

# Tenants First Housing Co-operative

## ANTISOCIAL BEHAVIOUR and HARASSMENT POLICY

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## 1.0 Aims

Tenants First Housing Co-operative (hereafter referred to as the Co-operative) takes a stance of zero tolerance towards any form of antisocial behaviour and harassment, particularly when motivated by hate. Section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 sets out the interpretation of antisocial behaviour. This is:-

"...that a person is involved in antisocial behaviour if they:

- Act in a way that causes or is likely to cause alarm or distress to anyone; or
- Behave in a way that causes or is likely to cause alarm and distress to at least one person not of the same household as them."

The following are the Co-operative's key aims in the tackling of antisocial behaviour and harassment:

- To effectively manage antisocial behaviour and harassment within its geographical area to provide a safe environment for all members
- To actively reinforce and publicise its zero tolerance stance towards hate crime. That is harassment targeted at people because of their race, ethnicity, religion and faith, sexual orientation, gender, gender identity or disability.
- To ensure that the rights of members to the privacy and peaceful enjoyment of their home is protected
- To take early and effective action to prevent the escalation of incidents of antisocial behaviour and harassment
- To offer support and guidance to those affected by antisocial behaviour and harassment, regardless of the nature of the crime, in a safe, secure and confidential environment when issues of antisocial behaviour and harassment are reported
- To work in partnership with other agencies in the prevention and tackling of antisocial behaviour and harassment
- To ensure a variety of options are available to members and staff in resolving antisocial behaviour to prevent legal action being necessary
- To recognise the needs, lifestyle and culture of individuals in tackling and resolving antisocial behaviour and harassment

## **2.0 Objectives**

This policy links with the following objectives contained in the Co-operative's Business Plan:

- 1) To provide manage and maintain top quality affordable housing across a range of tenures
- 3) To promote sustainable, inclusive communities

## **3.0 Key Principles**

The Co-operative aims to offer the best service it can provide and has based its Antisocial Behaviour and Harassment Policy on the following principles to achieve this aim.

### **3.1 Response to complaints**

The Co-operative at all times will maintain an impartial stance when dealing with complaints received, with an overall aim for reconciliation between those involved and encouragement for people to live in harmony.

The Co-operative will respond to complaints quickly, efficiently, within the time limits set in the anti social behaviour and harassment procedure and will address all the points at issue, although it is recognised that on occasions it is not always possible to identify who is the victim or the perpetrator in some situations reported. The Co-operative also recognises many complaints received and dealt with refer more to 'neighbour disputes' than antisocial behaviour and in these circumstances a more measured approach is taken. In all situations reported the Co-operative will keep the complainant regularly informed of developments both verbally and in writing.

It will not always be necessary for complaints to be made in writing before action is taken, although this will be preferable, and support will be given to anyone who has difficulty with this.

Anonymous complaints will be treated with caution and will only be accepted in exceptional circumstances. An example would be where antisocial behaviour relates to serious problems, such as violence towards a member or members, and there is good reason to believe that there could be fear of reprisals.

### **3.2 Approach to antisocial behaviour and harassment**

The Co-operative's approach will be victim centred with investigations and solutions sympathetic to the needs and circumstances of the complainant, particularly when a complainant believes behaviour to be motivated by hate e.g. racism, disability discrimination, homophobia, transphobia or biphobia. By complainant we mean the person reporting the complaint but recognise that

this person may not always be the victim. The Co-operative will make referrals to other agencies, such as Victim Support, where it is appropriate.

### **3.3 Tenant participation**

The Co-operative is committed to working with members and local residents to enforce its intolerance of antisocial behaviour and harassment. The Co-operative aims to resolve all such reports received and realises that consultation and discussion is invaluable in achieving this aim. An example of tenant participation would be policy consultation.

### **3.4 Partnerships**

The Co-operative will continue to maintain good relations with other landlords in multi-tenure type situations and is committed to partnership working with key agencies, such as Local Authorities, the Police, the Environment and Infrastructure service and Social Work in preventing and dealing with incidents of antisocial behaviour and harassment.

