



## Anti-Social Behaviour Policy



**TOLLCROSS**  
housing association

Prepared By	Maureen Barnes, Housing Manager
Policy Created	NA
Date of Last Review	March 2018
Date of Current Review	24 <sup>th</sup> June 2019
Date of Next Review	March 2022
Reviewed By	Management Committee

### **CORPORATE FIT**

Internal Management Plan	✓
Risk Register	✓
Business Plan	✓
Regulatory Standards	✓
Equalities Strategy	✓
Legislation	✓

*Tollcross Housing Association will provide this policy on request at no cost, in large print, in Braille, on tape or in other non-written format, and in a variety of languages.*

## **1 PRINCIPLES, AIMS AND OBJECTIVES**

Tollcross Housing Association believes that it is the right of all people to live in their homes without undue disturbance or disruption from others. Tollcross Housing Association aims to provide a service, which is effective in dealing with anti-social behaviour and neighbour nuisance. This policy provides an outline on the way in which complaints will be dealt with, the current legal and legislative provisions for dealing with anti-social behaviour and neighbour nuisance.

Every dispute will be responded to within defined timescales, which will be dependent on the severity of the dispute. These categories are detailed in Section 3 of this Policy. Every dispute shall be logged on our Cirrus software, under Antisocial Behaviour complaints. Tollcross Housing Association appreciates the effect that anti-social behaviour can have on individuals and communities and has set the following objectives to endeavour to deliver an effective response:

- Building and maintaining good relationships with Police Scotland, Glasgow City Council Community Safety services and other relevant external agencies;
- Providing information/advice and assistance to residents when dealing with anti-social behaviour;
- Maintaining our properties in such a way that the impact of anti-social behaviour is minimised as much as possible;
- Encouraging mediation and communication between disputing parties and where appropriate will source and participate in that mediation;
- Respond promptly to complaints and deal with them effectively in terms of the obligations of the tenancy agreement and sympathetically within the timescales detailed within this policy;
- Participate in the protocol for the sharing of information to tackle anti-social behaviour which has been agreed between Police Scotland, Glasgow City Council and Registered Social Landlords;
- The Management Committee will be provided with Key Performance Reports on a quarterly basis.
- Developing a detailed procedure to guide staff on use of the range of tools to tackle anti-social behaviour included in this policy and by discussing individual cases on a case to case basis with their line manager. It is acknowledged that some cases may be discussed as and when required pending on the seriousness of cases.

## **2 LEGAL AND REGULATORY FRAMEWORK**

This Policy aims to be consistent with all relevant legal and regulatory requirements including those set out below; is designed in compliance with the following;

### **Legal Requirements**

- **The Housing (Scotland) Act 2001**
- **The Housing (Scotland) Act 2010**
- **The Housing (Scotland) Act 2014**
- **Equality Act 2010**
- **Crime & Disorder Act 1998**
- **Misuse of Drugs Act 1971**
- **Anti-Social Behaviour (Scotland) Act 2004**
- **Human Rights Act 1998**
- **Regulation of Investigatory Powers (Scotland) Act 2000**
- **Data Protection Act 1998**
- **Schedule 7, Housing (Scotland) Act 2001**
- **Criminal Justice Act (Scotland) Act 2003**
- **Sex Discrimination Act 1975**
- **Race Relations Act 1976 (Amended) Regulations 2003**

## **Regulatory Framework**

We will comply with the Scottish Social Housing Charter requirements most relevant to this policy;

### **Outcome 6 – Neighbourhood and Community**

**Estate management, Anti-social behaviour, neighbour nuisance and Tenancy Disputes.**

**Tenants and other customers live in well maintained neighbourhoods where they feel safe.**

**This outcome covers a range of actions that Social Landlords can take on their own and in partnership with others. It covers action to enforce tenancy conditions on estate management and neighbour nuisance, to resolve neighbour disputes and to arrange or provide tenancy support where this is needed. It also covers the role of Landlords in working with others to tackle anti-social behaviour.**

### **Outcome 11 – Tenancy Sustainment**

**Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the Landlord and by other organisations.**

**The following Tollcross Housing Association Policies should also be referred to in relation to our approach to anti-social behaviour and harassment;**

- **Estate Management Policy**
- **Allocations Policy**
- **Void management Policy**
- **Complaints Policy**
- **Equality & Diversity Policy**
- **Internal Management Plan**

Tollcross Housing Association is committed, in the adoption and implementation of this policy, to meeting all statutory requirements by achieving all charter outcomes outlined by the Scottish Housing Regulator.

