

HOU/17	ADOPTED: 28.1.98	REVIEWED: 14.11.00; 13.01.04; 31.1.07
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ANTISOCIAL BEHAVIOUR POLICY

1. POLICY STATEMENT & GUIDING PRINCIPLES

- 1.1. Prospect Community Housing views anti social behaviour as any form of behaviour which affects its tenant's enjoyment of their home. In acknowledging that antisocial behaviour will occur, we are committed to minimising its effects and to making our estates places where people may live in safety and peace.
- 1.2. The term "anti-social behaviour" is used in this policy to cover the types of behaviour by a tenant or tenants which causes their neighbour(s) a problem, ranging from a minor irritation to serious criminal activity (see section 2).

The term includes incidents of harassment, which is defined as: "behaviour deliberately intended to intimidate, dominate or harm an individual or group of people because of ethnic background, colour, religion, disability, sexual orientation or any other form of discrimination".

- 1.3. Prospect will develop a range of responses to deal with the variety of situations which may arise. The response to all complaints will be speedy and efficient within specified timescales. However Prospect recognises that it will not be possible or appropriate to become involved in every situation, and that part of the response will be to encourage tenants to resolve their differences and difficulties directly with one another, or with the assistance of other agencies.
- 1.4. Prospect recognises that many neighbour nuisance issues are not only a landlord issue but wider problems which require a multi-agency approach. We will seek to develop effective working relationships with the appropriate staff of other agencies which might become involved in these situations, such as Community Mediation, the Police, and the City of Edinburgh Council.
- 1.5. Prospect will ensure that all tenants understand clearly their rights if they are suffering from nuisance, and the implications if they cause a nuisance.

- 1.6. Except in the case of serious criminal activities, Prospect will normally seek to resolve instances of nuisance without having to take legal action against a tenant, and will normally only take legal action when all other means of resolving the issue have been exhausted.
- 1.7. Prospect recognises that this policy can only provide a framework for the guidance of staff, and that the response to each situation will depend both on the individual circumstances, and on the judgement of the staff involved
- 1.8. All neighbour nuisance complaints will be recorded centrally and monitored by the Housing Manager.

This policy is based on the guidance in the chapter of Raising Standards on anti-social behaviour and harassment and on current Communities Scotland performance standard and in line with the statutory provision of the Housing (Scotland) Act 2001.

2. DEFINITIONS

- 2.1. The term “antisocial behaviour” is defined by the SFHA as:

“a person(s) acting in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress, to one or more persons not of the same household as himself”.

- 2.2. Staff of Prospect will not become involved initially in situations which are not serious or are not in direct breach of a condition in the Tenancy Agreement, such as domestic or family squabbles, minor or occasional irritations, playing of football in the street (where this does not result in other problems such as vandalism or unacceptable noise), etc. Tenants will be advised to seek resolution of any such problems by discussion between themselves, or with the assistance of any other appropriate agencies.

3. PREVENTATIVE MEASURES

3.1. Design

The Association will seek to minimise some of the effects of antisocial behaviour through the design and construction of their properties and this investment in existing stock, including the following measures:

- adequate sound insulation within and between properties;
- secure external doors, and windows;
- controlled entry systems to flats;
- overall layout of estates to “design out” crime;
- adequate fencing and lighting in communal areas;
- designated play areas.

3.2. Maintenance

- priority response to deal with graffiti and damage to door entry systems.
- providing effective security for empty properties.

3.3. Tenant Participation

Prospect will involve its tenants in developing policies, procedures and strategies to counter antisocial behaviour through:

- questionnaires and surveys to gather tenants views on antisocial behaviour in our estates and respond to it.
- establishing short life focus groups to discuss policy and procedure;
- meetings with individual Neighbourhood Councils to address issues specific to one estate;
- meetings with tenants to address particular situations or incidents;
- stair meetings to discuss problems with rubbish disposal etc;
- publicising its policy on neighbour nuisance through Tenants Newsletters and other appropriate publications;

The aim of these meetings and measures will be to:

- ensure that all tenants are aware of Prospect's stance on neighbour nuisance and how it will be dealt with;
- make all tenants aware that nuisance of any kind will not be tolerated, and that Prospect expects all tenants not to cause a nuisance;
- ensure that the potentially serious consequences of causing nuisance are understood;
- create a climate within each estate which clearly states that nuisance is not acceptable there;
- encourage the reporting of genuine persistent nuisance;
- encourage those who live near to victims of antisocial behaviour to offer support, which can assist in deterring those who cause nuisance.

