



Housing Services Anti-Social Behaviour Policy

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This policy can be made available in different formats such as in large print, audio format and Braille, as well as in other languages, as appropriate.

Foreword

Addressing a diverse range of antisocial behaviours is central to the work of the Scottish Government. The important consultative document, Putting our Communities First: A Policy for Tackling Antisocial Behaviour (2003), emphasises the right for everyone to “live in peace and safety” (page vi). It is also an important part of both the legal system and good practice.

Again, the Scottish Government (2009) put forward a new strategic framework for addressing antisocial behaviour; this was the strategic document: Promoting positive outcomes: working together to prevent antisocial behaviour in Scotland. This will be explained further in Section 5. This framework was itself intended to promote a safer and stronger Scotland, one of the fundamental values of the Scottish Government’s strategic vision.

Orkney Islands Council is legally required to develop a comprehensive strategy for tackling antisocial behaviour. Our strategy details the roles and responsibilities of the council and its partners in dealing with antisocial behaviour. This strategy is contained within Orkney’s Community Safety Strategy.

In addition to this strategy, we have produced this specific detailed policy in conjunction with Police Scotland, for dealing with antisocial behaviour in the community at large. Both documents are fluid and subject to revision, as appropriate.

In order to comply with the above requirements, we have developed this policy to ensure that Housing Services minimises the occurrence of antisocial behaviour. In line with our broader commitments to participation and consultation, this policy will be progressed and reviewed at regular intervals. Details of these arrangements are explained in section 9.

Finally, we recognise that tackling antisocial behaviour effectively requires a holistic perspective involving all of our policies and practices. For this reason, the policy highlights a broad number of issues that have been incorporated into other Housing Services’ policies and procedures to promote the development of communities that are relatively free from antisocial behaviour.

The level of ASB in Orkney is relatively low. While it is important not to be complacent, equally this policy has been designed to be proportionate to the issue in hand.

Section 1: Introduction

The Scottish Government views any form of antisocial behaviour as unacceptable as such behaviour runs counter to values associated with social justice and social inclusion.

This is reflected in law, for example, as people have a right to have a peaceful life and one free from harassment– both at home and in the broader community.

Orkney Islands Council, too, agrees that anti-social behaviour is unacceptable. For this reason, the Council (also referred to as “we”) has specified particular obligations within the Tenancy Agreement to the effect that tenants, as well as other household members and visitors, must not:

“Harass or act in an anti-social manner to, or pursue a course of anti-social conduct against, any person in the neighbourhood” (1).

This document has been produced by Housing Services and is intended to ensure that we:

“Act in a manner which encourages equal opportunities and in particular the observance of the requirements of the law for the time being related to equal opportunities” (Housing (Scotland) Act 2010, Section 39).

In particular we strive to comply with the Scottish Social Housing Charter’s Standard on Neighbourhood and Community (estate management, anti-social behaviour, neighbour nuisance and tenancy disputes) in that:

- Tenants and other customers live in well-maintained neighbourhoods where they feel safe.

This outcome covers a range of actions that social landlords can take on their own and in partnership with others. It covers action to enforce tenancy conditions on estate management and neighbour nuisance, to resolve neighbour disputes, and to arrange or provide tenancy support where this is needed. It also covers the role of landlords in working with others to tackle anti-social behaviour.

In reviewing this policy we have taken into account the Counter Terrorism Act 2015 and related guidance and procedures. No specific measures are required in respect of our anti-social behaviour policy.

This policy explains the steps that we may take to tackle any form of anti-social behaviour.

This policy describes the range of actions that we implement within housing services to address any form of antisocial behaviour.

This policy adopts a sectional format that enables easy updating as law and guidance evolve. The policy comprises the following sections and issues.

Section 2: This section explains the legal and regulatory framework that shapes our policy, including how antisocial behaviour is defined in law.

Section 3 details the range of antisocial behaviour and the types of antisocial behaviour that are addressed by the Housing Services.

Section 4: This section outlines the core policy principles; this is the strategic framework that we implement through a range of housing policies and procedures.

Section 5: This section describes how we address antisocial behaviour in practice so that antisocial actions are “mainstreamed” throughout the housing services.

