbours and minor breaches of tenancy agreements. This includes the use of common areas, maintenance, boundaries and low level domestic noise which will be dealt with by the relevant area housing team.

8.2 Certain behaviours and / or crimes may vary in severity and this will be taken into consideration when categorising the complaint. Where any antisocial behaviour is recurring, persistent and/or escalates, becoming more serious in nature, the Council will re-categorise the complaint to more accurately reflect the situation.

8.3 Operational staff procedures will provide a more detailed reference guide and for staff to ensure robust categorisation, allocation within relevant timescales and subsequent action.

9. Complaint timescales and responsibility

9.1 Complaints will be dealt with as soon as possible within agreed service timescales by the most appropriate person for that category of complaint. The category of the complaint will determine the responsibility for dealing with the initial investigation. Anonymous complaints will be recorded, but it may not be possible to take action unless a Council Officer can verify the complaint. Initial response target time scales are outlined below.

Categorisation	Initial Acknowledgement	Initial Investigation within	Responsibility
A	24-48 hours	2 working days	Police Scotland Community Safety Team where applicable. Lead Public Health Officer will monitor all Cat A cases. Housing Management to be consulted.
B	48 hours	2 working days	Community Safety Team
C	48 hours	5 working days	Area Housing Team

10. Dealing with complaints and actions

10.1 Moray Council will ensure that all complaints will be investigated and dealt with proportionately. Where a complaint is received from an owner or private tenant against a Council tenant, the complaint will be investigated and dealt with as outlined in this policy. The Council will assess the complaint with the most relevant partners, depending on the circumstances of the complaint, and taking action at the most appropriate level. Housing staff will follow robust operational escalation procedures to evidence and ensure that where legal and / or enforcement action is considered or taken there is a robust audit trail of communication, actions, support (where appropriate), transparency and justification.

10.2 Housing staff will take every reasonable opportunity to remind tenants of their responsibilities under their Scottish secure tenancy agreement, as appropriate for the type of complaint. In some cases the Officer may conclude that no further action is required or only a verbal warning is proportionate and appropriate. Officers can then escalate to a written warning and final written warning or legal action as set out in Section 12 below.

10.3 Complainants will be kept informed on the progress of the complaint and reasons for action taken or for closing of case.

11. Resolution and timescales

11.1 The locally agreed corporate target timescales for investigating and resolving all complaints, regardless of tenure, **are from the date the initial acknowledgement is sent:**

Category A - 20 working days

Category B - 35 working days

Category C - 40 working days

11.2 While all efforts will be made to resolve the complaints as soon as possible within these timescales, these are a maximum timescale for reporting purposes and have been set to ensure adequate time for any necessary multi-agency working to resolve the complaints.

11.3 In exceptional cases, it may not be possible to investigate and resolve complaints within these timescales, for example, in complex cases where further information is needed to respond or input from other agencies is required. In these cases, the responsible Officer will contact the complainant to confirm a revised response date and the reason(s) for the delay, record in detail any further investigation / steps taken and make sure that the complainant is kept informed.

11.4 If the complaint is resolved, or the complaint is not found to be actionable,

the case will be closed and the complainant advised of this. The definition of 'resolved' is drawn from the Scottish Housing Regulator Technical Guidance, 'where the landlord has taken appropriate measures, as set out in its ASB policies, to address the cause of the antisocial behaviour complaint and has advised the complainant of the outcome; or where the landlord does not have the authority or powers to resolve, it has provided a full explanation of the landlord's position.'

- 11.5 If the complaint is not resolved, the Officer will draw up an action plan including details of possible further action, target timescales and details of contacts to be made with the complainant and the complainant. Where further evidence may be required from the complainant in order to pursue the complaint, a standard recording form will be provided to the complainant together with a guidance note on how to complete it.
- 11.6 It is envisaged that the majority of complaints will be resolved without recourse to legal action. However where a complaint is assessed and/or escalated to the point it is justified, and cannot be resolved without legal action, all forms of legal action available to the Council will be considered.

12. Legal remedies – Housing

Antisocial Behaviour within previous three years – no court order

- 12.1 Where a prospective or existing Council tenant, joint tenant, a member of their household, or any visitors to their tenancy have conducted a course of antisocial behaviour within the previous three years, a short Scottish Secure tenancy (SSST) can be considered by the Council as per [Schedule 6 of the Housing \(Scotland\) Act 2001](#), as amended by [Section 7 \(4\) of the Housing Scotland Act 2014](#). This will reduce the person's rights under their tenancy agreement to allow a period of time to monitor and address the behaviour, using the relevant support where necessary. This can also be used as an attempt to try and provide respite or alleviate some of the issues with neighbours and/or the surrounding community.