The Co-operative particularly recognises the importance, in both strategic and operational terms, of supporting the Local Authority Antisocial Behaviour Strategies in the areas in which it operates. This will include sharing of information and services in accordance with agreed Protocols and Agreements and participation in appropriate working groups.

### **3.5 Preventative action**

Obligations relating to antisocial behaviour and harassment shall be reinforced when member(s) sign their Scottish Secure Tenancy Agreement [SST] or Short SST and again when 'follow up' visits are carried out. Staff will explain in detail what the responsibilities of the landlord and members (their household members and visitors) are. A Tenants Handbook is also issued which includes relevant sections on antisocial behaviour and harassment.

Fact sheets on the Co-operative's approach to managing antisocial behaviour and harassment are also available for members and the public in the reception areas and on the Co-operative's website.

### **3.6 Non-legal remedies**

The Co-operative will maintain a comprehensive procedure for the tackling of antisocial behaviour and harassment. The Co-operative recognises additional non legal remedies are available to achieve resolution which includes guidance, particularly to non-members, in seeking independent advice from external agencies, for example the Citizens Advice Bureau.

#### **3.6.1 Mediation**

Mediation is a solution that is used as an early intervention 'tool' in resolving low key antisocial behaviour, harassment or neighbour disputes and is a useful strategy for people to personally resolve difficult situations they are involved in without interference from the landlord. There is a high level of success in people resolving their differences using mediation.

Not all situations are suitable for mediation. Where it is, referral will be made to the appropriate mediation service in each local authority area. Depending on the mediation service available, it may be possible for only one party to be agreeable to this solution, otherwise it requires the agreement of all parties involved.

### 3.6.2 ASSIST Project

The ASSIST project, developed by the Co-operative in partnership with Grampian Housing Association, can provide support to the perpetrators of antisocial behaviour and harassment. Providing support to members in maintaining an effective tenancy and tackling any other underlying issues, can effectively tackle the root causes of unacceptable behaviour within a household.

### 3.6.3 Antisocial Behaviour Investigation Team – Aberdeen City Council area

As part of the Antisocial Behaviour Strategy, the Co-operative has access to the Investigation Team (ASBIT) which can assist in daytime and out of hours support and advice to complainants and also in the witnessing and recording of incidents. A formal referral process is used to facilitate this.

### 3.6.4 Families Project – Aberdeen City Council

Aberdeen City Council runs the above project aiming to support families who are at risk of eviction for very serious, sustained and often prolonged anti social behaviour. There is a 'core block' of three flats where families reside and receive 24 hour support. The aim is to achieve a sustainable tenancy. After residing in the core block, 'successful' families will be moved on to a temporary 'dispersed' tenancy with less intensive support. This will hopefully then lead to the family moving to a secure independent tenancy. The project also operates an outreach service with the aim of preventing serious anti social behaviour from escalating any further and jeopardising their tenancy. The Co-operative has full access to this service by referral. Given the scale of this service it is generally assisting the most serious cases of anti social behaviour.

### 3.6.5 Antisocial Behaviour Unit - Angus

Angus Council, as part of their Antisocial Behaviour Strategy, provides a similar service to Aberdeen City Council's ASBIT. This service is only available in full to Angus Council tenants but Co-operative members, owner occupiers and private tenants can access this service, via referral to the Community Safety Team, for independent advice and assistance on antisocial behaviour matters.

### 3.6.6 Antisocial Behaviour Support Officers – Aberdeenshire

The Co-operative can access the services of two part time officers employed by Aberdeenshire Council for support to victims of antisocial behaviour. A formal referral process is in place.

### 3.6.7 Community/City Wardens

Aberdeen City, Aberdeenshire and Angus Council provide Community Wardens (in Aberdeen City these are City Wardens) who, generally, are employed to engage with residents to help prevent, and when necessary, provide early support where there are environmental issues (such as dog fouling) and incidents of antisocial behaviour and harassment in certain localities. The Wardens' presence on the streets aims to deter anti social behaviour in those areas.

