

1.0 INTRODUCTION

- 1.1 This Policy sets out how Scottish Borders Housing Association (“SBHA”) will manage its tenancies and neighbourhoods to minimise the impact and occurrence of Antisocial Behaviour (ASB). Procedures have been developed separately that detail how the policy is implemented.
- 1.2 SBHA recognises the detrimental impact ASB can have on both individuals and the community. SBHA is committed to ensuring that its Tenants can enjoy quiet and peaceful occupation of their homes. Tenants also have a responsibility for making sure they keep to the terms of their tenancy agreement, to treat others with respect and to be a good neighbour. They have a right to complain about neighbour nuisance and ASB and to expect that their ASB complaint will receive prompt attention.
- 1.3 SBHA believes that effective management of ASB is vital to our success in maintaining strong, effective and attractive communities. SBHA works in partnership with other agency partners including Scottish Borders Tenants’ Organisations (SBTO), Police Scotland, Social Services, Scottish Borders Council Legal Services, Scottish Borders Council’s Anti-Social Behaviour Unit (ASBU) and Neighbourhood Disputes Resolution Service, Victim Support, NHS Borders and other Housing Associations to reduce ASB and to intervene at an early stage.

2.0 CONTEXT

- 2.1 The ASB Policy meets with legislative and good practice requirements including:

- The Scottish Secure Tenancy (SST)
- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2014
- Antisocial Behaviour etc (Scotland) Act 2004
- Crime and Disorder Act 1998 and Criminal Justice (Scotland) Act 2003
- Misuse of Drugs Act 1971
- Race Relations Act 1978 & 2000 (Amendment)
- Data Protection Act and General Data Protection Regulations 2018
- Human Rights Act 1998
- Equalities Act 2010

- 2.2 This Policy seeks to achieve the following regulatory requirement contained in the Scottish Social Housing Charter:

Charter Outcome 6 - Estate management, ASB, neighbour nuisance and tenancy disputes

“Social landlords, working in partnership with other agencies, help to ensure that: Tenants and other customers live in well-maintained neighbourhoods where they feel safe”.

- 2.3 This Policy should be read alongside SBHA’s Scottish Secure Tenancy Agreement, SBHA’s Estate Management Standard, Pets Policy and the Scottish Borders’ Anti-Social Behaviour Policy and Procedure Manual, as developed by the Scottish Borders Multi-Agency Antisocial Behaviour Partnership Working Group.

3.0 KEY AIMS AND OBJECTIVES

3.1 SBHA aims to:

- work with partner agencies in terms of the Scottish Borders ASB Policy and Procedure Manual to tackle ASB
- provide an environment where everyone (including diverse groups, children and families) accepts their role in recognising, responding to and addressing ASB when it occurs
- respond promptly and appropriately to neighbour complaints and incidents of ASB within locally agreed time limits appropriate for different types of ASB complaints
- take effective action to assist and support those who are affected by or are the victims of ASB, keeping them informed of developments or progress
- take a non-judgemental approach at the initial stages of an investigation
- deal effectively and robustly with the perpetrators of ASB by using appropriate enforcement remedies where necessary

4.0 DEFINITION OF “ANTI-SOCIAL BEHAVIOUR”

4.1 The definition of ASB is set out in Section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 in the following terms:-

*Acting in a manner that causes or is likely to cause alarm or distress; or
Pursuing a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not of the same household.*

“Conduct” includes speech and a course of conduct must involve conduct on at least two occasions.

5.0 TAKING COMPLAINTS SERIOUSLY

- 5.1 All reports of ASB will be taken seriously and individuals will be provided with the opportunity to discuss their concerns with SBHA.
- 5.2 It is not necessary for complaints of ASB to be made in writing. Reports of ASB can be made to SBHA in person, by phone, by or by letter. SBHA will ensure that all reports of ASB are recorded accurately on SBHA’s CRM system.
- 5.3 SBHA will seek corroborated evidence in order to take action against someone who is behaving anti-socially. Complainants may be required to complete diary sheets to record what has been seen or heard. In serious cases, complainants may be required to give evidence in Court.
- 5.4 SBHA acknowledges that anonymous complaints are sometimes an indication of fear of reprisal or intimidation. All anonymous reports of ASB received by SBHA will be followed up and a risk assessment will be conducted to ensure that anonymous complaints are categorised appropriately.