The Association recognises that an effective response to the legislation on anti-social behaviour is in part dependent on building effective partnerships with key players such as Police Scotland, Glasgow City Council and other partner agencies.

### 3. **EQUALITY AND DIVERSITY**

3.1 The Associations Equality & Diversity policy outlines our commitment to promote a zero tolerance to unfair treatment or discrimination to any person or group of persons, particularly on the basis of any of the protected characteristics.<sup>1</sup> This includes ensuring that everyone has equal access to information and services and, to this end, the Association will make available a copy of this document in a range of alternative formats including large print, translated into another language or audio.

3.2 We are also aware of the potential for policies to inadvertently discriminate against an individual or group of individuals.

To help tackle this and ensure that it does not occur, best practise suggests that organisations carry out Equality Impact Assessments to help identify any part of a policy that may be discriminatory so that this can be addressed (please see section 6 of the Equality and Diversity Policy for more information)

3.3 In line with section 6.3 of the equality and Diversity policy, the Association will apply a screening process based on that recommended by the Equality and Human Rights Commission to ascertain whether each policy requires an Impact Assessment to be carried out. The screening process was applied to this policy and it was decided that an impact assessment is/is not required

<sup>1</sup>The Equality Act 2010 identifies the “protected characteristics” as age, disability, marriage and civil partnership, race, religion or belief, gender, gender reassignment and sexual orientation

## 4 DEFINITION OF ANTI-SOCIAL BEHAVIOUR

The definition of anti-social behaviour is rarely straight forward as what can constitute nuisance to one party may be of little or no concern to another. Anti-social behaviour can involve minor nuisances, which are breaches of the tenancy agreement to serious criminal behaviour. The Policy will therefore attempt to categorise different types of behaviour and will set out a range of tools, which can be used by the Association to deal with anti-social behaviour.

The legal definition of anti-social behaviour is contained with the Housing (Scotland) Act 2001 as “Acts or the pursuit of a course of behaviour which causes or is likely to cause alarm, distress, nuisance and annoyance;” A much more detailed definition of antisocial behaviour is included in section 3.2 of the Scottish Secure Tenancy Agreement - “Anti-social means causing or likely to cause alarm, distress, nuisance or annoyance to any person or causing damage to anyone’s property.”

### 4.1 Categorisation of Disputes

It is acknowledged that some types of behaviour, whilst still anti-social in nature, will be viewed as being less serious than others. How the Association responds to a complaint will be determined by how the complaint is categorised.

Complaints will usually fall into one of the following categories:

- Exclusively a tenancy issue/nuisance;
- Criminal matter and a tenancy issue;
- Extreme/criminal matter

**Category 1** – This category will include all cases such as drug dealing, unprovoked assault, assault on staff and contractors, violence and serious harassment. In all cases, police involvement is a requirement.

**Category Two** – This category will include cases such as serious excessive noise, threatening behaviour, and vandalism. Complaints of this behaviour are a breach of the tenancy agreement and indicate serious anti-social behaviour that may also constitute criminal acts.

**Category 3** – This will include complaints about stair/bin cleaning, garden upkeep, litter, control of pets, family disputes affecting neighbours, initial noise complaints, behaviour of visitors and children, infrequent disturbance.

The majority of category three complaints will be about relatively minor problems but could have the potential to develop into a serious problem if not addressed and resolved at an early stage.

It should be noted that these examples of anti-social behaviour are not exhaustive and that any doubts over the categorisation of anti-social behaviour will be referred to and agreed at the discretion of the Housing Manager.