Section 6: This section highlights other housing policies that are closely linked to the antisocial behaviour policy.

Section 7: This section summarises the types of training and development activities that we deliver to address antisocial behaviour in practice.

Section 8: This section explains what we monitor in respect of antisocial behaviour; this includes issues covered by the Scottish Housing Regulator.

Section 9: This section describes how we consult with tenants and other customers so that our antisocial behaviour policy takes account of local community perspectives.

Section 10: This section explains how we deal with appeals in relation to antisocial behaviour matters.

The Appendices contain general reference information.

Note: We use the term “we” below to refer to the Housing Services and/or Orkney Islands Council.

Section 2: Antisocial Behaviour – Legal and Regulatory Framework

This section of the policy explains the legal and regulatory framework in relation to antisocial behaviour, as well as explaining links to harassment. This provides a plain language summary of the law and is not intended as a precise statement of law.

2.1. Legal Framework

Antisocial behaviour is defined in housing law, as well as in other law. The Antisocial Behaviour etc. (Scotland) Act 2004, section 1, requires Orkney Islands Council to establish an antisocial behaviour strategy.

This policy document links to the Council's wider strategy on anti-social behaviour and focusses on housing activities that contribute to the effective implementation of the broader Council strategy. The key issues to be covered in law and addressed throughout this document are to:

- Assess levels of antisocial behaviour.
- Assess types of antisocial behaviour.
- Specify our consultation arrangements.
- Specify our services for dealing with antisocial behaviour.
- Services for people affected by antisocial behaviour and/or witnesses of such behaviour.

2.2. Antisocial Behaviour in Housing Law

The Housing (Scotland) Act 2001 defines antisocial behaviour as follows:

“Antisocial’, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance (to other people)”.¹

2.3. Antisocial Behaviour in Other Law

The Crime and Disorder Act 1998² and the Antisocial Behaviour etc. (Scotland) Act 2004³ also define antisocial behaviour (see Appendix 1 for a summary of law and guidance). These definitions are broadly similar to the definition in housing law.

¹ Housing (Scotland) Act 2001, Schedule 2, Part 1, 7 (2).

² Crime and Disorder Act 1998, Section 19 (1) (a).

³ Antisocial Behaviour etc. (Scotland) Act 2004, Section 143.

2.4. Harassment

Harassment is also defined in law⁴ and antisocial behaviour may also constitute harassment. Harassment is explained comprehensively in our harassment policy and procedure.

2.5. Regulatory Framework

We must comply with the Scottish Social Housing Charter, Outcome 6, that covers antisocial behaviour.

This standard is:

“Social landlords, working in partnership with other agencies, help to ensure as far as reasonably possible that:

- Tenants and other customers live in well-maintained neighbourhoods where they feel safe.”

This standard applies, not only to our tenants, but also to any other households living in Orkney communities.

As part of this framework, we must monitor specific issues and these are covered in Section 8.

2.6. Summary

Our antisocial behaviour policy is intended to include a range of services including Housing Services. This section has explained the legal and regulatory issues that shape what antisocial behaviour issues the Housing Service must address. Section 3 now explains the range and types of antisocial behaviour that we address.

⁴ For example, the Protection from Harassment Act 1997, Section 8. Other laws define specific forms of harassment (Appendix 1).

Section 3: Antisocial Behaviour in Orkney

While the levels are relatively low, antisocial behaviour occurs in Orkney and we adopt a wide range of management and judicial remedies to address it. These are summarised in Section 5.

In order to understand why we adopt our approach, it is important to understand what actions constitute antisocial behaviour and also the causes of such behaviour.

The following sections will explain:

- Causes of antisocial behaviour.
- People affected by antisocial behaviour.
- Implications for practice.
- Types of antisocial behaviour in Scotland.
- Range and types of antisocial behaviour in Orkney.

3.1. Causes of Antisocial Behaviour

Research indicates that there are many reasons to explain why antisocial behaviour occurs. Key reasons are as follows:

- Inappropriate housing management policies and practices, for example, rehousing people together whose lifestyles are likely to clash.
- Poor design standards, for example, lack of noise insulation that is not adequate given the lifestyles of contemporary households (review note below).
- People being rehoused without appropriate support being provided.
- Marginalisation of social housing with concentrations of poor households living in proximity.
- Lack of awareness of cultural differences between communities.