6.0 CATEGORISATION OF ANTISOCIAL BEHAVIOUR

- 6.1 There are different types of neighbour nuisance and ASB. SBHA distinguishes between the severity and impact of different kinds of behaviour and has categorised behaviour into four categories.

6.2 The categories are:

- A. **Estate Management** -This category includes a failure to keep communal areas tidy, dumping of furniture in stairwells and common areas, untidy gardens and vandalism and low level animal related nuisance.
- B. **Neighbour Nuisance** - This category includes complaints of a 'low level' nature but may be a breach of tenancy such as lack of control over children or pets, clash of lifestyles, stamping loudly on the floor, door banging, etc.
- C. **Antisocial Behaviour** - This category includes a culmination of behaviour in categories A and B and persistent breach of the Tenancy Agreement. It includes more serious behaviour including excessive noise and disturbances and threatening and abusive behaviour. Police involvement may be evident.
- D. **Violence and Harassment** - This category includes serious anti-social behaviour which may intimidate, dominate or harm an individual or employee including threats of violence, drug dealing, unprovoked attacks or serious damage to property. Police involvement may be evident.

6.3 When SBHA receives a report of ASB it will be given a category which will determine how quickly SBHA aims to investigate and resolve the problem either on its own or with partner agencies. SBHA will respond sensitively and objectively and the response may be in the form of a telephone call, a letter, a home visit or interview within the office. ASB complaints will be recorded on SBHA's CRM system.

7.0 SUPPORTING VICTIMS OF ANTI-SOCIAL BEHAVIOUR

7.1 SBHA will offer support to victims of ASB in a number of ways including:-

- (a) Providing a number of methods to report incidents of ASB
- (b) Responding to the complainants promptly and suggesting positive solutions
- (c) Agreeing an Action Plan with the victim as soon as reasonably practicable and reviewing this with them throughout the case
- (d) Keeping the victim informed of any material changes throughout the course of the investigation. This feedback may include advice on the limitations of the SBHA's powers to deal with specific incidents or circumstances and referrals to the most appropriate alternative agency to be contacted or involved
- (e) Identifying and referring victims to other agencies which may be able to assist them with support including Victim Support
- (f) If appropriate, providing professional witnesses to assist in the gathering of evidence however encourage the use of diary evidence in persistent cases

8.0 APPROACH AND METHOD – PIER APPROACH

8.1 SBHA and partners adopt what is commonly known as the PIER approach to tackle ASB

8.2 **Prevention** - SBHA will pursue initiatives designed to avert potential problems and to make it harder to commit ASB. SBHA will proactively manage its properties, tenancies and estates. Any incidents of ASB will be identified as early as possible and addressed speedily and effectively. SBHA will do this by:-

- following our Estate Management Policy;
- ensuring that the way in which SBHA allocates empty homes assists in establishing sustainable communities;
- designing out factors which encourage ASB in design of new build housing provision and regeneration/Great Places Fund projects;

- making new Tenants aware of their right to live peacefully, explaining at tenancy sign up SBHA's policy on ASB the potential consequences of failing to conduct themselves in an appropriate manner;
- providing new Tenants with a Tenancy Information Pack, giving a summary of the Policy and the standards that the Tenants can expect from SBHA when reporting an incident of ASB;
- requesting all new Tenants sign a "Good Neighbour" agreement
- carry out Settling In Visit to all new Tenants within six weeks to discuss and deal with any difficulties as well as reinforcing the good neighbour message;
- promote ideas and initiatives to maintain desirable communities, encouraging Tenants and partners to work with SBHA to do so.