#### 4.2 Complaint Response Times

<b>ACTION</b>	<b>CATEGORY ONE</b>	<b>CATEGORY TWO</b>	<b>CATEGORY THREE</b>
Contact Complainer	1 Day	3 working days	5 working days
Contact Neighbours/Witnesses	1 Day	3 working days	5 working days
Contact/Interview Alleged Offender	1 Day	5 working days	7 Working Days
Liaison with other agencies	1day	7 working days	7 Working Days
Case Evaluation/Action	2 working days	7 working days	7 Working Days

The above Timescales and categories have been agreed by the Associations' scrutiny panel

#### 4.3 Responses to Complaints of Anti-social Behaviour

It is important that complaints of anti-social behaviour are seen to be dealt with quickly and efficiently so that tenants have confidence that the Association will take the appropriate action.

The Association will investigate all complaints of anti-social behaviour and will adopt a non-judgemental approach at the initial stages of the investigation. Appropriate attempts will be made to clarify the validity of complaints and action, in terms of breach of the tenancy agreement, taken only when the allegations are corroborated.

The Association will endeavour to help/support victims of anti-social behaviour and where appropriate, the support and advice of community groups and other agencies will be sought, where appropriate, to facilitate an effective response.

## **4.4 Links with Other Services**

### **4.4.1 General**

Tollcross Housing Association will endeavour to work with other agencies to try and resolve anti-social behaviour in an effort to avoid resorting to legal action by, e.g., involving Police Scotland, Glasgow City Council Community and Safety Services, Mediation Services or Environmental Services.

In the event that the anti-social complaint is not only a tenancy matter but also an issue which another agency may have powers to deal with, e.g., Environmental Health, every effort will be made to secure the involvement/support of that agency.

The complainant will be kept informed of the Association's actions regarding other agencies involvement.

If the matter is not dealt with effectively by the external agency then further action will be considered under breach of the tenancy agreement.

Tollcross Housing Association will work with other agencies, including the Police to help with the gathering of evidence that is required in the event of legal action. Attempts should be made to clarify to complainants the role of the Association and that criminal matters should always be reported to the police.

### **4.4.2 Partnership Working**

Tollcross Housing Association recognises the clear commitment required from all parties to resolve cases of anti-social behaviour. Where appropriate, the Association will explore the option of developing formal agreements with relevant agencies, e.g., Social Work Department, Police Scotland Glasgow Community and Safety Services and the Glasgow City Council, in an effort to build good working relationships which allows for multi-agency working. This is important in terms of informing the tenants and the public to whom their complaints should be directed and thus creating an informed environment and potentially saving staff time in investigation procedures.

*Partnership with other RSL's*– Other neighbouring RSL's have established stringent protocols in the investigation and resolution of anti-social behaviour complaints and Tollcross Housing Association will endeavour to work with neighbouring RSL's where cross tenure and areas is an issue.

*GCC Homeless Casework Team* Housing Officers will endeavour to ensure that any tenant with whom they come into

contact whilst investigating a neighbour complaint, who has an identified need for support, is made aware of and, with their permission, referred to the appropriate agency who may be able to address their support need. Support needs could range from drug/alcohol related problems to family support and welfare issues.

***Community Safety Patrol Officers & Community Enforcement Officers*** – The CSPO's and CEO's are a resource, which the Housing Officers will use, in specific circumstances to help them substantiate and corroborate complaints being reported to them by tenants. There are potentially a number of situations in which the CSPO's and CEO's may be able to assist officers in investigating complaints, e.g., monitoring noise levels from a particular property.

***Victim Support Services*** – People who suffer anti-social behaviour can feel vulnerable from the time they report an incident therefore an independent agency for support is important. In the appropriate circumstances, officers should advise victims of anti-social behaviour of "Victim Support" and the Association's offices should carry leaflets on their services.

#### **4.5 Remedies to Anti-Social Behaviour**

The Association favours the resolution of anti-social behaviour problems as quickly as possible, however it recognises that with most, if not all, of Category Three disputes, police involvement and legal remedies will be necessary. Other categories of disputes will initially be dealt with using other remedies rather than legal ones. These remedies can either be formal or informal and the Housing Officers will explore these before consideration is given to legal proceedings and agree a course of action with the Housing Manager for all Category 1 & 2 complaints.