3.4. Information

The Association will seek to ensure that applicants and tenants understand the implications of causing antisocial behaviour by providing information in the following ways:

Scottish Secure Tenancy Agreement

The Tenancy Agreement will include the following sections specifying in detail the tenant's responsibilities with regard to antisocial behaviour and the implications of breaching any of these conditions, in particular section 2 'Use of Property and Common Parts' and section 3 'Respect of Others'.

The Tenancy Agreement also specifies that the agreement may be ended:

- by court order

if 'someone residing in your house or anyone visiting it, has been anti-social to anyone else in the locality, or has pursued a course of conduct amounting to harassment of such a person'. (section 6.3)

or

- by conversion to a Short Scottish Secure Tenancy.

if an anti-social behaviour order has been made against you, or anyone living with you, we may serve a notice on you converting your, tenancy to a Short Scottish Secure Tenancy.

Tenants Handbook

Prospect will re-emphasise the conditions in the Tenancy Agreement by including information in the Tenant Handbook which is given to all tenants.

Start of Tenancy

The written information will be supplemented by additional explanation and emphasis by Housing Management staff, in particular at the time of signing the Tenancy Agreement and at the post-allocation visit which will be arranged within one month of the start of the tenancy. Staff will stress the need for tolerance towards others as well as Prospect's aim to provide a quick and efficient response to complaints of anti-social behaviour.

Information throughout the Tenancy

Prospect will publicise its stance on antisocial behaviour through its tenant newsletter. Periodically the newsletter may contain articles on particular neighbour nuisance issues and will be used to highlight (anonymously) particular 'case histories' which demonstrate how Prospect will deal with particular scenarios.

3.5. Allocations

Lettings Plan

Some incidents of anti-social behaviour are the result of a clash of lifestyles rather than malicious behaviour. Whilst Prospect is committed to allocating its stock on the basis of housing need the Association seeks also within its policy, by operating quotas for each needs group, to develop balanced and settled communities and to minimise the likelihood of lifestyle clashes by avoiding obvious lifestyle conflicts where possible i.e. too many families in one stair, young people and elderly people immediately above or below each other. Also if the particular needs of someone (i.e. someone with mental health problems) can be acknowledged by housing them in accommodation whose type and location is best suited for their needs, this may minimise triggering behaviour which could be perceived as anti-social.

This is not a blanket approach and relies on housing officers having a good knowledge of their tenants, their stock and its management problems.

Previous History of Anti-Social Behaviour

In allocating a property to an applicant with a previous history of anti-social behaviour, Prospect will make a distinction between those making a direct application and those statutory homeless nominations made by City of Edinburgh Council under the provisions of the 2001 Housing Act (section 5 referrals).

Direct Applications

Prior to making an allocation, the Housing Officer will seek a tenancy reference from the applicant's current or previous landlord. If action has been taken against them for anti-social behaviour or neighbour nuisance, consideration may be given to refusing to make the allocation.

However refusal should only be considered if behaviour was

- Of a serious nature, i.e. not just isolated incidents of noise nuisance
- confirmed by evidence from an official source.
- relatively recent

A decision to refuse to re-house an applicant must be made by the Housing Manager. If such a decision is taken the applicant will be clearly advised that the reason for refusal is their previous behaviour and that they may appeal against this decision.

Section 5 Referrals

Under the 2001 Act a Prospect must comply with the councils request to re-house a homeless person, regardless of a previous tenancy history. Although an arbitration process exists in the event of dispute, the overriding principle is that Prospect is expected to re-house all Section 5 Referrals.