8.3 Intervention - SBHA will take appropriate and prompt action where ASB is being experienced and use relevant resources with a view to stopping or changing the behaviour. SBHA will take into account the effect of the behaviour on the victims and those reporting the behaviour. SBHA will use our professional judgement to assess the seriousness of the behaviour and will take the appropriate course of action including:

- acknowledging and investigating complaints efficiently and effectively, in confidence and within stated timescales
- appropriate use of verbal and written warnings
- working in partnership with partners and those affected by ASB
- offering tenancy support to both victims and perpetrators
- mediation – this can help neighbours understand more about each other and their needs and assist in making them more tolerant and co-operative and prevent neighbour disputes escalating into a more protracted conflict
- noise monitoring
- 'face to face' warnings – where the perpetrator is an SBHA Tenant and previous warnings have not resolved the ASB, face to face meetings will be held with the perpetrator conducted jointly by the Housing Officer and the Police
- Acceptable Behaviour Contracts (ABCs) - written agreements between an individual involved in ASB and relevant partner agencies to prevent ASB. It sets out the behaviour the person has agreed to stop
- ending the tenancy by written agreement – The tenancy of the perpetrator can be ended without the requirement of a notice period, as long as the Tenant, any joint Tenant and SBHA agree to this by way of written agreement that details the conditions of both parties agreeing to the Tenancy ending. The written agreement must be signed by all joint Tenants named on the tenancy agreement and the Association and, where applicable, the spouse, civil partner or co-habitee of the Tenant and joint Tenants as confirmation that they do not wish to invoke their Occupancy Rights under the Marital Homes Act.
- management transfers - can be considered where moving a Tenant to another property might resolve a problem but can only be carried out with the agreement of the Tenant.

8.4 Enforcement - Where it has not been possible to prevent or stop ASB and attempts at intervention have been unsuccessful or the behaviour is serious SBHA will use our powers effectively and quickly, either with our partners or on our own, especially if there is a need to protect the wider community including:

- Antisocial Behaviour Orders (ASBOs)

ASBOs are preventative Court orders intended to protect people affected by ASB from further acts or conduct that would cause them alarm or distress either indefinitely or for a specified period. Breach of an ASBO is a criminal offence.

➤ Short Scottish Secure Tenancy (“SSST”)

A SSST can be used where appropriate to reduce or remove the potential for ASB in certain circumstances. Under current provisions within the Housing (Scotland) Act 2001, if a full ASBO is granted against a Tenant, anyone residing or lodging at the property, any subtenant or visitor to the property, SBHA has the legal right to transfer that Tenant to a SSST.

SBHA will provide or ensure the provision of housing support services to enable the SSST to convert back to a full Scottish Secure Tenancy. The SSST gives the Tenant a 6 month tenancy at the end of which the tenancy can be ended and the Tenant evicted after obtaining a court order. At the end of the 6 month period where no further incidents or reports of ASB have been received the Tenant may be granted a full Scottish Secure Tenancy. A SSST will automatically convert to a Scottish Secure Tenancy after 12 months.

Under provisions of the 2014 Housing (Scotland) Act which comes into effect in November 2019, SBHA will have the legal right to consider granting a SSST to a new or existing Tenant where there has been antisocial behaviour within the previous 3 years. This is to allow support services to have an effect and prevent the need for eviction action at a later stage. A SSST given under any of the antisocial grounds must be for a minimum term of 12 months.

➤ Interdict

A civil interdict is a Court order prohibiting a person from carrying out a wrongful act such as a breach of contract. SBHA can use this remedy to compel a Tenant to comply with the conditions of their Tenancy Agreement such as not to cause nuisance to neighbours or others in the locality of the property. An interdict is granted at the discretion of the Sheriff.

➤ Specific Implement

Specific Implement is a Court order requiring a Tenant in breach of their tenancy agreement to perform the positive obligations under the tenancy. SBHA as a landlord may apply to the Court for such an order. Failure to comply may lead to a Court imposed sanction.

➤ Compulsory Transfer

SBHA can apply to the Courts for an order to recover possession of a tenancy and move the Tenant elsewhere if it can be established that the Tenant, or someone living with them, has been guilty of conduct which is a nuisance or annoyance in the vicinity of the house, or has harassed someone living in or visiting the local area. Before the Court can grant an order for recovery of possession for this reason, it must be satisfied that other suitable accommodation will be available for the Tenant.