Dependant on the level and nature of the anti-social behaviour, consideration will be given to the use of the following remedies although this list is not exhaustive:

**Interdicts** – An interdict is a court order which can prevent the perpetrator from carrying out certain actions, behaving in certain ways and/or frequenting a certain area, although it is important to note that an interdict is not redress for behaviour already done. The behaviour could include a breach of tenancy conditions, violence or a pattern of ongoing nuisance. An application can be made by either the Association or the resident and where the behaviour does not improve then action can be taken for Breach of Interdict.

Where an interdict is granted and the behaviour has not improved, then action can be taken for Breach of Interdict. For a "breach of interdict"

the proof needed is comparable to that of a criminal prosecution, i.e. beyond all reasonable doubt and the penalty is either a fine or imprisonment.

Examples of typical cases where Interdict/Interim Interdict have been granted are;

Playing of loud music, swearing/shouting, noise, dog fouling, harassment of neighbours, verbal abuse/threats to staff, wilful fire damage, flooding of neighbours, and damage to property.

The main advantages of using Interim/Interdict are:

- Interim interdicts do not require witnesses to attend court
- Speed of action sends a message to both parties that steps are being taken
- Immediate protection
- Prevents behaviour of offender without need to evict

**Specific Implement** – This is an order of the court, which requires a person to perform his/her legal obligations under a contract. This can be used by social landlords to require a tenant to take positive action. Examples of where specific implement could be used are maintenance of own garden areas, failure to fulfil responsibilities to clean communal areas, dumping rubbish.

**Eviction/Recovery Proceedings** – If a tenant, member of their household or visitor is found to be in breach of their tenancy agreement and there is a pattern of anti-social behaviour, then a Notice of Proceedings may be served to inform the tenant and any qualifying occupiers that the Association intends to instruct court proceedings to repossess the tenancy. The Association can then instruct its solicitor to proceed to the Sheriff Court to request an eviction decree for the tenant.

**Anti-social Behaviour Orders (ASBO's)** – These were introduced by the Crime & Disorder Act 1998 and it is important to note that they are not a substitute for criminal proceedings.

The ASBO is made by the civil court on application by the Association to restrain individuals from carrying out acts or pursuing a course of conduct, which adversely affects members of the community. It is intended to address behaviour that could escalate and patterns of behaviour that cause alarm/distress.

An ABSO can be made against persons of all housing tenures types including owners, private sector tenants and Housing Association tenants and can apply to tenants, their children, and members of their household or visitors to their household.

The breach of an ASBO is a criminal offence and is punishable by a fine or custodial sentence as determined by the Sheriff. The breach of an ASBO can also be used as evidence for obtaining an eviction decree for anti-social behaviour.

The Action can be raised against any adult or children aged 12 and over and the Sheriff determines its duration only. Examples of behaviour this can cover are individual's intimidation of neighbours through threats and/or violence and persistent unruly behaviour by groups of individuals who dominate and use minor damage as a means of intimidation.

Breach of an ASBO is a criminal offence and is punishable by a custodial sentence or fine as determined by the Sheriff.

**Interim ASBO's** – These have been introduced by Section 44 of the amended Crime and Disorder Act, can provide more immediate protection and can be applied for pending the application of a full ASBO. The Sheriff will consider and Interim ASBO only if satisfied that proof of anti-social behaviour will be provided at the full hearing.

The Sheriff also needs to be satisfied that it necessary to protect the affected community from further acts.

**Acceptable Behaviour Contracts (ABC)** – These can be used prior to considering applying for an ASBO. The agreement is a written agreement between the perpetrator, the landlord and the Police. Its aim is to make the person responsible for their actions and will detail the responsibilities of the person based on identified anti-social behaviour. These contracts are not legally enforceable and the perpetrator cannot be forced to enter into the agreement however are widely recommended for use and can be useful to prove to the Sheriff that the landlord has tried reasonable alternative approaches to an ASBO. They are flexible in nature and by signing; the person is agreeing to take responsibility for their behaviour.

An Unacceptable Behaviour Notice can be used where an individual refuses to sign an ABC and its aim is to make the person aware of their actions and the consequences of continuing with their behaviour. Again these have no legal standing but will detail the responsibilities of the person on identified activities. They can be used as a body of evidence to support an application for an ASBO and/or eviction action.

