



MORAY COUNCIL

NEIGHBOUR NUISANCE AND ANTISOCIAL BEHAVIOUR POLICY

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1. Scope of the policy

- 1.1 The scope of this policy is to provide a clear and transparent framework for the Council to deal effectively with complaints and incidents of neighbour nuisance and antisocial behaviour throughout Moray. The Council recognises that neighbour nuisances 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 assist in fulfilling the Council's overall aim of Moray 2027- Local Outcome Improvement Plan. Whilst recognising that Moray is a safe place to live, the Council and its partner agencies commit to protecting those who feel most vulnerable and at risk, in an attempt to ensure that its communities feel safe. The Public Protection Partnership (PPP) provides the strategic direction that is required. The PPP will co-ordinate and oversee the activities of the partnership that relates to ensuring community safety and reducing crime.*

This policy will also contribute towards the:

- *Moray Local Housing Strategy (LHS) 2019-24 which focuses on promoting sustainable communities while promoting social inclusion;*
- *Council's Corporate Plan; and*
- *Community Safety and Antisocial Behaviour Strategy for Moray 2018-2021.*

3. Objectives and principles of the policy

- 3.1 The principal objective of this policy is to prevent, where possible, and alleviate neighbour nuisance and antisocial behaviour by responding to complaints in a timely and effective way.
- 3.2 The principles underpinning the Council's Neighbour Nuisance and Antisocial Behaviour policy are:

- Where appropriate, the Council will take early action to prevent issues escalating;
- The Council will seek to act in a manner that is consistent with accepted good professional practice;
- The Council will make sure that it does not act in a discriminatory manner when dealing with neighbour nuisance or antisocial behaviour complaints;
- Severe cases of antisocial behaviour are generally uncommon but where they do occur it can cause severe stress. The Council recognises this and will work to try and lessen the stress and impact caused by extreme cases within neighbourhoods and communities;
- Any response to neighbour nuisances and antisocial behaviour complaints often requires a multi-agency approach. The Council will therefore seek to work in partnership with relevant agencies in an attempt to achieve more effective results.

4. The legal framework

4.1 The legislation that governs the Council's statutory duties and powers in relation to antisocial behaviour is the Antisocial Behaviour (Scotland) Act 2004 and the Housing (Scotland) Act 2001, as amended by the Housing (Scotland) Act 2014, Part 2. Other associated legislation includes:

- Local Government in Scotland Act 2003;
- Civic Government (Scotland) Act 1982;
- Dangerous Dogs Act 1991;
- Dog Fouling (Scotland) Act 2003;
- Environmental protection act 1990, Sections 80-81;
- Equality Act 2010;
- Human Rights Act 1998 - *incorporating the European Convention on Human Rights (ECHR) and associated guidance* - [Human Rights at Home: Guidance for Housing Providers](#);
- Public Order Act 1986, Section 18;
- Protection from Harassment Act 1997, Sections 8-11; and
- The Regulation of Investigatory Powers (Scotland) Act 2000.

5. Equality and diversity

- 5.1 The Council is committed to preventing discrimination and promoting equality under the Equality Act 2010. The Council seeks to ensure that this policy does not discriminate between, or promote the harassment of, individuals on the grounds of age, disability, gender reassignment, marital status/civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation.
- 5.2 In 2011, 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.
- 5.3 The Council will develop information and advice upon request in a variety of formats such as large print, tape and braille.

6. Confidentiality and data protection

- 6.1 The Council will ensure that any information given as part of the complaints process will be used in accordance with the General Data Protection Regulations (GDPR) and the Data Protection Act 2018.
- 6.2 The Council is committed to encouraging households to report incidents of neighbour nuisances or antisocial behaviour and will deal with such complaints in a consistent, effective and sensitive manner. Complainants, alleged perpetrators and any witnesses will be treated fairly, in an unprejudiced and non-accusatory manner with sensitivity and in complete confidence. 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. What is 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.

Categories

7.3 To provide a framework for prioritisation and to indicate clearly what types of behaviour the Council will act upon, the following categories exist:

Category A – Very serious antisocial behaviour, which normally includes criminal activity such as drug dealing, *harassment or an individual due to a protected characteristic* or assault.

