

DEALING WITH **ANTI-SOCIAL** **BEHAVIOUR &** **HARASSMENT POLICY**

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Healthy Working Lives



1. POLICY STATEMENT

This policy covers MHA's approach towards antisocial behaviour (ASB) and harassment. It outlines how MHA aims to deliver excellent customer service by preventing, and dealing effectively with all forms of ASB. We recognise the importance of tackling antisocial behaviour and harassment and will ensure that effective and early action is taken to tackle where and when it arises.

This policy aims to give a clear and consistent message that ASB, racial harassment or hate crime in any form will not be tolerated and that there will be consequences of such behaviour. MHA aims to address all forms of ASB effectively, fairly, timely and transparently.

Where people live close together there is always a scope for friction and disputes. Clashes of lifestyles where people from different age groups, different cultural backgrounds, different working or sleeping patterns, can easily give rise to arguments. The responsibility for common areas, problems of litter, noise, crime, and the behaviour of children can lead to disputes, which can become long running, and at times lead to harassment. Where there is behaviour that causes harassment, alarm and distress, all the tools available to the Association will be utilised in a prompt and proportionate manner based on the circumstances of the case. Below is a summary of MHA policy commitments:

- To work to prevent ASB happening in the first place
- Look to modifying behaviour through support, persuasion and legal sanction with eviction or re-housing used as last resort when all other options have been exhausted
- Focus upon the impact the ASB has on the victim, as this is likely to vary from one individual to another and respond to appropriately given the severity of the impact
- Work with partners to tackle all forms of AS and refer people on to support services where appropriate
- Identify vulnerable people, whether victim or perpetrator, and ensure staff work with them appropriately
- Ensuring that MHA comply with all relevant legislation

2. ROLES AND RESPONSIBILITIES

The Housing Services Manager is responsible for the implementation of this policy in practice with a focus upon the following:

- Ensuring that all staff are familiar with the policy;
- That staff follow the policy;
- That staff have the necessary tools and training to enable them to perform their job role

Staff are responsible for ensuring that they assist MHA to carry out their obligations:

- Be aware of this policy and associated guidance

- Participate in any training which the association makes available
- Communicate any issue with the policy to the Housing Services Manager

3. LEGISLATION, REFERENCES AND SOURCES

The following legislation, references and sources are relevant to the delivery of this policy and related procedure

- The Antisocial Behaviour (Scotland) Act 2004
- Data Protection Act 2018
- General Data Protection Regulation
- Equality Act 2010
- The Housing (Scotland) Act 2001 and related Housing (Scotland) Act 1987
- The Housing (Scotland) Act 2014 introduces new powers including stream lined eviction for ASB and increased powers to use short Scottish Secure tenancies for ASB
- The Protection from Harassment Act 1987
- With this policy the Association is compliant with The Scottish Social Housing Charter outcome 6; "tenants and other customers live in well maintained neighbourhoods where they feel safe.

4. IMPACT ON DIVERSITY

MHA is committed to promoting equality and diversity by ensuring that this policy is applied in a manner that is fair to all sections of the community, with due regard to the protected characteristics as per the Equality Act 2010.

All residents are asked to provide diversity details which are used to monitor the services we provide.

5. RESIDENT CONSULTATION

Resident consultation has not taken place for this policy review due to mandatory legislative changes.

6. OPERATIONAL ARRANGEMENTS

a) Antisocial Behaviour

The key factor in deciding whether any specific behaviour is antisocial or not is the impact of the behaviour on others. The definition of ASB in the Antisocial Behaviour (Scotland) Act 2004 is that a person engages in ASB if they:

- Acts in a manner that causes or is likely to cause alarm or distress; or
- Pursues a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not in the same household

ASB in the tenancy agreement is also referred to as nuisance and annoyance.

The following types of behaviour will always be considered antisocial:

- Any type of criminal or alleged criminal behaviour (this includes the sale of drugs, handling stolen goods; criminal damage; prostitution; theft or assault)
- Noise nuisance for instance, loud music, shouting, noise from televisions and hifi systems; excessive barking
- Intimidation and harassment. This includes malicious phone calls, putting offensive material through letter boxes etc
- Aggressive language and behaviour. This would include both verbal and physical aggression, language and gestures
- Actual violence against property or persons. This includes vandalism, fire raising and criminal damage
- Any hate related incidents that targets those of identified groups because of perceived differences such as race, religion, gender, age etc
- Using MHA property for unlawful purpose e.g. to grow or sell drugs; to store stolen goods
- Heated, aggressive, physical or unruly disputes between neighbours
- Alcohol abuse and drunken behaviour in communal or public areas
- Loitering in communal areas

b) Harassment and hate incidents

Harassment is a more specific form of ASB. The definition used for this policy and procedure:

- Unwanted and unwarranted conduct which is either intended to or causes a person(s) alarm or distress
- Violating another's dignity; or
- Creating an intimidating, hostile, degrading, humiliating or offensive environment for another person

MHA operates a zero tolerance policy with regards to harassment. No resident should live in fear of racial harassment or violence. MHA will take firm action against harassment.