➤ Eviction

Eviction may be an available option but SBHA aims to avoid eviction and homelessness by intervening where necessary to achieve a positive outcome. Eviction will, therefore, normally only be used as a last resort when other appropriate remedies to stop the anti-social behaviour have been considered or have failed.

SBHA will use the streamlined eviction process for Antisocial and Criminal Behaviour to help speed up eviction in cases where:

- serious antisocial or criminal behaviour has already been proven in Court;
- the behaviour which led to the conviction was in the locality of the Tenant's house; and
- SBHA considers that eviction action is appropriate to protect neighbours and other people living or working in or near the property from harm.

SBHA will make use of the new mandatory ground for eviction criminal or antisocial behaviour introduced by section 16 of the Housing (Scotland) Act 2014 where:

- A Tenant, joint Tenant or someone living in or visiting the property has been convicted of either using or allowing the house to be used for immoral or illegal purposes or convicted of an offence punishable by imprisonment in, or in the locality of the house;
- the conviction was within the previous 12 months;
- SBHA has served a valid section 14 notice of proceedings on the tenant within 12 months of the conviction;
- seeking automatic eviction is justifiable and proportionate.

8.5 Rehabilitation

SBHA will assist persistent offenders to resolve the underlying issues causing the behaviour and break the cycle of exclusion and offending to bring about real and enduring change.

9.0 TIMESCALES FOR RESOLVING CASES

9.1 A reported case of ASB will be deemed to have resolved when:

- SBHA has taken appropriate measures as set out in this policy to address the cause of the ASB; or
- SBHA does not have the authority or powers to resolve the matter but it has provided the victim with a full explanation of the SBHA's position.

9.2 SBHA aims to acknowledge all reports of ASB **within 3 working days** of receipt and aims to resolve cases within the following locally agreed timescales developed in consultation with SBHA Tenants:

- a) Where the case can be resolved using intervention action (as detailed at 8.3) resolve Within 6 months
- b) Where enforcement action (action detailed at 8.4) is required resolve within 12 months
And
- c) The time taken to resolve cases will be measured from the date of the first report until the last action taken.

Recognising the severity of violence and harassment (Category D – section 6.2 above), SBHA aims to commence our investigation of reported incidences in this category **within 1 working day** and determine the course of action **within 5 working days** of receipt of the report.

10.0 TENANT CONSULTATION AND INVOLVEMENT

10.1 SBHA has consulted with Tenants and staff when formulating the ASB Policy in accordance with the regulatory and legislative requirements of the Housing (Scotland) Act 2001 and Scottish Social Housing Charter.

10.2 SBHA will seek feedback via the following methods:

- monitoring and reporting on cases which are ongoing and not closed
- information provision (Newsletters etc.)
- through Tenant Panels and Focus Groups
- public meetings
- complaints about our service
- liaison Tenant groups and interested parties made up of local residents
- satisfaction surveys after cases are closed

11.0 PARTNERSHIP WORKING

11.1 Other agencies have an important role to play in the implementation of this policy by using the powers available to them. For example, some neighbour nuisance constitutes an offence and the Police may therefore be involved and, in some instances, take a lead role.

11.2 As a result, SBHA will endeavour to establish and maintain close links with partners. Scottish Borders ASB Policy and Procedure Manual provide guidance and a framework for lawful and productive sharing of information with SBHA's identified partner agencies.

12.0 DATA PROTECTION & INFORMATION SHARING

12.1 The Data Protection Act 1998 regulates the handling of personal data, which has been lawfully obtained. Information can be disclosed legitimately for a number of purposes if the information is required:

- for the prevention, detection or investigation of a crime or suspected crime. (This applies to agencies other than the Police and does not necessarily have to result in police action);
- for the purpose of discharging statutory functions; or
- in connection with legal proceedings or prospective legal proceedings.

12.2 If information is disclosed for one of the above purposes, then the individual who is the subject of the information does not need to be advised that this information is being processed.