Note: For instance, increased ownership of hi-fi equipment, televisions and washing machines.

3.2. People Affected by Antisocial Behaviour

Antisocial behaviour can affect many different people. Examples are:

- People living in the locality, for example, neighbours.
- People visiting the locality, for example, relatives or friends.
- People engaged in lawful activity in the locality, for example, housing staff or contractors carrying out their duties.

Note: The term “locality” is fairly broad and is intended to include the wider neighbourhood. For example, in addition to the actual house and adjacent properties, locality could include the whole housing estate, or the local housing area.

3.3. Implications for Practice

As the above list indicates, most problems associated with antisocial behaviour do not stem from personal characteristics of individual tenants. Causes of antisocial behaviour are often rooted in structural changes within society. This understanding has major implications for our value system that underpins how we address forms of antisocial behaviour. This is explained in Sections 4 and 5 following.

3.4. Types of Antisocial Behaviour in Scotland

Research studies show that antisocial behaviour may take various forms ranging from minor disputes to serious acts of violence (Appendix 3).

Our approach is not, however, to categorise complaints in a simple hierarchical way, for example, “behaviour x has occurred so we need to do action y.”

Our approach involves evaluating each case separately (and taking account of all relevant factors) before applying the appropriate remedy to address specific complaints of antisocial behaviour. This approach is in line with sound judicial practice and principles of social justice.

Examples of antisocial behaviour that studies highlight are more frequent include:

- Unreasonable levels of noise, for example, playing of televisions or music.
- Failure to comply with terms of the tenancy agreement, for example, failing to maintain common areas such as gardens.
- Harassment, including harassment on grounds of race, sex and sexual orientation.
- Violence including behaviour of a threatening nature.

It is also emphasised that when “people live close together there is always scope for friction and disputes”⁵ (Scottish Office (1998) page 4 (5)). Indeed, it has been demonstrated that most complaints of antisocial behaviour involve noise, a problem often associated with living in flatted accommodation (Scottish Office (1998) page 5).

3.5. Range and Types of Antisocial Behaviour in Orkney

The level and types of antisocial behaviour in Orkney are illustrated in the tables below.

⁵ The Scottish Office (1998), Circular 16, Housing and Neighbour Problems – Dealing with Nuisance and Antisocial Behaviour.

Table 1: Level of antisocial behaviour in Orkney.

The table below shows the number of cases of antisocial behaviour in Orkney over the last 3 years and the time taken to resolve this.

Financial Year.	Number of Cases.	Cases Resolved within 30 Days.	Cases Resolved Outwith 30 Days.	Cases Open / Closed After End Date.
2018 to 2019.	18.	11.	6.	1.
2017 to 2018.	18.	10.	4.	4.
2016 to 2017.	21.	2.	16.	3.

Table 2: Types of antisocial behaviour in Orkney.

The table below shows the types of anti-social behaviour in Orkney over the last 3 years.

Complaint Type.	2016 to 2017.	2017 to 2018.	2018 to 2019.	Total.
Damaged property.	3.	0.	1.	4.
Dog fouling.	3.	2.	0.	5.
Vehicles.	1.	1.	1.	3.
Noise nuisance.	6.	7.	8.	24.
Youth ASB.	3.	0.	0.	3.
Refuse.	1.	2.	0.	3.
Pet nuisance.	4.	3.	3.	7.
Threatening behaviour.	0.	2.	5.	7.
Condition of property.	0.	1.	0.	1.
Total	21.	18.	18.	57.

3.6. Summary

Antisocial behaviour takes many forms and is often due to structural factors, not due to personal characteristics of individual people. Our policy focusses, therefore, on promoting principles that minimise the possibility of antisocial behaviour and address it in a fair and systematic manner. Section 4 now explains our key strategic policy principles for addressing antisocial behaviour.

Section 4: Strategic Policy Principles

Section 4 outlines the main objectives of our antisocial behaviour strategic policy within Housing Services.