### 3.6.8 Acceptable Behaviour Contracts (ABCs)

An ABC is a voluntary contract offered to perpetrators of antisocial behaviour and generally involves a multi agency approach. They are offered as a final opportunity to the perpetrator to amend their behaviour prior to commencing legal action if no improvement is made. ABCs state the terms which the perpetrator will adhere to, to resolve the situation and is signed by them. ABCs are monitored and support provided where necessary to ensure the perpetrator avoids 're-offending' and thus complies with the terms of the ABC,

## **3.7 Legal remedies**

When preventative, management approaches and non legal remedies have failed to resolve the problem, the Co-operative will consider using legal remedies. The following is a list of the legal options available.

### 3.7.1 Notice of Proceedings (NOP)

Where member's behaviour reaches a level that gives the Co-operative concern, a NOP will be served on the member(s) and anyone over the age of 16 who is part of the household. A NOP is the first step in the Co-operative pursuing legal action. It is a document which states what the Co-operative's legal intentions are should the member(s) behaviour not improve.

Those members served a NOP who have a Right to Buy (RTB) contract with the Co-operative will retain that contract. It is only if decree is awarded as a result of their behaviour and the member's membership is subsequently re-approved that their RTB contract will **not** be reinstated.

### 3.7.2 Anti Social Behaviour Orders (ASBO) and Interim Anti Social Behaviour Orders (Interim ASBO)

An ASBO is a civil preventative measure for antisocial behaviour that can be applied to persons of 12 or over. An ASBO, once it has been awarded, can be for an indefinite period and it will be specific about the acts which the offender is prohibited from carrying out. A breach of an ASBO is a criminal offence and is punishable by a fine and/or imprisonment up to five years.

Interim ASBOs may be applied for in cases where immediate protection is required from anti social behaviour pending the more substantive application for a full ASBO. The Sheriff needs to be satisfied that, were the alleged behaviour to be established at a full hearing, an order would be required to

protect relevant persons from further acts. Breach of an interim ASBO is also a criminal offence.

The Co-operatives Antisocial Behaviour Order Policy states its approach to this.

### 3.7.3 Interdicts

An interdict is an order of the court requiring a person to whom it is addressed to stop doing something legally wrong. For an interdict to be granted by the court the defender must have done something, or about to do something, that infringes the pursuer's legal rights. An interdict may be and usually is, granted on an interim basis pending final determination of the merits of the case. In other words the order is made without proof of the facts or full legal debate.

The Co-operative does not normally consider the use of interdicts as a solution to resolving issues, such as antisocial behaviour, now that other more robust remedies are available, for example ASBOs. However, the Co-operative may advise a person to pursue an interdict independently if that is felt to be the best and most appropriate course of action.

### 3.7.4 Short Scottish Secure Tenancy (Short SST)

The Co-operative will consider the offer of a Short SST in accordance with the legislation and terms of its Short Scottish Secure Tenancy Policy.

Where a full ASBO has been granted against a member, the Co-operative has the right to convert their SST to a Short SST. The Co-operative also has the power to offer a Short SST to applicants for housing where an ASBO, or other legal action, has been previously awarded against them.

The offer of a Short SST can be given to applicants who have a history of demonstrating serious antisocial behaviour or harassment in previous tenancies. This is a means of providing support and ensuring they can now conduct a tenancy satisfactorily. In these circumstances a Short SST will be made available for a minimum of six months and a maximum of 12 months. If the tenancy is conducted in a satisfactory manner the Short SST will be converted to a full SST. Before a Short SST is formally offered to an applicant, they must accept the support provided either by the Co-operative or other agreed agency as a condition of the tenancy.

Existing members who have a contractual RTB contract with the Co-operative and have their tenancy converted to a Short SST will lose their RTB status as set out in Part 2, Chapter 1, Section 34 of the Housing (Scotland) Act 2001. If converted back to a full SST; they will **not** have their RTB contract reinstated.