12.3 Section 139 of the ASB etc. (Scotland) Act 2004 makes specific provision for the disclosure and sharing of information between Scottish Borders Council, Police and Housing Associations where it is necessary or expedient for the purposes of any provision of the Act or any other legislation connected with antisocial behaviour or its effects. This section puts beyond doubt the power of relevant partners to share information for the purpose of tackling ASB.

13.0 CONFIDENTIALITY

- 13.1 Subject to any legal requirements, any information received by SBHA will be treated in confidence. In any particular case of ASB, disclosure of information by SBHA to any other party (subject to any legal requirements) will not occur without the permission of the person who provided the information unless required to do so by law. It is recognised, however, that parties involved in cases can often be identified from the nature of the complaints made.
- 13.2 As detailed in the Data Protection & Information Sharing section above, information may be shared with other agencies for the purpose of crime prevention, prosecution of offenders and legal proceedings.

14.0 EQUALITIES IMPLICATIONS

- 14.1 SBHA aims to treat all customers with respect and professionalism and will ensure that its service is fair and accessible to all. SBHA will publish information that is easy to read and understand in a range of appropriate languages and formats. Where Tenants have any particular needs or requirements, SBHA will do all that it can to ensure that its services are tailored to these needs.
- 14.2 This Policy will not be used to discriminate against any individual or household on grounds of race, religion, marital status, disability, age, sexual orientation, gender reassignment, political opinion, pregnancy or maternity. SBHA aims to promote equal opportunities and comply with the requirements of the Equality Act 2010.
- 14.3 When considering action in respect of any form of ASB, SBHA staff will satisfy themselves that the complaint has not been motivated maliciously or because of discrimination or stigmatisation against a person because they fall into one of the groups mentioned in the previous paragraph. All action will be legal, proportionate and justified.

15.0 TRAINING AND DEVELOPMENT

- 15.1 SBHA will ensure that in dealing with ASB, duties are delegated effectively and that all relevant employees receive comprehensive, regular training in preventing and managing ASB and the use of available legal remedies. Personal Development needs will be kept under review.
- 15.2 SBHA employees will develop effective working relationships with relevant organisations that can help in dealing with ASB.

16.0 MONITORING, PERFORMANCE MEASUREMENT AND REPORTING

- 16.1 SBHA will ensure its performance management and reporting systems show how well it is achieving the outcome set out in the Scottish Social Housing Charter (as detailed in 2.2);
- 16.2 Performance under this Policy will be monitored against the following statutory and local performance indicators:-

(a) Statutory Indicators (Scottish Social Housing Charter)

- Percentage of Tenants satisfied with the management of the neighbourhood they live in (annual performance indicator)
- Percentage of ASB cases reported which were resolved within the agreed targets
- The number of the following actions taken as a result of ASB:
 - notices of proceedings issued
 - court actions initiated
 - orders for recovery of possession granted
 - evictions carried out
 - Short SSTs granted

(b) Local Indicators

- Number of ASB complaints received, by category broken down and by area
- Number and types of intervention actions and number of complaints resolved at this stage
- Number and types of enforcement actions e.g. interdict, specific implement, ASBO and eviction and number of complaints resolved at this stage.
- Number of suspensions from the housing list due to history of ASB.
- Household data of people against whom actions are raised including age, disability, gender and race.

16.3 The Customer Services Manager is responsible for such monitoring using SBHA's CRM system and reporting to the Customer Board on a quarterly basis.

16.4 The Customer Board is responsible for monitoring performance against these indicators to ensure the aims of this Policy are being achieved.

17.0 COMPLAINTS PROCEDURE

17.1 If a Tenant, service user or customer of SBHA feels the Association failed to correctly apply this ASB Policy, they may submit a complaint using SBHA's complaints handling procedure.

18.0 POLICY REVIEW

18.1 The Director of Customer Services is responsible for ensuring that this Policy is reviewed every 3 years or earlier if legislative, performance or other changes necessitate this. Any necessary amendments will be made following full consultation with Tenants and other service users.