Short Scottish Secure Tenancies

Where an allocation is to be made to an applicant with a previous history of anti-social behaviour Prospect will take steps to endeavour that the tenancy is stable and that there is no recurrence of anti-social behaviour.

- Where an applicant has been evicted for anti-social behaviour within the last 3 years, or if the applicant or any member of his/her household is subject to an Anti-social behaviour order (ASBO) Prospect will grant a probationary tenancy in accordance with its policy on the Short Scottish Secure Tenancy.
- Where a SSST is granted Prospect will seek to ensure that a package of support is provided – in conjunction with other agencies where necessary - with a view to converting the tenancy to a full Scottish Secure Tenancy within 12 months.
- Even when a SST rather than SSST is granted, Prospect will seek to ensure that tenants with previous anti-social history or particular needs have a package of support to allow them to successfully maintain the tenancy and minimise the likelihood of neighbour nuisance or anti-social issues arising.

3.6. Community Projects

Prospect will continue to be actively involved with other agencies operating within West Edinburgh. We will seek to support and enhance that opportunities that are available to our tenants and the wider community. It is recognised that much of the work undertaken in this area can have a positive impact in reducing antisocial behaviour.

4. MANAGING ANTISOCIAL BEHAVIOUR

4.1. Guiding Principles

Prospect recognises that these are different levels of anti-social behaviour spanning across the serious to minor spectrum and also that individual tenants tolerance of others actions will vary. It is therefore impossible to specify set procedures to follow in every case but these are key guiding principles which the Housing Officer will follow when dealing with complaints of neighbour nuisance.

- A centralised log of complaints will be maintained. This will allow monitoring of trends in neighbour nuisance complaints and effective monitoring of performance and service delivery
- The Housing Officer will ensure effective communication with all those involved in the dispute
- The response of Prospect staff will be non-judgemental. Care will be taken not to pre-judge since the receipt of complaints does not necessarily mean that the allegations are valid
- Many nuisance complaints relate to issues which often do not fall within Prospect's direct remit. Prospect will ensure that tenants are fully informed of what Prospect can and cannot do and where a complaint cannot be dealt with by Prospect, will provide effective sign posting to the correct agency.
- Exhaustive efforts will be made by Prospect to resolve the issue without resorting to legal action.
- Prospect will ensure rigorous and accurate record keeping. File notes should be kept detailing discussions with tenants and actions taken. All contact with tenants should be followed up by a letter confirming what was discussed / agreed.
- If the complaint involves allegations of criminality, Prospect will always advise the tenant to report the incident to the police.

4.2. Training

Prospect will ensure that staff are fully aware of its policy stance on neighbour disputes, on remedies available and of other agencies responsibilities. Effective training will aim to ensure that the confidence of frontline staff in dealing with neighbour disputes will be boosted, which in turn lead to earlier and more effective intervention. Prospect will ensure that front-line staff have appropriate training in

- Interviewing techniques
- Mediation
- Legal remedies
- Roles and responsibilities of other agencies

4.3. Confidentiality

The complainant will be kept advised as appropriate of the action being taken, though not necessarily of every detail.

The confidentiality of the complainant will normally be maintained, if this is requested and if it is possible to do so. Where it is not possible to maintain confidentiality and at the same time follow up the complaint, the complainant's agreement will normally be obtained before any action is taken.

The only exception to this general rule will be where there is clear evidence of criminal activity in progress which must be reported to the Police.

If legal action is required, the complainant may be required to appear in court as a witness. The implications of this will be fully discussed with the complainant and the Association's Solicitors.

4.4. Categorising Complaints

All complaints will be initially assessed by a Housing Officer and categorised into one of four categories

The purpose of this is

- to ensure that Prospect's response reflects the nature and complexity of the complaint
- to make clear what Prospect regards as unacceptable behaviour and how it will respond.
- The tenant is aware of what to expect and on what timescale.
- The Housing Officer can manage his/her workload.