12.2 There are many considerations and factors to be taken into account before an SSST can be considered. Fundamentally the behaviour must meet with the following criteria:

- meet the legal definition of antisocial behaviour as outlined in para 7.2 above;
- have happened on a minimum of two or separate occasions; and
- be substantiated with robust and corroborated evidence.

12.3 The Area Housing Officer will discuss the individual circumstances of the case with the relevant Area Housing Manager. All relevant factors must be considered as detailed in the Council's [Short Scottish Secure Tenancy \(SSST\) Policy](#). Where the decision is made to use an SSST the associated procedures will be followed and a robust audit trail will be maintained.

12.4 Where a complaint cannot be resolved, formal legal action will be considered, where appropriate. In such cases the evidence gathered will be passed to Legal Services for advice. All possible legal remedies will be considered, subject to the level of evidence available. A list of legal remedies is provided within the Scottish Government's publication '[Guide to the Antisocial Behaviour \(Scotland\) Act 2004](#)'. The Council will actively seek to use these remedies where appropriate in order to ensure that all types of antisocial behaviour are kept to an absolute minimum. The use of Antisocial Behaviour Orders (ASBOs) and eviction will only be considered as a last resort where other appropriate forms of action have been tried and have failed.

Antisocial Behaviour within previous three years – ASBO or Eviction Order

12.5 Where a prospective or existing Council tenant already has an ASBO or an eviction order due to antisocial behaviour, an SSST can be considered under [Schedule 6 of the Housing \(Scotland\) Act 2001](#). The Council's [Short Scottish Secure Tenancy \(SSST\) Policy](#) and associated procedures will be followed.

Convicted of a crime punishable by imprisonment

- 12.6 Where a perpetrator is a Council tenant, joint tenant, household member or regular visitor to a Council tenancy and has been found guilty of an offence punishable by imprisonment and convicted by a Court, the Council may consider eviction action using a streamlined eviction action introduced by [Section 14 of the Housing \(Scotland\) Act 2014](#). Although the crime is punishable by imprisonment, whether they have served an actual prison sentence will be irrelevant. All the individual circumstances of the case will be taken into account prior to any action being taken. The Area Housing Officer will discuss this possibility with the relevant Area Housing Manager and the Council's [Evictions Policy](#) and associated procedures will be followed.

13. Training

- 13.1 The Council will ensure that all Housing staff dealing with complaints of neighbour nuisance and antisocial behaviour receive the appropriate training. This may include training in various areas such as interview skills, statement taking, noise monitoring, the use of both early prevention work, antisocial behaviour contracts and legal remedies as well as low level mediation skills (where appropriate) which the Council will arrange.
- 13.2 The Council will seek to raise awareness of its policy on neighbour nuisance and antisocial behaviour across Council services and among other relevant partner agencies.

14. Complaints

- 14.1 Any complainant who is not satisfied with the manner in which the Council has dealt with any aspect of their noise nuisance or antisocial behaviour complaint should contact the Housing Services Manager in the first instance who will investigate and respond within 14 days.
- 14.2 Where the tenant is still not satisfied, the Council also has a corporate [Complaints Policy](#) and explanatory information which is available on the Council website.

15. Record keeping and performance monitoring

- 15.1 Robust recording of all complaints and action is necessary to ensure a robust audit trail to justify legal enforcement action. This assists in monitoring cases and helps the Council to identify the nature, type, frequency and locations of particular incidents and any problem areas within communities.
- 15.2 The Council also has a statutory duty to complete the Annual Return on the Scottish Social Housing Charter (ARC) to the Scottish Housing Regulator (SHR). This provides key information on our performance throughout the financial year in relation to resolving antisocial behaviour complaints that relate particularly to Council housing stock. Indicator 15 includes:
- i) Number of antisocial behaviour cases reported within the year; of those
 - ii) Number of cases resolved within the year (as per SHR definition of resolved in Section 11.4 above); and
 - iii) Percentage of antisocial behaviour cases reported in the last year which were resolved.
- 15.3 Further internal monitoring in relation to noise nuisance and antisocial behaviour complaints include -
- i) Number of cases by category and acknowledged / resolved within timescales;
 - ii) Number of cases referred for antisocial behaviour contracts (ABCs) or antisocial behaviour orders (ASBOs);
 - iii) Number of evictions for antisocial behaviour;
 - iv) Number of domestic noise complaints and the average time in hours between the complaint and attendance on site;
 - v) Number of incidents reported using the Equalities Incidents Monitoring Form.

16. Policy Review

- 16.1 This policy will be reviewed in 2027 or earlier if required by changes to legislation and/or statutory guidance.