This forms our Antisocial Behaviour Housing Charter whose ten key principles are:

Principle 1: We promote law, regulatory standards and good practice guidance when addressing antisocial behaviour.

Principle 2: We promote equality and diversity commitments throughout our services.

Principle 3: We process personal data in line with the General Data Protection Regulation and data protection law.

Principle 4: We use a wide range of management and judicial remedies to address antisocial behaviour, including a focus on prevention.

Principle 5: We use a range of housing policies to meet the principles of this antisocial behaviour charter.

Principle 6: We have developed a comprehensive inter-agency approach to addressing antisocial behaviour.

Principle 7: We provide training that is aligned to housing staff job roles and covers a diverse range of issues.

Principle 8: We monitor performance relating to the management of antisocial behaviour, not simply to meet regulatory standards but to monitor local issues.

Principle 9: We consult with our tenants and other customers on our antisocial behaviour policy through our tenant participant strategy. This includes carrying out a formal policy review, as required.

Principle 10: We promote the rights of individuals to lodge appeals, as appropriate, in respect of our decisions regarding antisocial behaviour.

Section 5: Addressing Antisocial Behaviour

As noted above, our antisocial behaviour policy must be viewed as a matter to be addressed as part of a much broader strategic framework: this framework is concerned with making Scotland's communities safer and stronger. Thus, antisocial behaviour should not be regarded simply as a housing management issue concerned with breach of tenancy terms. It is a complex matter that must be addressed using a holistic perspective and based on a robust framework. The framework that we promote in this document is that based on PIERS (below).

5.1. Our Strategic Approach

Our strategic approach is derived from what is known as PIER. PIER is an acronym for an approach to addressing antisocial behaviour that is holistic and systemic in nature. PIER includes the following elements:

- Prevention.
- Early intervention.
- Enforcement.
- Rehabilitation.

These elements are integrated into our housing services through four key approaches, namely management actions, partnership working, judicial remedies and social inclusion. Each of these approaches is now explained in turn.

5.2. Management Actions: General

The guiding principle underpinning this policy is that antisocial behaviour can often be dealt with through a range of housing management techniques.

As Collins and O'Carroll (1997) have stated:

"There is considerable scope for tackling the problem without invoking legal remedies".⁶

Our management actions are comprehensive and include both preventative and responsive measures.

Preventative measures, for example, include establishing clear policies and procedures for dealing with antisocial behaviour. This requires that housing staff are equipped to implement those policies through quality training.

Responsive measures, on the other hand, involve establishing good inter-agency working arrangements, as well as specific measures such as mediation programmes.

⁶ Collins S and O'Carroll D (1997): Antisocial Behaviour and Housing: The Law, page 10, the Chartered Institute of Housing/Legal Services Agency/Govan Law Centre/Scottish Legal Education Trust.

Finally, our policy uses an incremental approach to deal with antisocial behaviour. This means that sanctions applied should increase gradually with more serious sanctions being considered only when other alternatives have either been ineffective or are not appropriate. Action to evict tenants, therefore, will in general be an action of last resort, although more severe legal sanctions may be considered early in certain cases if antisocial behaviour is extremely serious.⁷

5.2.1. Management Actions: Elements

Our internal management actions comprise three main elements to resolve antisocial behaviour. These elements are making contact with relevant people; identifying the issue; and assessing the options.

5.2.1.1. Making Contact with Relevant People

This is linked to both the prevention and the early intervention stage of PIER.

If a complaint of antisocial behaviour is received, housing staff will contact relevant people, within set time scales, to investigate matters. This will be done using all appropriate forms of communication, including written, electronic and personal meetings.

It is emphasised that persons complaining will be kept informed of progress at all stages.

5.2.1.2. Identifying the Issue

This is linked to both the prevention and the early intervention stage of PIER.

Our staff must consider each complaint of antisocial behaviour in its context and identify all issues relevant to the case in question. This would include assessing if inter-agency working is required to resolve matters.

Note: Once issues are identified, our staff may use a range of management remedies, including issuing standard warning letters.

5.2.1.3. Assessing the Options

This is linked to both the prevention and the early intervention stage of PIER, as well as possible enforcement actions.