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 may

involve threats, harassment, *intimidation or damage to property such as vandalism/fire raising, causing danger and putting others at risk*. This may not be able to be substantiated by witnesses. It may involve disregard for others with loud music and parties or where the incidents are persistent and attempts to change behaviour has not worked.

Category C – *Minor issues* solely between two neighbours and minor breaches of tenancy agreements. This includes the use of common areas, maintenance, the use of boundaries and noise.

7.5 The policy allows for other low level behaviours relating to the management of Council tenancies to be dealt with by the relevant area housing team. In persistent and recurring cases where, improvements in behaviour are not forthcoming, the behaviour may be reclassified to become antisocial behaviour.

7.6 Where any antisocial behaviour as classified above escalates *and/or becomes more serious in nature*, it is possible to re-categorise the complaint to more accurately reflect the escalation.

8. Making a complaint

8.1 The Council accepts complaints via the online reporting form, by letter, phone or in person. Anonymous complaints will be recorded, but it may not be possible to take action unless a Council Officer can verify the complaint. The Council will respond to complaints of neighbour nuisances or antisocial behaviour as quickly as possible. Response target time scales are outlined below.

Category A - Visit/interview complainant and contact police within 1 working day.

Category B - Carry out initial investigation and assess appropriate action. Contact complainant by phone call/letter/visit within 2 working days to advise of assessment.

Category C - Investigate complaint and contact complainant by phone/letter or visit within 5 working days.

8.2 A customer's preferred means of communication will be used where possible. Where a customer prefers to communicate by email, response letters will be emailed as PDF attachments.

9. Dealing with a complaint

9.1 Depending on the category of the complaint, the Housing Liaison Officer or Community Warden will, in the first instance, deal with most complaints of neighbour nuisance or antisocial behaviour. More serious complaints, particularly Category A complaints will involve the Community Safety Team and be brought to the attention of both Police Scotland and the Housing Services Manager where applicable.

9.2 Complaints will normally be dealt with by taking action at the most appropriate level. Only in the most extreme cases will legal action be considered before a warning visit or interview is carried out. In all cases the complainants will be kept informed on the progress of the complaint and reasons for action taken or for closing of case. The stages of dealing with a complaint are detailed below:

- i) Initial receipt and categorisation. The details of the complaint will be logged and an initial categorisation made.
- ii) Initial action - depending on the severity of the case may include:
 - Contact made with the complainant to arrange a suitable venue and time to meet to get further detail;
 - Contact with local police to gain further information;
 - Sending a letter to the offender outlining the complaint received and pointing out terms of tenancy agreement as appropriate;

- A visit to the complainer to discuss complaint, investigate and gather further detail and so on;
 - If required, visits to neighbours for further information.
- iii) The locally agreed target timescales for investigating and resolving complaints are as follows:

Category A - 20 working days from the date the initial acknowledgement letter is sent.

Category B - 35 working days from the date the initial acknowledgement letter is sent.

Category C - 40 working days from the date the initial acknowledgement letter is sent.

- iv) These target timescales 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. All efforts will be made to resolve the complaints as soon as possible within these timescales.

- v) 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 Officer will contact the customer to confirm a revised response date and the reason(s) for the delay.

- vi) After initial action, the Officer will detail steps taken to investigate the complaint and make sure that the complainant is kept informed and notified of action taken.

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 guidance issued by the

Scottish Housing Regulator, '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.'

- vii) 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.
- viii) In some cases the Officer may conclude that no further action or only a verbal warning is appropriate. If the complainant is not satisfied with this conclusion a complaint can be made using the Council's complaints procedure.
- ix) It is envisaged that the majority of complaints will be resolved without recourse to legal action. However where a complaint is assessed as justified and cannot be resolved without legal action, all forms of legal action available to the Council will be considered.
- x) Category A cases will be reviewed and monitored by the Community Safety Officer. The potential implications will be considered and appropriate action will be taken in consultation with the Community Safety Officer, the Police and other relevant agencies.
- xi) Referrals to Police Scotland: -
 - (i) A data sharing request can be made to Police Scotland to investigate cases, facts or any allegations made.
 - (ii) A Police Referral Form is used for any cases of extreme antisocial behaviour, 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.