MHA will seek a decree for eviction where the case is considered to be a hate crime and /or racial harassment, where such a course of action is considered to be reasonable and proportionate. MHA will ensure that consequences are made known to such behaviour and that all forms of ASB will be addressed effectively, fairly and in a timely fashion.

The Protection from Harassment Act 1997 sets out that for harassment to be a criminal offence, the conduct must be intended to amount to harassment, occurs in circumstances where it would appear to a reasonable person that it would amount to harassment and involve conduct on at least two occasions.

The reason why harassment is often separated out from generic ASB is that harassment is generally pre meditated, targeted and reoccurring whereas ASB can be unintentional and spontaneous.

Harassment is often unlawful whereas ASB may not be. Harassment on the grounds of sex, race, religion, disability, sexual orientation or any other protected characteristic may amount to unlawful discrimination under the Equality Act 2010 and may be a breach other legislation. Harassment which does occur more than once and meets the descriptions above is usually deemed a criminal offence under the auspices of the Protection from Harassment Act 1997.

Harassment on the grounds of any protected characteristic including race, colour, nationality, religion/belief, disability, sexuality, gender identity, gender or age, is dependent on the recipient's perception of the harassment. This can also be called a "hate incident". Once it is identified as harassment by the recipient, it must be investigated as such.

MHA recognises that racial harassment and hate crimes are generally under reported and will endeavour to provide advice and assistance to all tenants, owners and service users who ask.

Racist behaviour which can be defined as racial harassment includes, but is not limited to:

- Actual and threats of physical attacks
- Racist graffiti
- Property damage
- Nuisance incidents
- Written or verbal abuse
- Behaviour such as wearing racist badges or insignia

All hate incidents must be recorded as per procedure.

c) Reports of antisocial behaviour

Complaints of ASB may be reported by:

- The victim
- A third party, e.g. relation, employee, contractor etc
- A specialist organisation, e.g. police, local authority etc

Anonymous complaints will also be investigated as MHA understands that there is often an indication of fear of reprisals. Incidents of ASB will be investigated if it's reported that a tenant in property owned by us, in or around the property owned by us or in the neighbourhood where the Association owns properties.

MHA will accept reports of ASB in person, verbally via telephone, in writing, via email, text or through a third party to any employee.

MHA will define ASB as either Category A, B or C depending on the seriousness of the behaviour and the impact on the victim. For Category A an investigation will start within one working day. For Category B an investigation will start within 2 working days. For category C an investigation will start within 3 working days.

d) Resolving antisocial behaviour complaints

MHA aims to resolve ASB complaints within the appropriate target for Category A, Category B and Category C complaints. See APPENDIX 1 for full details.

All reports of ASB will be taken seriously and individuals will be provided the opportunity to discuss their concerns with an employee of MHA and the Association will remain impartial when dealing with complaints and will aim for reconciliation and harmony in the community.

MHA recognises that many of the complaints we receive are more about neighbour disputes than ASB and will take a more measured Approach. However, MHA recognises that this can significantly impact upon quality of life and staff will aim to promote good relations between neighbours. Feedback regarding action taken or progress of cases, will be provided to the victims of ASB. This feedback may include advice on the limitations of our powers to deal with specific incidents or circumstances, and on the most appropriate agency to be contacted or involved.

Confidentiality of all parties involved in cases of ASB will be respected, except where an offence is disclosed and MHA has other duties such as those related to safeguarding issues, with regards to protecting children or vulnerable adults. However, it must be noted and recognised that parties involved in cases can often be identified from the nature of the complaints made.

When investigating reports of ASB, staff may approach other tenants, owners, residents or organisations to seek confirmation or corroboration of events. In cases of widespread ASB, community groups may also be involved to support initiatives.

MHA can pursue a range of non-legal measures to address ASB. These will always be pursued initially with formal legal action as a last resort, unless the offence merits legal action immediately, for instance racial harassment, hate crime, drug dealing. The decision to take legal action will rest on approval from the Housing Services Manager. Where legal action is taken, the Housing Services Manager should provide updates to the relevant committee. Non legal preventative measures include but are not limited to:

- Assessment of tenant needs at sign up- and subsequent visits
- Collaborative working with tenants, residents, owners and resident groups to ensure they are aware of their responsibilities and the support they can receive
- Having good links with partner agencies
- Using Good Neighbourhood Agreements

Non legal measures include but are not limited to:

- Mediation
- Tenancy support
- Antisocial Behaviour Contracts
- Verbal/written warnings

- Unacceptable behaviour notice (UBNs)
- Local Authority action against noise nuisance
- Management transfers

MHA will endeavour to reach a satisfactory resolution without resorting to legal action, but there will be times when this is required. Action will be taken against the perpetrator of ASB, harassment or hate crime rather than moving the person affected by it. If the perpetrator is a tenant of the agreement.

