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| Date Issued | February 1998 |
| Last Reviewed | May 2019 |
| Service Area | Housing |
| Title | Neighbour Nuisance and Anti-Social Behaviour Policy |
| Objective | To provide guidance to staff dealing with antisocial behaviour both within and out-with the East Lothian Antisocial Behaviour Partnership in order to minimise the occurrence of, and deal promptly and appropriately with incidents of neighbour nuisance and antisocial behaviour, including harassment and racial harassment. |
| Responsible | Director of Housing |
| Next Review Date | May 2024 |

1.0 Introduction

- 1.1 The Antisocial Behaviour etc (Scotland) Act 2004 introduced a duty on all local authorities in Scotland together with the Police to prepare an Antisocial Behaviour Strategy for their area. In 2005 East Lothian Council and Police Scotland (formerly Lothian and Borders Police) responded to this requirement by producing the first East Lothian Antisocial Behaviour Strategy which links to a number of other Council strategies and plans. The East Lothian Antisocial Behaviour Partnership, formed as part of the strategy, exists “To root out and reduce the incidence of antisocial behaviour in East Lothian” and to deliver the strategy.
- 1.2 Membership of the East Lothian Antisocial Behaviour Partnership is listed in the Partnership Antisocial Behaviour policy (the Partnership policy) attached at **Appendix 1**. The Partnership policy acknowledges that individual partners can act independently to address issues arising from antisocial behaviour but suggests that whilst independent action may be appropriate in dealing with low level neighbour nuisance, more serious incidents of antisocial behaviour will be more effectively and consistently dealt with by the Partnership.
- 1.3 The Partnership policy also introduced information sharing protocols between the partners, facilitating the exchange of information essential to effectively tackle antisocial behaviour and ensuring compliance with data protection legislation.

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- 1.4 As members of the East Lothian Antisocial Behaviour Partnership and signatories of the information sharing protocols, we endorse the Partnership policy. However, although we will almost always seek to tackle serious antisocial behaviour through the Partnership, there may be occasions (for example if the Partnership cannot act as quickly as we feel necessary) when we decide to take action. As an independent organisation we need a policy to guide staff in dealing with low level neighbour nuisance and, in the event that we choose to act independently, more serious issues to ensure that we respond appropriately to address antisocial behaviour affecting our tenants or neighbourhoods.
- 1.5 This policy sets out what we will do to try to prevent neighbour nuisance and antisocial behaviour, including all forms of harassment and how we will respond to incidents that are reported to us. It is supported by detailed procedures for staff.
- 1.6 We understand our responsibility to support tenants so that they can enjoy their home environment. We want our tenants to live peacefully with each other in their communities and to enjoy their homes without the nuisance and annoyance that inconsiderate or antisocial behaviour can cause.
- 1.7 Our tenants also have a responsibility to make sure that their actions, the actions of their household or visitors who come to and from their homes do not interfere with their neighbours' quiet enjoyment of their communities.
- 1.8 We recognise that in some cases particularly of a relatively minor nature, our involvement in neighbour disputes may exacerbate the situation and lead to "tit for tat" complaints and so will always encourage and support complainants to speak to their neighbour in the first instance and only involve us if this approach does not succeed in resolving the issue.
- 1.9 We will strive to resolve incidents of neighbour nuisance and antisocial behaviour to the best of our ability. We will do this by effectively communicating with all relevant parties involved throughout the investigation of the issue.
- 1.10 Except in the most serious circumstances we will always seek to address neighbour nuisance or antisocial behaviour using this policy and the procedure that supports it. However, if the behaviour persists and more serious action is required we will usually revert to use of the Partnership Policy beginning at section 9.2.3 (final warning) or 9.2.4 (accompanied visit or ABA) and monitor progression of the case through the monitoring group process outlined at section 5. This ensures that serious antisocial behaviour is dealt with consistently wherever it occurs in East Lothian.
- 1.11 We will always follow law and Best Practice when taking action, using all remedies available to us. A useful list of terms is provided in the introduction to the Partnership policy and need not therefore be duplicated here but remedies may include (but are not limited to);

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- Mediation
- Notice of Proceedings
- Acceptable Behaviour Agreements
- Antisocial Behaviour Orders
- Repossession Action
- Interdict
- Action of specific implement

We will always seek to ensure that the remedy used is proportional to the type of behaviour reported but recognise that even low level nuisance may result in serious action if it is repeated and the perpetrator refuses to desist.

