

# Policy Anti-social Behaviour

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1			Aug 2000	JC	BOARD
2		Replaces Nuisance Policy in light of Housing Corporation Circulatory Guidance	Nov 2004	HJH	BOARD
3	Jan-2005	New format and document numbering (formerly HP012)	Jan-2005		RDW
4	Dec 05	Change to appeal process	Dec-05	HJH	Board
5	May 2007	Change to ombudsman address	Jun 2007	SJW	RDW

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## 1. Introduction

Western Challenge Housing Association is committed to dealing effectively with all aspects of anti-social behaviour and breaches of tenancy agreement, whilst having regard to statutory rights, including the Housing Act 1996, obligations and good practice as they from time to time evolve. Effective dealing with a case involves the parties and / or the Association working towards resolving the issues, with enforcement action being taken only as a last resort.

The Anti-Social Behaviour Act 2003 places a duty on all Social Landlords to clearly show what policies and procedures they will follow to deal with anti-social behaviour. The powers and responsibilities to tackle anti-social behaviour extend beyond the social housing sector and the Association's own stock. This policy document aims to provide the general principles that will underpin all the procedures and good practice applicable to specific issues of anti-social behaviour. It applies equally to secure, assured, assured shorthold tenancies, and leases. Where the term "resident" is used, it should be deemed to mean leaseholder, tenant or part owner. Where the term "tenancy" is used, it should be deemed also to include lease. Where the term "anti-social behaviour" is used, it should be deemed to include all references to "nuisance" contained within the tenancy agreement.

There are a number of different definitions of anti social behaviour. The Anti-Social Behaviour Act 2003 defines anti-social behaviour as conduct which is "capable of causing nuisance or annoyance to any person and directly or indirectly relates to or affects the housing management functions of a relevant association."

The common definition is that found in Section (1) (a) of the Crime and Disorder Act 1998, which defines it as "acting in a manner that has caused or is likely to cause harassment, alarm or distress to one or more persons, not of the same household as himself/herself." This is the definition favoured by the Association as this differentiates between serious anti-social behaviour that presents a risk and behaviour that could be a 'nuisance'.

## 2. Tenants Rights and Obligations

It is the right of every resident to live peacefully in his or her home, free from the fear of anti-social behaviour. Equally all residents have an obligation to act and behave as good neighbours so as not to interfere with other residents and the peaceful enjoyment of their homes. This includes observing the terms of the tenancy agreement, as well as recognising that everyone is part of a wider, diverse community, with differing needs and expectations of peaceful enjoyment of their homes. The primary duty therefore rests with residents to resolve disputes between themselves, particularly when arising from a clash of lifestyles.

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The Association will take into account the reasonableness of resident attempts to resolve problems, before it decides whether it should interfere.

### 3. Landlords Responsibilities

The Association will have regard to Article 8, Human Rights Act 1998 which states:

“Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

This will require the Association to act only where the effect of the anti-social behaviour to one or more residents, outweighs the effect of the interference in the private lives of another resident.

The Association has a primary duty to develop and maintain sustainable communities, across all tenures. An important factor of sustainability however, is the recognition and acceptance by residents that initial responsibility lies with them, to resolve disputes with other residents. The Association will support this approach wherever possible.

The Association also recognises that however reasonable one or more residents may be, they will not always be able to resolve the problem because of the attitude of the resident with whom they are in dispute, or because of the seriousness of the issue, it would be inappropriate to attempt to do so. In such cases the Association will consider taking all reasonable steps to resolve the issue provided always that the action (and the cost of the action) is **proportionate** to the effect of the anti-social behaviour that the action is seeking to address.

Each reported case will be assessed to determine whether they constitute anti-social behaviour. We will consider the frequency and severity of incidents, their effect on the victim and other contributory factors such as the construction of the building. The intentions of the person carrying out the behaviour will also be taken into account as well as any disability or support needs that they may have.

**PRIORITY 1** - Serious anti-social behaviour will not be tolerated at any level. Where there is evidence that the household is at risk of serious assault or in danger, or there is persistent, substantial harassment and the victim is considered vulnerable, the case will be determined as a priority 1. Examples will

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be:

- Actual violence or threats of violence (including domestic violence)
- Racial or any other form of harassment
- Confirmed Class A Drug Dealing

The Association will operate a victim-orientated approach when dealing with such cases and these will be treated as urgent.

Priority 1 cases require a response to the complainant/victim will be within the same working day.