9.3 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.

10. Legal Action

Antisocial Behaviour within previous three years – no court order

10.1 *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.*

10.2 *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.*

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

10.4 *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

10.5 *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 Policy and associated procedures will be followed.*

Convicted of a crime punishable by imprisonment

10.6 *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 Housing Liaison Officer will discuss this possibility with the relevant Area Housing Manager/ Officer and the Council's Evictions Policy and associated procedures will be followed.*

11. Liaison with other services and agencies

11.1 Liaison with other agencies can be critical to the effective management of antisocial behaviour. The Council has an Information Sharing Protocol in line

with [Section 139 of the Antisocial Behaviour etc. \(Scotland\) Act 2004](#) with Registered Social Landlords, Police, the Procurator Fiscal, Children's Reporter, Police Scotland, Scottish Fire and Rescue Service, NHS Grampian, Victim Support and SACRO. The protocol allows information to be shared in connection with tackling antisocial behaviour.

11.2 The measures described in this policy are intended to provide protection to individuals and groups whose quality of life is undermined by the antisocial behaviour of others. Individuals who experience prejudice, for example on the grounds of race, religion or belief, gender, age, disability, pregnancy/maternity, gender reassignment or sexual orientation may also be more likely to be the victims of antisocial behaviour.

11.3 Additional vulnerabilities and social issues can be prevalent in cases of antisocial behaviour. The Council will seek to involve the most appropriate service to ensure the relevant specialist support and /or accommodation is in place prior to considering any legal remedies. These issues may include:

- drugs, alcohol or other substances misuse and addiction;
- mental health issues;
- domestic violence;
- any other vulnerabilities.

12. Training

12.1 Staff dealing with complaints of neighbour nuisances and antisocial behaviour will require the appropriate training. This may include training in various areas such as interview skills, statement taking, the use of legal remedies and mediation skills which the Council will arrange where appropriate.

12.2 The Council will seek to raise awareness of its policy on neighbour nuisance and antisocial behaviour across Council services and other partner agencies.

13. Record keeping and performance monitoring

- 13.1 It is essential that robust records are kept of any complaints made and action taken. This assists in monitoring cases and helps the Council to identify the nature, type, frequency and locations of particular incidents and problem areas. Standard action sheets will be used in Category A, B and C cases. This will ensure that the appropriate information is recorded should legal action be deemed necessary.
- 13.2 The monitoring of antisocial behaviour complaints allows the Council to measure the effectiveness of different actions that have been taken. The Council will use a number of methods to measure its effectiveness in managing antisocial behaviour. These include -
- i) Recording the number of complaints of neighbour nuisance and antisocial behaviour open at year end, received during year (by category of complaint) and closed during the year (within certain timescales);
 - ii) Number of cases of neighbour nuisance and antisocial behaviour cases resolved within locally agreed target times;
 - iii) Total number and type of action taken;
 - iv) Number of cases referred to mediation, community safety team or other agency and outcomes;
 - v) Number of evictions for antisocial behaviour;
 - vi) Number of domestic noise complaints and the average time in hours between the complaint and attendance on site;
 - vii) Customer satisfaction with antisocial behaviour service;
 - viii) Number of incidents reported using the Equalities Incidents Monitoring Form.
- 13.3 The Council also has a statutory duty to complete the Annual Return on the 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. This includes:

- i) Number of cases of antisocial behaviour reported within the year;
- ii) Number of cases resolved within the year;
- iii) Number of cases resolved within the locally agreed targets; and
- iv) Percentage of antisocial behaviour cases reported which were resolved within the locally agreed targets.

14 Measuring customer satisfaction

- 14.1 Individual customer satisfaction surveys will be sent to every customer when a complaint is resolved. *In addition a three yearly Housing Tenant Satisfaction Survey is also sent to all Council tenants.* This enables the Council to measure the views and opinions of tenants using the service, the value of the service provided and used to make further improvements to the service.
- 14.2 The feedback received from all surveys is collated and reported to the Communities Committee.
- 14.3 This policy will be reviewed in 2022 or earlier if required by changes to legislation and/or guidance.