### 3.7.5 Eviction for breach of the terms of the Scottish Secure Tenancy Agreement

The Co-operative recognises that pursuing eviction action is a measure of last resort when all other options have failed to resolve serious antisocial behaviour or harassment.

For an eviction to be successful the crucial legal issue is one of reasonableness. This means that courts, in deciding whether to evict, must have regard for the points listed below:

- a)** the nature, frequency and duration of the alleged conduct
- b)** the extent to which the conduct is or was as a consequence of acts or omissions of persons other than the member
- c)** the effect that the conduct had, is having and is likely to have on any person other than the member, and
- d)** any action taken by the landlord, before raising proceedings, with a view to securing the cessation of that conduct.

Below is a list (although not exhaustive) of factors that Sheriffs will take into account when considering reasonableness.

- seriousness of the conduct
- frequency of the conduct
- length of time over which the conduct has occurred
- nature of the conduct complained of
- effect of the conduct on neighbours
- effect of the conduct on the landlord
- if the conduct was by a person other than the defender, the steps that have been taken to control the perpetrator
- the length of the tenancy and any previous problems
- conduct of other neighbours
- whether the conduct complained of has abated at the time of the hearing
- efforts made by the landlord to involve other agencies e.g. Police, Social Work department, Environmental Health.
- effect of the eviction on any 'innocent members' of the household, particularly dependent children
- other steps taken or considered by the landlord to deal with the problem by, for example, ASBO or non-legal means i.e. mediation, ABCs, insulation of property against noise nuisance, interdict
- whether the conduct was intentional or had some other cause - e.g. the defender's mental health problems

The Co-operative has a duty under Section 11 of the Housing (Scotland) Act 2003 to advise the appropriate local authority that an eviction is likely to proceed and that the household may present themselves as homeless. If an eviction takes place, the Co-operative will advise its members to contact the

relevant local authority's Homeless Section, who will provide guidance and assistance on the prevention of homelessness.

### **3.8 Action against non members and owner occupiers**

The Co-operative recognises that mixed tenure exists in the areas in which it operates including owner occupiers and the tenants of other Registered Social Landlords. This can lead to antisocial cases involving non members. The Co-operative will make every attempt to resolve the problem through informal, non-legal remedies and will give support and assistance to its members who are experiencing antisocial behaviour from an owner-occupier or tenants who is not a member of the Co-operative. In every case, advice will be given when appropriate for people to seek independent advice from other agencies such as Citizens Advice Bureau.

Conversely, there are times when complaints are made by people who are non members about experiencing antisocial behaviour from a member of the Co-operative. In such situations the Co-operative will ensure that the member is dealt with through the terms of this Policy.

### **3.9 Committee Members involved in antisocial behaviour and harassment**

A member cannot remain or be re-elected as a Committee or Board member if they are subject to any legal proceedings in any Court of Law by the Co-operative.

Where a case of antisocial behaviour/harassment is approved for legal action and involves a Committee member, the individual concerned will be asked to take leave of absence pending investigation.

## **4.0 Racial Harassment**

### **4.1 Definition**

The working definition of racial harassment adopted by the Commission for Racial Equality in its report on racial violence and harassment in housing 'Living in Terror' – 1987 is as follows:-

"Racial Harassment is violence which may be verbal or physical and which includes attacks on property as well as on the person, suffered by individuals or groups because of their race, colour, nationality or ethnic or national origins, when the complainant believes that the perpetrator was acting on racial grounds and/or there is evidence of racism".

In this definition the complainant's perception of racism is crucial and the Co-operative's approach will therefore be 'complainant' centred with the racial motivation behind an incident accepted as such unless on investigation it can reasonably be proven otherwise. The primary consideration is therefore the health, safety and welfare of the complainant and his/her family and support

and encouragement will be given to the person suffering harassment at all times.