- 1.12 Dependent upon the severity of a situation and the availability of witnesses, we may consider the use of professional witnesses.
- 1.14 We will rarely consider legal action against children. However, in the event that legal action is considered we will always work with the Antisocial Behaviour Partnership (whose membership includes Social Work and the Scottish Children's Reporter), East Lothian Council's Safer Communities Team (charged with delivering the East Lothian Antisocial Behaviour Strategy), parents and any other appropriate organisation through the case monitoring structure outlined in section 5 of the Partnership policy.

2.0 Definitions

- 2.1 Neighbour nuisance is the term used to describe thoughtless or sometimes deliberate behaviour that interferes with the complainant's enjoyment of their home and can generally be dealt with entirely through the operation of this policy.
- 2.2 The Antisocial Behaviour (Scotland) Act 2004 defines antisocial behaviour as conduct, which causes alarm, distress, nuisance or annoyance; such behaviour is generally of a more serious or persistent nature and will usually be dealt with under the Partnership policy.
- 2.3 The Equality Act 2010 sets out the legal definition of harassment. It is essentially unacceptable behaviour that is unwanted, unreciprocated and is regarded as offensive by the recipient, whether or not the harasser intended it to be offensive. The behaviour is usually targeted at a particular individual or family based on one of the nine protected characteristics defined in the Equality Act.

3.0 Principles

- 3.1 We recognise the importance of tackling unacceptable or antisocial behaviour and understand the impact it can have on residents' lives. As a result we will

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not tolerate such behaviour and aim to take quick and effective action to tackle it.

- 3.2 We will respond to all complaints made about the behaviour of our tenants, but, other than to offer advice will not become involved in personal disputes which whilst they often result in neighbour complaints are not directly related to tenancy conditions.
- 3.3 We will try to prevent neighbour nuisance and antisocial behaviour by providing our Neighbour Nuisance leaflet and referring specifically to the relevant clauses of the tenancy agreement when signing up a new tenant. We will also provide new tenants with clear information about the type of conduct we consider unacceptable.
- 3.4 If we receive a complaint of harassment e.g. racial harassment, we will adopt a complainant centred approach and will always believe that the harassment has occurred whilst we investigate the facts.
- 3.5 We will encourage tenants and residents to report all racist incidents. We will also state the action that we will take to deter perpetrators and to give victims information and confidence to report racist incidents.
- 3.6 If we allocate an available property to an applicant who has, or has someone living with them, who has behaved antisocially in the preceding three years before being considered for the tenancy, we will grant a Short Scottish Secure Tenancy (SSST) for a period of 12 months, in order to monitor the conduct of the tenancy. If we do not receive any complaints of antisocial behaviour and there are no other tenancy breaches during this period, the tenancy will automatically convert to a Scottish Secure Tenancy. We may extend the SSST for a further 6 months provided there are housing support services in place and will give the tenant the reason for doing this. Doing this allows the new tenant extra time to improve their behaviour.
- 3.7 If a tenant, members of their household or visitors have behaved antisocially, we may also convert an existing Scottish Secure Tenancy to a Short Scottish Secure Tenancy for a period of 12 months to monitor behaviour. During this period we will seek to support the tenant in their efforts to address the antisocial behaviour. If the behaviour improves the tenancy will automatically convert to a SST unless we decide to extend the SSST for a further 6 months. We will only do this if housing support services are in place and will tell the tenant why we are doing it. If the tenant fails to co-operate with the support and/or the behaviour continues we will seek a repossession order from the Court.
- 3.8 If we become aware that a tenant, a member of their household, sub tenant or a visitor, has been convicted of criminal or antisocial behaviour punishable by imprisonment (irrespective of whether the conviction itself imposed a term of imprisonment), in or in the locality of their home, we may consider taking

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repossession action against the tenant whether or not complaints have been made by neighbours. Such action will only be taken within 12 months of the date of the conviction, in line with the streamlined eviction process.