## **Conversion to a Short Scottish Secure Tenancy for Anti-social Behaviour**

**In certain circumstances, we can change your tenancy agreement to a different type of tenancy agreement called a Short Scottish Secure Tenancy (SSST) agreement, which gives you fewer rights and less protection from Eviction action than a Scottish secure Tenancy (SST).**

From May 2019, due to changes in legislation, these circumstances will now include any situation where a Tenant or someone living with the Tenant has acted in an anti-social manner in or around the property.

If we choose to convert your tenancy we will serve a Notice on you which will detail the actions of the person who has behaved in an anti-social manner and our reasons for converting the tenancy.

You will have the right to appeal the conversion to the Sheriff Court.

## **5 CONFIDENTIALITY**

Tollcross HA will comply with the requirements of the Access to Personal Files 1987 and the Data Protection Act 1998 and our Openness & Confidentiality Policy in implementing this policy.

## **6 PERFORMANCE MONITORING**

- 6.1 In order to judge the success of this policy, Tollcross HA operates a system that monitors and measures performance. The following points details how this is achieved:
- 6.2 Performance targets and timescales will be set for staff in progressing antisocial cases through the key stages, which include contacting complainer, Contacting witnesses, Contacting alleged offender, liaising with other agencies and resolution.
- 6.3 Reports will be produced to assist in measuring performance against targets and will allow comparison of results on a month to month and year on year basis indicating trends and highlighting where performance requires to be investigated and addressed. These reports will also be provided on a quarterly basis to the Association's management committee and operations sub-committee.

- 6.4 The Association's performance will also be monitored against derived information from other organisations through possible benchmarking arrangements and comparisons of performance statistics reported by the Scottish Housing Regulator.
- 6.5 Collectively, Housing Managers will be responsible for ensuring the Association's antisocial behaviour policy objectives and overall targets are being achieved. They will be required to introduce improvements in the operation of the antisocial behaviour procedures if possible or necessary or in line with legislative changes or good practice guidelines.
- 6.6 Periodic audits of the antisocial behaviour procedures will be carried out, to assess performance and check compliance with policy, and good practice highlighting areas which may need to be addressed.

## **7. ROLE OF COMMITTEE**

- 7.1 Committee Members will be concerned with the overall strategy and policy to be adopted in relation to antisocial behaviour. They will monitor performance in antisocial behaviour in order to achieve safer and sustainable communities.
- 7.2 Quarterly and Annual statistical reports on antisocial behaviour will be presented to the Management Committee and the Operations Sub-Committee. The content of these reports and the amount of detailed information provided will reflect the Association's standing orders and scheme of delegated authority between the Committees.
- 7.3 In accordance with the scheme of delegated authority, Committee Members on the Operation's Sub-Committee will be responsible for:
- Reviewing and approving the antisocial Behaviour Policy
  - Considering and implementing as appropriate recommendations made by the Performance Monitoring groups
  - Scrutinising and monitoring performance in antisocial Behaviour management
  - Comparing the Association's performance against targets and the performance of peers.

## **8 COMPLAINTS**

- 8.1 Any tenant who feels aggrieved by the service they have received from staff in carrying out their responsibilities in relation to this policy can make an informal or formal complaint to the Association.

- 8.2 All complaints will be fully investigated in accordance with the Association's Complaints Policy. A written guide on the complaints process is readily available to customers on request and is on display in the reception area of the office.
- 8.3 Any tenant making a complaint will be advised of their right to complain to the Scottish Public Services Ombudsman.

## **9. EQUAL OPPORTUNITIES**

- 9.1 The Association will seek to ensure that in implementing this policy and its associated procedures, no group, organisation or individual will receive less favourable treatment or be discriminated against regardless of their race, colour, ethnic or national origin, sex, marital status, disability, sexual orientation, religion, age or other grounds.

## **10. REVIEW AND CONSULTATION**

- 10.1 The Association will formally review this policy at least every three years. A review within this period may however be carried out as required to make amendments due to legislative changes, performance requirements or changes to the Association's Standing Orders and delegated authority to Committees and to the Management Team. The Policy will be put out to consultation during this review process, and all feedback will be considered prior to implementation.

## **11 LINKS WITH OTHER POLICIES**

This policy necessarily links with the Estate Management Policy and Allocations Policy

Maureen Barnes  
Housing Manager  
March 2019