When visual evidence such as graffiti, damage to property or racist publicity is not in evidence, the dominant factor considered will be the complainant's daily fear of racial insults, humiliation or actual physical harm to their family and/or home.

#### **4.2 Identifying racial harassment**

Racial Harassment can occur in a variety of forms. The following are some examples of what constitutes racial harassment:-

- Racial abuse – verbal and written
- Racially abusive behaviour – such as spitting, threats, theft, offensive items left on doors and posted through a letter box, telephone calls
- Physical assaults on complainant, their dependants and relatives
- Incitement – stirring up racial hatred by variety of means such as petitions, leaflets and stickers
- Damage to property – such as racist graffiti and slogans – bricks through windows and doors, damage to cars and other possessions
- Threats to well being or life – such as lighted matches or rags being put through a letter box
- Arson or attempted arson

#### **5.0 Lesbian, Gay, Bisexual and Transgender (LGBT) Harassment**

Communities Scotland Review of Equality Thematic Study 2006 identified that LGBT issues are an area with the least attention and progress in social housing providers' equality network. Below is Stonewall's definition of LGBT harassment:-

*"Harassment is usually defined as constant interference or intimidation that violates people's dignity or creates a hostile, degrading, humiliating or offensive environment. LGBT people can experience harassment specifically intended to demean them because of their sexual orientation or perceived sexual orientation".*

#### **5.1 Harassment of LGB & T people**

The LGBT community is diverse with a wide range of needs and concerns. Different factors influence the extent to which LGB and T people feel able to be 'out' in housing as members. Individual circumstances such as effective support networks while personal factors such as resilience, allied to levels of self esteem and self-confidence, will affect how 'safe' people feel about being able to come 'out' or to be 'out'.

The Co-operative recognises that LGB and T people may need support to take forward their complaints and will do its utmost to provide that support on all occasions. The Co-operative also recognises that LGB and T people are more willing to communicate with organisations that promote positive LGBT issues

and take a clear stand towards discrimination. Therefore provision of a complete and equitable service to LGB and T people experiencing harassment will require staff to be fully aware of and able to meet the needs as identified by the LGB or T person.

In addition to the above the Co-operative acknowledges that people can be subject to harassment who themselves are not LGB or T but may be perceived as such. In these circumstances the Co-operative will manage the complaints in the same way they would for all other reports of antisocial behaviour and harassment.

## **6.0 Disability Harassment**

The Co-operative re-enforces its zero tolerance stance towards incidents of harassment or abuse targeted at a person because they are disabled.

### **6.1 Definition of disability**

The Disability Discrimination Act (1995) defines a disabled person as "anyone with a physical or mental impairment which has a substantial and long term adverse effect upon his or her ability to carry out normal day-to-day activities" This could include any of the following:-

- People who are deaf or hearing impaired
- People with learning disabilities
- People who look different
- People who have speech or language difficulties
- People with hidden impairments such as epilepsy
- People who have a mental health problem
- People who are blind or partially sighted
- People with mobility impairments

Under this policy, it is for the victim to define the incidents that they have been the victim of as motivated by the fact that they are a disabled person. The Co-operative will accept this view and ensure that its approach is victim centred.

### **6.2 Harassment of disabled people**

The Co-operative recognises that the harassment of disabled people takes many of the same forms as other harassment. For a disabled person these may have a different emphasis. For example dumping rubbish in someone's garden when they have mobility difficulties, may prevent them from using the garden at all.

It is vital therefore that the procedures accompanying this policy address the practical issues associated with this such as prompt clearing of refuse, graffiti etc.

### **6.3 Providing a complete service**

The Co-operative recognises that individuals with impairments can be disabled by the barriers that society places in their way. These barriers can include inaccessible information, poor design in the built environment, other people's attitudes or organisational issues, such as the way services are defined or delivered.