The categories are as follows:

1. Complaints of a very serious nature - where the situation is severe to the extent that the household(s) being affected cannot remain in their own home (timescale – 1 working day)
2. Complaints of a serious nature – where the household(s) being affected are unable to enjoy their own home due to recurring instances of anti-social behaviour (timescale - 5 working days)
3. Complaints of a less severe nature and which are infrequent but where a breach of tenancy still occurs (timescale - 10 working days)
4. Issues out with Prospects remit. (timescale - response within 10 days directing complaint to appropriate agency if possible)

Note – the timescales above are for Prospect staff to undertake an initial investigation and feedback to the complainant – it does not mean that the situation will be resolved within these timescales. For category 1 cases, the timescale is for Prospect to seek alternative temporary accommodation for the household(s) affected.

4.5. Accessibility

Prospect will ensure that it is easy for tenants to make complaints. Complaints can be made:

- by telephone
- in writing
- in person at the office

Prospect is committed to ensuring that a member of the Housing Management team will always be available to see tenants. This member of staff will normally be a Housing Assistant who can take an initial report and passed to the Housing Officer or signpost the tenant to the relevant agency. If the tenant specifically wants to speak to their Housing Officer, they can attend the Housing Officer's open surgery which each Housing Officer holds on a weekly basis, or make an appointment to see the Housing Officer either in the office or in their home.

4.6. Anonymous complaints

Prospect will not normally follow up anonymous complaints as such complaints may be malicious and in themselves a form of harassment. However, in exceptional circumstances such complaints should be acted upon i.e. where the complaint relates to a serious problem and there is a good reason to believe there could be fear of reprisals.

4.7. Domestic Abuse

Complaints received as noise / nuisance but which are related to domestic abuse will be dealt with sensitively. The investigation will not only focus on the noise / nuisance but the safety of those being abused.

All cases of domestic abuse where a tenant's safety is at risk should be dealt with as a priority. Assistance and advice should be offered in relation to support (e.g. Women's Aid) and re-housing options.

4.8. Initial Response to Complaints

Interviewing the complainant

The Housing Officer, on receiving a complaint will arrange an initial appointment with the complainant within the agreed timescale.

The purpose of the initial interview will be to establish the facts of the situation and establish the complainant's expectations of Prospect.

The Housing Officer will explain what Prospect can / cannot do, whether other agencies should be involved and the likely timescales for the resolution of the problem. It will also be made clear what input is expected from the complainant. This input will obviously be dependent on the severity and nature of the complaint but could include:

- making an initial approach to the neighbour involved themselves. This is only appropriate where there is no risk of violence. The Housing Officer will stress to the complainant that the neighbour may not be aware of the impact of his / her behaviour and that a polite and informal approach might be appropriate.
- keeping an accurate diary of incidents of the situation continues.
- informing the Police if it is a criminal agency.
- contacting appropriate agencies if it is a problem outwith Prospect's remit.

An action plan will be agreed with the complainant so that each party is clear about the subsequent course of action and projected timescales. The complainant will be made fully aware if the Housing Officer is to approach the perpetrator, other neighbours (for corroboration) or other agencies.

All interviews will be accurately recorded in a file report and the Housing Officer will send a letter to the complainant within two working days of the interview summarising the discussion and the proposed action plan. This letter can also act as a record of what was agreed at the meeting by including a statement such as 'if you do not get back to me within 7 days, I will assume that you are in agreement with the contents of this letter'.

4.9. Emergency Action

Where damage to the property has occurred e.g. to external doors, windows or offensive graffiti, emergency repairs will be authorised and undertaken within 24 hours of the damage being reported. To ensure the security and safety of the property and its occupants, temporary repairs e.g. renewing locks or boarding up broken windows, will be carried out as soon as possible after they are reported.

Where severe damage to the property has occurred, e.g. as the result of an arson attack, or where there has been violence to the complainant, and there is a need for temporary re-housing, arrangements will be made with appropriate emergency authorities such as City of Edinburgh Council.