Examples of possible management actions to resolve complaints internally are:

- Assessing re-housing options, for example, carrying out transfers or exchanges to separate neighbours involved in anti-social behaviour.
- Conciliation between neighbours through meetings.

⁷ This does not mean, though, that only one type of action will be taken at any given time. Housing staff may implement various measures from all three of the stages of possible actions detailed in this policy.

- Making alterations to the property, for example, increasing sound insulation or improving security measures.
- Providing specialist services to reduce friction, for instance, the provision of garden or close maintenance services.

Note: If the resolution of complaints requires external assistance, OUR staff will work with other agencies to provide appropriate services such as mediation services.

5.3. Partnership Working

Effective implementation of this policy requires the establishment of inter-agency partnerships, including working with specialist agencies (note below). This is particularly relevant when judicial actions are being contemplated, for instance, applying for antisocial behaviour orders (Stage 3).

Partnerships, too, are only likely to be effective if the following occurs:

- Commitment at senior management level is assured.
- Staff are delegated full authority to implement antisocial actions at grassroots level.
- Sufficient resources are provided to implement the preferred course(s) of action.

Note: This may include partnership working among Council services.

5.3.1. Partnerships with whom the Housing Services Works in Partnership

This section details the range of departments and agencies with which we will work to tackle complaints of antisocial behaviour. Details of procedural arrangements and protocols between departments and agencies are contained in the procedures.

Principal bodies with which we work to address antisocial behaviour are:

- Other Council Services, including Development and Infrastructure, Orkney Health and Care, Education and Leisure Services and Legal Services.
- Police Scotland.
- Services involving mediation and arbitration such as Relationships Scotland.
- Those groups representative of equality issues such as Victim Support, Women's Aid Orkney and Advocacy Orkney.

5.3.2. Other Departments and Agencies

Partnership working among departments and agencies will often be required and examples are as follows:

Police Scotland: requesting Police Scotland to investigate possible crime and to use their legal powers, as appropriate. For example, using their powers to remove noise making equipment, or dealing with equality related crime such as racist abuse.

Various Council departments: working with Council colleagues from different Services to use the most appropriate remedy, for example, requesting environmental health officers use legal powers deal with accumulations of household waste or investigate allegations of noise nuisance. Or liaising with the Education Service and Children and Families Section of Orkney Health and Care to tackle antisocial behaviour in children and young people.

5.4. Judicial Remedies

This is linked to both the prevention and enforcement actions of PIER. It is also part of rehabilitation.

Judicial action is used to deal with antisocial behaviour whenever management techniques have been ineffective, or considered inappropriate.

It is also emphasised that remedies available under housing law may not be appropriate if antisocial behaviour constitutes serious crime. In these situations police action will, in general, be required.

This point is extremely important since much antisocial behaviour constitutes criminal offences. It is often more appropriate, therefore, that such behaviour be tackled by another agency.

For example, where tenants threaten others with violence, the initial step should be for Police Scotland to be notified to take the appropriate action.

Again, waste has been dumped in a common area, it may be more appropriate to refer this matter directly to the Environmental Health.

Finally, in order to deal with complaints of antisocial behaviour effectively, we will consider all available judicial remedies. We will also liaise with other departments and agencies to consider using legal action that they can initiate. Details of these other remedies are contained within our housing management staff procedures.

5.4.1. Types of Judicial Actions

We consider using all the main judicial remedies that are available for addressing antisocial behaviour. It is stressed that this is updated on a regular basis should new types of judicial actions evolve, for instance, as a result of new legislation.

Judicial actions that we consider are:

- Acceptable behaviour contract.
- Interdict.
- Specific implement.
- Lawburrows.
- Antisocial Behaviour Order (ASBO).
- Criminal Antisocial Behaviour Order (CrASBO).
- Establishment of short Scottish secure tenancies.
- Eviction with suitable alternative accommodation being provided.
- Eviction without other accommodation being provided.

Acceptable Behaviour Contract

This is technically a civil remedy rather than a legal one. It is a voluntary written agreement between an individual and the relevant authorities such as Housing Services, environmental Health and Police Scotland. ABCs may concern a young person and his/her parent/guardian. The aim of the contract is to stop specific types of behaviours / acts and for the individual to potentially avoid more serious legal action.