The Co-operative recognises that disabled people may need support to take forward their complaints. Provision of a complete service to disabled people experiencing harassment will also require that staff are aware of and are able to meet the access needs as identified by the disabled person. The Disability Discrimination Act requires service providers to make "reasonable adjustments" to the way in which services are provided so that disabled people can use them. The Co-operative will strive to ensure that it provides a complete, flexible and sensitive service that meets the needs of disabled individuals suffering harassment.

### **7.0 Training**

The Co-operative, through its Business Plan, is committed to training and developing staff and committee members to their full potential in order to deliver a high quality of service in all areas of its business to members and the public.

### **8.0 Equal Opportunities**

The Co-operative will ensure that in implementing its Antisocial Behaviour and Harassment Policy it will not unfairly discriminate against any individual, household or group on the grounds of gender, gender identity or marital status, on race grounds, or on the grounds of disability, age, sexual orientation, language or social origin, other personal attributes, including beliefs or opinions such as religious beliefs or political opinions.

### **9.0 Monitoring, Reporting and Targets**

The Co-operative's daily time recording system will be used by staff to record time spent on antisocial behaviour and harassment cases. A recording system will also be in place to categorise the type of antisocial behaviour that is being reported.

The Housing Manager and Director of Housing will be responsible for supporting staff when dealing with antisocial behaviour and harassment cases and will review files as necessary to ensure the fullest possible investigations and action has been taken to resolve issues.

Quarterly reports will be submitted to the Housing Management Sub Committee and an annual report to the Scottish Housing Regulator via the Annual Performance & Statistical Return (APSR) detailing:-

- the number of cases of extreme, serious and other reports of antisocial behaviour and harassment
- number of Notices of Proceedings issued because of antisocial behaviour and harassment
- legal action approvals sought because of antisocial behaviour and harassment
- number of legal actions commenced because of antisocial behaviour and harassment
- number of evictions carried out because of antisocial behaviour and harassment
- numbers of ABCs; ASBOs and Short Scottish Secure Tenancies have been issued

This report will also be used to identify any underlying trends in dealing with this subject and potentially inform the need for policy or procedure review.

Complaints received and responded to for both the victim and perpetrator will be categorised by their "seriousness" and targets set for response. These are detailed in the anti social behaviour and harassment procedure.

Any member who is dissatisfied with the management of their case will be advised of the Co-operative's Complaints Policy.

## **10.0 Review**

Unless recommended through analysis of reports of antisocial behaviour and harassment received, feedback from members, a change in best practice guidance or changes in legislation, the Anti Social Behaviour and Harassment Policy will be reviewed every three years.

## **11.0 Legal Framework**

Housing (Scotland) Act 2001  
Housing (Scotland) Act 2010  
Human Rights Act 1998  
Equality Act 2010  
Data Protection Act 1998  
Schedule 7, Housing (Scotland) Act 2001  
Criminal Justice (Scotland) Act 2003  
Matrimonial Homes (Family Protection) (Scotland) Act 1981  
Antisocial Behaviour (Scotland) Act 2004  
Protection from Harassment Act 1997

## **12.0 References**

The following resources have been referred to, to ensure the Antisocial Behaviour and Harassment Policy and associated procedures are based on good housing practice:-

- "Performance Standards for Social Landlords and Homeless Functions – COSLA, Communities Scotland and Scottish Federation of Housing Associations (SFHA), 2006 – Activity Standard 1.9 Antisocial Behaviour
- Scottish Federation of Housing Associations website
- Scottish Housing Regulators website
- The Scottish Governments website

## **13.0 Related Policies/documents**

- Allocations Policy
- Anti Social Behaviour Order Policy
- Short Scottish Secure Tenancy Agreement Policy
- Short Scottish Secure Tenancy
- Estate Management - Physical Environment Policy
- Development Policy
- Complaints Policy
- Equality and Diversity Policy
- Health & Safety Policy
- Eviction Procedure
- Data protection Policy
- Business Plan
- The Anti Social Behaviour Strategies of Aberdeen City, Aberdeenshire and Angus Councils and all associated Protocols and procedures