**PRIORITY 2** - Where there is evidence of anti-social behaviour, but the victim is considered not to be at risk. Examples will include the following:

- Drug dealing, unless the complainant is considered to be at risk or it is confirmed that Class A drugs are involved
- Drug use, unless the complainant is considered to be at risk
- Nuisance from animals
- Vandalism and graffiti (unless racist or offensive)
- Regular loud noise including loud music, shouting and swearing, noise from televisions and radios, or vehicular noise during unsociable hours (after 11pm and before 7am)
- Unroadworthy/abandoned vehicles
- Litter/Rubbish
- Public disorder

Priority 2 cases require an initial response (which may be an acknowledgement depending upon the severity of the issue) to the complainant/victim before the end of the next working day.

**PRIORITY 3** – Incidents which may be causing a nuisance but which are not considered to be anti-social behaviour and nor do they present a risk. Examples will include:

- Household noise
- Isolated incidents of loud music during the daytime
- Potential one-off incidents such as a party or DIY work
- Children playing or youths socialising/playing ball games
- Parking issues
- Clashes of Lifestyle (including disturbance to shift workers)
- Minor disputes between individual neighbours where there is no independent evidence

These complaints will be recorded but the Association may not take any action. Advice will be given, and mediation will be offered as well as information about other agencies that may be in a position to help.

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It is the Associations policy not to differentiate between a complainant who is a resident of the Association, and one who is not. However the Associations options in dealing with perpetrators who are not residents of the Association, are much more limited.

Priority 3 cases require a response to the complainant/victim will be within one working week.

## 4. Information/Education

All residents of the Association must receive all relevant information. Relevant information includes what the Association expects of them as residents, particularly in regard to the conduct of their tenancies. Relevant information also includes the policies, strategies and procedures of the Association to enable and empower residents to understand what action they could and should take before and after involving the Association. It also includes the responsibilities of the Association and the factors that have to be considered by the Association before any action is taken. The aim is that residents will understand the broader issues of dealing with anti-social behaviour and how they may apply to any specific situation that affects them. Residents are encouraged to contribute to the development and monitoring of this policy. The Association requires resident contribution and support to ensure the greatest chance of success.

## 5. Dealing with Anti-Social Behaviour

The Association takes all reports of anti-social behaviour seriously and will take firm action to eliminate this. It is the Association's intention to deal firmly but fairly with anti-social behaviour and to deter such behaviour, working with other agencies wherever possible.

## 6. Prevention of Anti-Social Behaviour

The Association aims to prevent anti-social behaviour. To achieve this the Association considers the following:

- Identification of the main types of anti-social behaviour and analyse the success of different approaches through effective performance management, monitoring and feedback systems.
- Target resources effectively.
- Working with residents and key stakeholders to obtain their views on priorities and ways of tackling anti-social behaviour.
- Frequent analysis of sustainability indicators to identify problem areas /

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estates and consider the use of environmental improvements, Starter Tenancies and Lettings Policies.

- Develop partnerships with other agencies, support Neighbourhood Development initiatives and Floating Support Services.
- Work with Mediation Services.
- Designing out problem areas within estates, for example improved lighting or security measures.
- Publicising successful actions.

## 7. Rehabilitation of Perpetrators

Where reports of anti-social behaviour are received, the Association will work with perpetrators to ascertain the causes of the anti-social behaviour. The Association's approach is to ensure that perpetrators receive all the advice and support they need to assist them in modifying their behaviour or deal with the underlying cause, including liaison with other agencies. Where this does not make a difference or they are failing to co-operate, the Association will then to act against those families or individuals who continue to cause a nuisance.

## 8. Action to Deal with Anti-Social Behaviour

The Association will consider the action that best delivers a proportionate and flexible response to the anti-social behaviour reported. This may include the following:

- Undertaking non-legal remedies such as offering advice and assistance, issuing Acceptable Behaviour Contracts, Mediation, Conciliation, and Management Transfers.
- Taking legal action such as Anti-Social Behaviour Orders, Injunctions, Undertakings, Demotion Orders, and Possession Proceedings.
- Referral to other agencies.

## 9. Partnership Working

The Association is committed to developing an anti-social behaviour strategy, and to liaise with other regional and national agencies in order to reduce the impact of anti-social behaviour. Examples are:

- Partnership working with Local Authorities, the Police and other agencies
- Working with residents, key stakeholders and community groups
- Membership of Crime and Disorder Protocols.
- Information Sharing Protocols.
- Community Safety Strategies.