Legal measures include:

- Seeking compensation from the perpetrators for damage to property
- Possession proceedings
- ASB orders and conversion to short Scottish Secure Tenancy (SSST)
- Refusing mutual exchange

All performance indicators and targets for ASB will be set by and reported regularly to the relevant governing bodies.

e) Partnership working and information exchange

MHA is committed to partnership working to ensure that all available measures are used effectively to ASB, regardless of tenure. Local Authorities and police have a joint responsibility to prepare an ASB strategy for each area. MHA will cooperate in the preparation and implementation of strategies where invited and participate as appropriate in community initiatives.

f) External service providers

When appropriate MHA will enter into service level agreements with other service providers such mediation services. Employees will also consider referring cases to specific projects or services provided in a local setting where it is considered that this will be of benefit, such as tenancy support and family intervention

g) Identifying lead responsibility

MHA will normally take responsibility for investigating and dealing with reported ASB in the neighbourhoods in which our tenants and owners live. However, depending on the nature of the ASB being carried out and the identity of the alleged perpetrator it may be more appropriate for other organisations to take the lead with close liaison and support from MHA, for example:

- Where there has been criminal damage, assault or harassment it is not usually appropriate for MHA staff to lead the investigation. In these cases, employees should take advice of the other organisations involved e.g. police
- If the case involves another council or housing association tenant, then the case may be referred to the responsible manager in that organisation's housing department

- If the alleged perpetrator is an owner occupier or a private service user, the case may be referred to a solicitor, the police or local authority ASB team

h) Information Sharing

Information sharing protocols can be established with partner agencies who are willing. Protocols will list all the organisations involved in the sharing data, name the officers responsible for ensuring compliance, identify the information authorised to be exchanged, set out the process for exchange and agreed timescales, outline how data will be held securely, explain the reasons for sharing the data and must be signed by all the parties involved

Under section 139 of the Antisocial Behaviour (Scotland) Act 2004, any person has the power to release information to a relevant authority where it is necessary for the purpose of any measure in the 2004 Act or any piece of legislation which relates to tackling ASB. Relevant authorities are the local authority, a Chief Constable, Principal Reporter, registered social landlord or an authority or organisation administering housing benefit or providing services related to housing benefit. Section 139 also applies to the whole of the Antisocial Behaviour (Scotland) Act 2004 and other legislation which deals with ASB and its effects; it does not only apply to applications for ASBOs or eviction. This means that it includes disclosure and sharing of information to support ASB strategies, prevention and early intervention as well as legal measures.

In general terms all information received from victims and witnesses of ASB will be treated as being given to MHA in confidence. Where MHA passes on information to a relevant under the terms of section 139, the authority must be told the information is confidential and must respect that confidentiality. This will also apply to any information received by MHA.

i) Management Committee Members involved in antisocial behaviour/harassment

Management Committee Members cannot remain or be re-elected if they are party to any legal proceedings involving MHA. Where a case of ASB or harassment involved a Management Committee Member is referred to a governing body, the individual concerned will be asked to either declare an interest where the case is being discussed or take a leave of absence pending investigation

7. MONITORING AND REVIEW

The Housing Services Manager is responsible for ensuring all staff follow the procedure. The monitoring of the Anti-Social Behaviour & Harassment Policy will be carried out on a bi-monthly basis by the Services Committee. This policy will be reviewed biennially or otherwise if deemed necessary.

8. **DATA PROTECTION**

MHA controls the personal information that we collect, this means that we are legally responsible for how we collect, hold and use personal information. It also means that we are required to comply with the General Data Protection Regulations (GDPR) when collecting, holding and using personal information. See our Privacy Policy for more information.

APPENDIX 1

MHA classifies complaints into 3 categories, those being A, B and C.

Category	Examples of behaviour	Initial response target	Examples of Action(s)	Resolution Target
A Very Serious Nature	Drug dealing Serious assault Firearm offences Threats of violence to neighbour and/or staff member Hate crimes Housebreaking Serious damage to property	Respond within 1 working day	<ul style="list-style-type: none"> • Report to Police Scotland. • Obtain Police or Court information through Information Sharing Protocols. • Interview resident within office. • Refer case to CSG to monitor via criminal court process 	Complete all actions within 10 working days
B Serious Nature	Frequent disturbances – parties, loud arguments Nuisance noise Vandalism Aggressive or abusive behaviour Verbal or written harassment	Respond within 2 working days	<ul style="list-style-type: none"> • Issue letter to neighbours to seek corroboration. • Interview tenant within office and issue warning letter if complaint is corroborated. • For ongoing cases where warnings are breached, refer to CSG for full antisocial behaviour investigation. 	Complete all actions within 15 working days
C Nuisance Complaints	Children causing a disturbance Infrequent noise Pet nuisance Dog fouling	Respond within 3 working days	<ul style="list-style-type: none"> • Speak to all parties either by telephone or in person to provide advice. • Offer referral to CSG Mediation Services only if both parties agree. • Refer to CSG Community Enforcement Officers for persistent dog fouling offences. 	Complete all actions within 20 working days