4.10. Ongoing Monitoring and Investigation

In certain situations, such as when the initial incident is relatively minor, or where the perpetrator(s) of the nuisance have not been identified, Prospect staff may agree with the complainant that:

- the situation will be monitored;
- the complainant will record details of any further nuisance on the Incident Log;
- following discussion with the complainant on the options for attempting to identify perpetrators contact will be made with other relevant agencies e.g. police, and/or with neighbours who may be willing to provide information and support.

4.11. Further Action

Following the initial interview(s) and where the cause of the nuisance has been identified as another Prospect tenant, the action which might be taken to resolve the issue will include:

- mediation based on an emphasis on identifying disputants own voluntary solutions to causes or conflict rather than attempting to enforce external solutions. Mediation is particularly useful in low level disputes which have arisen because of non-communication and misunderstanding.
either - direct mediation by the Housing Officer between the individuals/groups involved;
or - by agreement of those involved, using an external, independent mediator;
- where there is a clear breach of the Tenancy Agreement, writing formally to the party at fault requiring them to cease from the cause of the breach, and advising that further action, including legal action, will be taken if there is no satisfactory response within a stated timescale.

- where, after corroboration, there is confirmation that there is a complaint requiring action, the original File Report and all subsequent reports, correspondence etc. will be filed in the tenancy file of the person causing the nuisance.

4.12. Dealing with the Cause of the Nuisance

Where the alleged cause of the antisocial behaviour is clearly identified he / she should be interviewed either at home or at the office by the Housing Officer. When conducting an interview the Housing Officer will:

- take care not to identify the complainant.
- be non-judgemental and seek to ascertain their version of events.
- seek to ensure that further involvements do not occur.

Where the alleged cause of the nuisance is clearly identified as a Prospect tenant, he/she will be interviewed by a member of staff. The purpose of the interview will be to identify their version of events and to seek to ensure that further incidents do not occur. These aims will be made clear at the start of the interview.

The interview will be fully recorded, and following the interview a letter will be sent to the interviewee detailing the points covered, the action expected, and the implications should nuisance continue. The complainant will be advised in writing that appropriate action has been taken and that the Association will regard the case as closed, unless the situation reoccurs.

Where the interview(s) and/or subsequent warnings do not have the desired effect, consideration will be given to legal action (see para 4.13.).

Where the identified cause of the nuisance is the tenant of another landlord, the Housing Officer may send a full report to the landlord requesting appropriate action.

Where the perpetrator is an owner/occupier, Prospect may provide appropriate assistance and support to the complainant in taking the necessary action, including providing advice on options, including legal action, contacting other agencies, facilitating meetings etc.

4.13. Legal Action

Where informal methods of resolving a situation fail, Prospect may consider legal action as a last resort. Any legal action must be approved by the Housing Manager.

Anti-Social behaviour orders (ASBO)

Consideration will be given to obtaining an ASBO or an Interim ASBO. Prospect can apply to a Sheriff for an ASBO if

- the person has acted in an anti-social manner or pursued a course of anti-social behaviour. This is defined as acting 'in a manner that caused or is likely to cause alarm and distress. Such conduct includes speech, and a 'course of conduct' must involve conduct in at least two occasions.
- alarm or distress has been caused, or likely to have been caused, to one or more persons who are not members of the same household as the person against whom the order is made.
- the order is necessary to protect a person or persons from further anti-social acts.

If a court grants an ASBO, the defendant will be prohibited from doing anything that the court considers necessary to protect inhabitants from an area from further anti-social acts or courses of conduct.

The advantages of an ASBO are:

- breach of an ASBO is a criminal offence and it is therefore the responsibility of the police to enforce it.
- it can be used for non-tenants, the only restriction being that the 'alarm or distress caused or likely to be caused' affects Prospect's tenants or estates.
- When a full ASBO is granted against a tenant or anyone residing in our property the tenancy can be converted to a Short SST.

However:

- applying for an ASBO can be a slow and complex process.
- RSL's must be able to demonstrate that they have taken comprehensive action in order to resolve the problem and that the application is the last resort.
- successful application for an ASBO requires multi-agency working (see para 4.14 below) which may not be appropriate in every case.