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- Working with other organisations that are managing our housing stock.
- Support to Community Warden Projects.
- Liaison with rehabilitation / specialist agencies
- Support to specific community focussed action groups, including minority awareness groups.

## 10. Confidentiality of Complainants

Any information given to the Association will be treated in confidence. It will not be passed to either the person named in the information or any external agency without the permission of the person who gave the information. The exception to this may be where there is a health and safety risk and disclosure of the information would alleviate this risk. Essentially personal data (information relating to an individual including only address details) can only be disclosed for the purposes of considering action under the Crime and Disorder Act, to prevent a crime / fear of crime and or any form of abuse to a child.

Whilst partnerships and multi-agency liaison is essentially about sharing information, the Data Protection Legislation and agencies individual policies on confidentiality are still applicable.

## 11. Support and protection of witnesses, victims and the vulnerable

The Association will have particular regard to the needs of its vulnerable residents and near neighbours, whether victim or perpetrator of anti-social behaviour, and to attempt to achieve the best resolution in all the circumstances which aims to balance the needs of the community and the particular needs of the vulnerable individual. The Association will consider liaison with specialist support groups as may be appropriate. The Association will consider any additional effective support and protection that might be required for potential witnesses as well as victims so that they are not deterred from giving evidence due to intimidation alone, when pursuing the action would be a proportionate response. Specific time targets have been laid down by the Association in its procedures in order to ensure the appropriate proportionate response, bearing in mind the effect on the victim. For example a report of racist graffiti must be categorised as an emergency repair and removal of the graffiti must be completed within 24 hours. The Association will also keep victims informed of all developments relating to their case.

## 12. Staff Training, Preparation and Support

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Western Challenge is fully committed to training and preparing its staff across all departments and area offices to recognise the seriousness of an allegation of anti-social behaviour so that everyone is able to deal appropriately and effectively with the issue, and to include the use, where appropriate of a “Fast Response” system, empowering officers to make urgent decisions without having to obtain the authority of a manager when the circumstances require it. Staff need to be able to recognise where it would be appropriate to adopt a multi-agency approach. Staff are also be expected to be able to communicate effectively what the Association expects of its residents in terms of behaviour and adherence to the terms of the tenancy agreement. Staff will need to have ongoing training with regard to the range of remedies that are available and how to use them, as well as the cost and the limitation of invoking those remedies. It is the aim that all relevant staff are able to operate within a team to take quickly, the most appropriate and effective action in all the circumstances.

In implementing the Association’s Policy and Procedures on Anti-Social Behaviour it is recognised that staff may be placed at risk from acts of violence or aggression. The Association’s Guidance Notes on Minimising Violence at Work aims to prevent such occurrences and support staff when such incidents do occur.

## 13. Appeals

A customer may request a review of a decision at any stage of the process if they are not satisfied with a decision or action taken.

**NB: This is a separate process to the Complaints Procedure. The Appeals Process should be followed if the customer requests a review of a decision that has been made regarding a specific case by the Association. The Complaints Procedure should only be pursued if the customer is dissatisfied with the way that the Association has handled a case or dealt with the customer.**

### 13.1 Stage 1

An appeal from the customer must be:

- In writing/recorded in writing
- Within **10 working days** of the decision being made
- Addressed to the Area Housing Manager/ Senior Housing Officer
- Outline the reason of dissatisfaction

The customer should expect a response from the Area Housing Manager/ Senior Housing Officer:

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- Within **5 working days** (of receipt) to acknowledge their letter
- A final response to their letter normally within **10 working days** (of acknowledgement) but no later than **4 calendar weeks** (this gives proportionate time depending on the nature of the appeal).

NB: 1 month after the response date, the case may be closed if the customer has not registered any dissatisfaction with the outcome.

## 13.2 Stage 2

Should the case be taken further, the customer should:

- Complete an Appeal Form
- Address it to the Director of Operations
- Return it within **10 working days** of receipt of the Stage 1 response.

The customer should expect a response from the Director of Operations:

- Within **5 working days** (of receipt) to acknowledge their letter
- A final response to their letter normally within **10 working days** (of acknowledgement) but no later than **4 calendar weeks** (this gives proportionate time depending on the nature of the appeal).

NB: 1 month after the response date, the case may be closed if the customer has not registered any dissatisfaction with the outcome.