3.9 We aim to create and maintain conditions in which tenants can enjoy their home and surroundings in peace without excessive disturbance from others and will take positive and decisive action to deal with neighbour nuisance or antisocial behaviour. We will do this by:

- being clear with complainants when it is not appropriate or desirable for us to become involved in a dispute and, wherever possible, giving advice on how best to resolve the issue or directing the complainant to a more relevant organisation who may be able to help
- where we decide that an investigation is needed we will do so efficiently and effectively, in confidence and within agreed timescales;
- taking any appropriate action, including court action against the perpetrators.

3.10 Although we will usually investigate, we will always exercise extreme caution and discretion when dealing with anonymous complaints, as they may be malicious and may be a form of harassment.

3.11 Many neighbour complaints are received by phone when we will gather all of the information we need from the complainant to be able to deal with the issue. It will often be necessary for staff to carry out home visits to the alleged perpetrator, which may on occasion be out of office hours. In such circumstances, staff will take the appropriate action in accordance with our Lone Working Policy.

4.0 Responding to Neighbour Nuisance and Antisocial Behaviour Complaints

4.1 The complaints we receive can range from minor incidents of neighbour nuisance to occasionally very serious antisocial behaviour, which can be life threatening. When we receive any report of neighbour nuisance or antisocial behaviour we will;

- Establish the facts of the complaint- nature of the incident(s)/behaviour giving rise to the complaint, frequency, duration and impact, gain contact details for any witnesses and ensure that the information is accurately recorded
- Decide whether or not the complaint would be more appropriately directed towards another agency (e.g East Lothian Council, the Police) and, if so, explain this to the complainant, providing contact details
- Consider whether mediation may be an appropriate response and if so arrange a referral
- Explain to the complainant how the complaint will be handled including timescales and possible outcomes

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- 4.2 We will allocate the complaint to one of four categories which will determine whether and if so how quickly we will aim to investigate further and resolve the problem:
- **Category A:**
Incidents of a very serious nature including but not limited to, physical violence, criminal behaviour, harassment relating to a protected characteristic, significant escalation or increase in frequency of disturbances or excessive noise. Complaints of this nature will usually be escalated to the Partnership and raised at the Adult Monitoring Group
 - **Category B:**
Incidents which indicate antisocial behaviour, such as persistent excessive noise, frequent disturbances, threats of violence, vandalism to property.
 - **Category C**
Incidents which clearly breach a tenancy condition, but which are of a relatively minor nature, e.g. occasional noise, stair cleaning, rubbish dumping noisy or uncontrolled pets.
 - **Category D**
Incidents that would be more appropriately dealt with by another agency or where the most appropriate response is to provide advice only to the complainant. Such incidents will be recorded and may be escalated to an investigation should the problem persist.
- 4.3 Appropriate timescales (locally agreed targets) for dealing with each of the above categories will be agreed with our Tenant Involvement Group (TIG) taking into account the response times used by others in the Partnership. These will be included in our procedure, monitored and reported to our Housing and Property Services Sub-Committee.
- 4.4 Complaints can be made by phone or in writing (including by email, live chat or through the complaints facility in My Home), through a referral from the Antisocial Behaviour Hotline or by a third party. On receiving a complaint, staff will categorise it and aim to investigate and make an initial assessment within the agreed timescales. We will contact the person making the complaint to clarify what the problem is and obtain any further information we need. Staff will explain that reported incidents are treated confidentially, but sometimes the person causing the problem will be able to guess who has reported the incident.
- 4.5 When investigating the incident staff may visit other residents in and around the neighbourhood to seek witnesses. Normally, the witnesses must be over 16 and not related to the person reporting the incident. Staff will also contact other agencies that may have been involved in the incident such as the Police, the Safer Communities Team, Mediation service etc.