Other Legal Remedies

Prospect may also consider the following:

Interdict and Interim interdict

Basically an interdict is an order of the court requiring a person to whom it is addressed to stop doing something. RSL's can apply to the court for a tenant in breach of their tenancy, or violence or harassment to staff or non-tenants who are damaging the RSL's property. An application for interdict can be made at any stage in the process of investigating and seeking to resolve a complaint. In some circumstances it may be more appropriate for the tenant who is making the complaint to make an application for an interdict. Prospect will consult with its solicitors and advise tenants accordingly.

Action for Specific Implement

This is an order of the court requiring a person to perform his or her legal functions, for example obligations under a contract and can be appropriate for matters such as garden maintenance or common area responsibilities. It is an appropriate legal process where the behaviour is not deemed to be serious enough to merit eviction action (nor would such action be likely to succeed) but where action needs to be taken to give a clear warning to the tenant that the RSL is taking the breach of tenancy seriously.

Repossession Action

Where the perpetrator is a Prospect tenant and when all possible means of resolving a complaint have been attempted without success, the Housing Manager can authorise repossession action to commence.

4.14. Multi-Agency Working

Prospect recognises that most serious problems cannot be dealt with in isolation and require involvement from other agencies.

Prospect will seek to strengthen and formalise links with statutory and voluntary agencies to ensure a more effective response to neighbour nuisance and anti-social behaviour in its estates.

5. APPEALS

If a tenant is unhappy with the way his or her complaint has been handled, he / she has recourse to Prospect's complaints policy.

6. MONITORING AND REVIEW

6.1. Prospect is of the view that monitoring is a vital part of the process for dealing with neighbour nuisance and anti-social behaviour.

6.2. The Housing Manager will report every six months the Prospect's Management Committee detailing:

- complaints received according to category.
- a summary of actions taken.
- performance in relation to timescales and targets.

An annual report of this information will be given to tenants..

6.3. The Housing Manager is responsible for ensuring that this policy is implemented by relevant staff and for producing procedure notes to aid them in this process.

- 6.4.** The Housing Management Sub-Committee will review this policy at least every 3 years at its January meeting and will submit any amendments required to the Management Committee for approval.

Reviewed by Housing Management Sub-Committee on 17 January 2007

Review approved by Management Committee on 31 January 2007

SignedDate
(Chairperson)

ANTISOCIAL BEHAVIOUR LOG - NOTES**Introduction**

The antisocial behaviour log is used to collect all records of incidents that are causing a nuisance to neighbours. As it may be used as evidence to a court in cases of neighbour nuisance, the more detailed and accurate this form is, the more the chance of success will be. For this reason it needs to be completed fully and carefully. Please read these notes and contact your Housing Officer if you do not understand any section.

Date and Time

Please ensure that the full time and date of each incident is entered, including the year.

Type of Nuisance

In this column, describe in a few words the type of nuisance. For example, it may be noise nuisance from a radio or washing machine, car repairs, or very noisy children, or dogs barking, or litter, or verbal abuse etc.

Details and Effect of the incidents

Please give as much detail of each incident as you can, such as what type of music was played or what the make and registration of the car was, or how many children were involved, or what type of dog it was etc. You also need to record the length of time the nuisance lasted.

Please also note the level and effect of the nuisance, for example, if the noise was too loud to hear your own television, it made your windows shake or the police were called, or if the dog disturbed your sleep, or if shouting or slamming doors woke you up, etc.

These logs will not provide an instant solution to any neighbour nuisance, but if they are completed correctly, they can provide the basis of evidence against problem neighbours.

ANTISOCIAL BEHAVIOUR LOG

Page No:

Please refer to the guidance notes for more details on completing this log.

If you need more sheets, please contact the office and ensure you record the page number at the top.

DATE & TIME	TYPE OF NUISANCE	DETAILS AND EFFECT OF ANTISOCIAL BEHAVIOUR