## 13.3 Stage 3

Should the customer continue to be dissatisfied, as a 3<sup>rd</sup> and final stage, they may request that the Appeals panel considers their appeal. This must be:

- Within **10 working days** of receipt of the Stage 2 response
- In writing/recorded in writing to the Director of Operations

The customer should expect a response from the Director of Operations:

- Within **15 working days** (of receipt) to acknowledge their letter and to set a date for hearing.

The hearing must be as soon as possible but in no case later than **2 months** from the date of notification of the hearing date. The Appeal Panel consists of 3 members of the Association's Committee of Management, 1 of which must be a Tenant representative.

The customer can chose to take one of the following options in order to support their appeal:

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- Not attend however send/record a written statement
- Attend and in addition to sending in/recording a written statement
- Attend and represent themselves verbally
- Attend and be accompanied by a professional or “lay” representative / advocate
- Not attend however be represented by professional or “lay” representative / advocate

The customer must give the Association at least **7 calendar days** notice in writing of their intention and also if they are choosing to attend, they must inform the Association of any special requirements to be catered for (disabilities, hearing impairment, non English speakers).

A written report must be issued by the Director of Operations/Area Housing Manager/Senior Housing Officer and circulated along with a copy of the written appeal from the applicant. This should be given to all members of the Appeals Panel and the customer a minimum of **7 calendar days** before the date of the hearing.

**PLEASE REFER TO COMPLAINTS GUIDANCE NOTE FOR ARRANGING AND CONDUCTING AN APPEAL PANEL**

The Appeal Panel will advise the customer that the formal response will be sent to them within **14 calendar days**. The formal response will advise the customer of any findings made by the Panel, their decision and the reason for their decision.

**13.4 The Housing Ombudsman Service**

Should the customer complete all 3 stages and still be dissatisfied, they have a right to complain to the Independent Housing Ombudsman.

Housing Ombudsman Scheme  
 81 Aldwych  
 London WC2B 4HN

Tel: 0845 7125 973

**14. Monitoring**

**14.1 Management Reporting**

Area Housing Managers/Senior Housing Officers will monitor progress on cases from the information entered on the regional nuisance log the following:

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1. The number of “live” nuisance cases.
2. The number of new nuisance cases per category.
3. The number of cases closed per category.
4. The number of Notices Seeking Possession served.
5. The number of Anti Social Behaviour Contracts or Anti-Social Behaviour Orders made.
6. The number of referrals made to court
7. The number of possession orders granted on the basis of anti-social behaviour.

## 14.2 Board Report

The following information will be reported to the Association’s Board of Management

- Quarterly report
  - Number of cases received in the period
  - Number of cases outstanding at the end of the period
  - All Priority 1 cases and any other particular cases it would be appropriate for the committee to know of.
  - Any planned broader measures for dealing with anti social behaviour.
- Annual ASB report summarising the performance over the last 12 months

## 15. Data Protection

The exchange and processing of personal information will be fair and lawful. In particular the Association will ensure that the relevant processing is notified to the Information Commissioner and is conducted (where relevant) with the necessary consent of the individual concerned. The Association will ensure that personal information is accurate; not kept for longer than is necessary; secure; and adequate, relevant and not excessive. All information will be processed in accordance with the rights of the individual.

## 16. Equality and Diversity

In operating this policy the Association will not discriminate on the grounds of sex, race, colour, religion, sexuality, or any other personal circumstances. The Association will not discriminate against the disabled by evicting a person for reasons relating to their disability, even where the disability is directly linked to the anti-social behaviour, unless it is necessary in order to avoid endangering the health and safety of another person.

In addition, the Association has a separate policy on Harassment, including racial harassment which demonstrates how we intend to fulfil our duties under Section

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71 of the Race Relations Act 1976. The general duty under this Act is to:

- Have due regard to eliminate unlawful discrimination and harassment
- Promote equality of opportunity
- Promote good relations between people of different racial groups
- Encourage people to report racially motivated incident
- Support complainants and their families
- Take action against perpetrators

Our aim throughout all our policies and procedures is to make the promotion of racial equality central to the way our services are designed and delivered.

## 17. Procedures

Detailed procedures will accompany this policy (Document ref WOP97PR)

## 18. Supporting Policies

Other policies should be referred to in conjunction with this policy on Anti-social behaviour:

Harassment Policy  
Domestic Violence Policy  
Selection and Allocation Policy  
Resident Involvement Strategy  
Sales and Allocation Policy (LCHO)

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