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- 4.6 If the behaviour complained about is persistent and repeated, the person(s) reporting the incident will be advised to keep a log of all incidents and telephone the police where necessary. In cases where an Antisocial Behaviour Order or repossession action are being considered the person will be made aware that they may be required to give evidence in court.
- 4.7 When staff have obtained all relevant information about an incident, they will visit the alleged perpetrator to discuss the problem. This can result in the tenant being given verbal advice or a formal warning as appropriate.
- 4.8 On completion of an investigation staff will write to both parties confirming the outcome.
- 4.9 For the avoidance of doubt, whilst we will always endeavour to obtain corroboration of a complaint, e.g by speaking to witnesses or using noise detection equipment, in the absence of corroboration, staff will exercise professional judgement based on their discussions with both parties and any witnesses and any previous history of neighbour nuisance in deciding whether or not the Scottish Secure Tenancy Agreement has been breached and, if so, the action to be taken.

5.0 Mediation

- 5.1 Mediation can be used to resolve neighbour disputes or antisocial behaviour such as:
- one to one incidents where the anti social behaviour is repetitive but not escalating;
 - when a group of tenants jointly report antisocial behaviour about one or more tenants
- 5.2 Mediation will only work if all parties involved in the issue agree to participate but will often be suggested for category D and some category B or C complaints .
- 5.3 We will offer mediation to help neighbours reach an agreement that all or both of them can live with. This may not always be a resolution of the problem but could be a measure towards this.

6.0 Acceptable Behaviour Agreements (ABA's)

- 6.1 An Antisocial Behaviour Agreement is a contract that can be used to ensure that an individual agrees to act in a manner acceptable to the community and the Association. They are issued following a joint visit between the Police and Housing Officer and can be useful in helping to address unacceptable behaviour perpetrated by young people, not party to a SST.

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- 6.2 We will only use ABA's through the Antisocial Behaviour Partnership as a final attempt to avoid more serious legal action.

7.0 Breach of Tenancy Agreement

- 7.1 If a tenant has been found in breach of his or her tenancy agreement there are several courses of action we may take dependent on the severity, impact or the frequency of the behaviour. This can range from a warning letter to more serious action such as converting the tenancy to a Short SST, an Antisocial Behaviour Order or eviction.
- 7.2 Although we will maintain confidentiality as far as possible when investigating reports of antisocial behaviour, if an Antisocial Behaviour Order is granted and it is appropriate in the circumstances, we will inform neighbours that an Order has been granted and the terms of the Order so that they can monitor the effectiveness of the Order and report any breaches of the terms (which are a criminal offence) to the police.

8.0 Management Transfers

- 8.1 We will consider management transfers in exceptional circumstances only, such as when a tenant or member of a tenant's family is subject to such serious antisocial behaviour or harassment that they are unable to remain in their present home and East Lothian Council is unable to assist under Homelessness legislation.
- 8.2 Management Transfers are reported to the Housing and Property Services Sub-Committee.

9.0 Eviction

- 9.1 We will instruct repossession action as a last resort, when all other appropriate remedies to stop the antisocial behaviour have been considered or have failed.
- 9.2 Evictions will only occur after they have been considered and approved by Senior Management. Evictions will be reported to the Housing and Property Services Sub-Committee, however the tenant's identity will not be disclosed.

10.0 Equal Opportunities

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- 10.1 We will not discriminate in the operation of this policy on the basis of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity; race, religion or belief, sex, or sexual orientation.
- 10.2 We aim to promote equal opportunities and comply with the requirements of the Equality Act 2010

11.0 Staff Training

- 11.1 All relevant staff will receive training in order for them to understand and apply our policy appropriately.

12.0 Monitoring & Performance

- 12.1 All reports of neighbour nuisance or antisocial behaviour are recorded in a database allowing us to identify repeat offenders and monitor our performance.**
- 12.2 The Housing Manager is responsible for monitoring all incidents of neighbour nuisance or antisocial behaviour as part of the ongoing performance reporting and review process.
- 12.3 The Housing and Property Services Sub-Committee will monitor performance through the submission of quarterly reports to make sure that the aims of this policy are being achieved.

14.0 Review of Policy

- 14.1 The Director of Housing is responsible for making sure that this policy is reviewed every five years and that any changes required are submitted to the Housing and Property Services Sub-Committee for approval.