Interdict⁸

This is a court order to prevent someone from doing something prohibited in a contract such as a tenancy agreement. For example, to prevent someone dumping rubbish in common areas such as closes or in communal garden areas.

Specific Implement

This is a court order (note below) that requires someone to do something for which they are liable. For example, a court order to require someone to maintain close and common areas to standards specified in the Tenancy Agreement.

Note: This is a court order ad factum praestandum.

Lawburrows

This is a court order that can be applied for to protect someone from possible harm. This could be personal harm, or damage to someone's property. This has the same effect as an interdict to make someone desist from certain conduct, but also requires the person to lodge money in court that is forfeited if the court order is breached.

Antisocial Behaviour Order (ASBO)

This is a court order that prevents someone from pursuing a certain course of conduct that is causing alarm or distress to individuals or the community, or behaviour that is likely to escalate to criminal level if not stopped. This may be applied for when there is antisocial behaviour as defined by the Antisocial Behaviour etc (Scotland) Act 2004.⁹

Where this order is taken against a minor that is someone between the ages of twelve and fifteen, the Sheriff has the power to grant a parenting order should he/she feel such action is appropriate. Normally action of this type against young people

⁸ Interim orders will also be applied for as necessary both for interdicts and antisocial behaviour orders.

⁹ '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 of the same household' Antisocial Behaviour etc. (Scotland) Act 2004, section 4. An interim ASBO may also be applied for under section 7.

would follow other methods of tackling the problem such as reporting the incidents to the Children's Panel.

Criminal Antisocial Behaviour Order (CrASBO)¹⁰

A CrASBO is an ASBO that can be granted following a criminal conviction and can be applied if the person was over the age of twelve when they committed the crime.

The CrASBO is granted by a sheriff as part of a sentence involving crime involving or related to antisocial behaviour. The purpose of this order is to prevent the public from further antisocial behaviour.

Establishment of Short Scottish Secure Tenancies¹¹

Short Scottish secure tenancies are tenancies lasting for a minimum period of six months. One reason for granting such tenancies is due to antisocial behaviour, or eviction on grounds of antisocial behaviour.

The Housing (Scotland) Act 2001 has been amended to enable this period to be extended to twelve months so that the antisocial behaviour can be addressed properly (and, in the case of social landlords, this period can be increased by another six months (that is, eighteen months in total)).

This extension is permitted if we have:

- Given the tenant two months written notice.
- Informed the tenant of our reasons for the extension.
- And the tenant is in receipt of housing support services.

If a landlord intends to end and repossess a short Scottish secure tenancy that was created due to antisocial behaviour or eviction for antisocial behaviour, then the landlord must:

- Provide clear reasons why this is happening and explain the requirement(s) of the tenancy agreement that have been broken.
- Give at least four weeks' written notice before eviction proceedings can be raised.

The Act promotes tenants' rights by giving them the right to request a review by the landlord before the case goes to court.

Eviction With Suitable Alternative Accommodation Being Provided¹²

¹⁰ Antisocial Behaviour etc. (Scotland) Act 2004, section 118, amends the criminal law by inserting 234AA into the Criminal Procedure (Scotland) Act 1995.

¹¹ Housing (Scotland) Act 2001, as amended by the Housing (Scotland) Act 2014, sections 7, 9 and 10.

¹² Housing (Scotland) Act 2001 Schedule 2, Parts 1 and 2.

In certain situations, we may seek a court order to end a tenancy and “transfer” someone compulsorily to other suitable accommodation. For example, this might be appropriate in order to stop antisocial behaviour.

Eviction Without Other Accommodation Being Provided¹³

Whenever antisocial behaviour is extremely serious, we consider seeking a court order to evict the household concerned. This will only be considered if the ground is clearly established and it is deemed reasonable to seek an eviction. This will be an action of last resort as it is a clear policy principle to establish sustainable tenancies and to promote social inclusion.

5.5. Social inclusion

This is linked to both the prevention and enforcement actions of PIER. It is also part of rehabilitation.

Antisocial behaviour may result in people becoming dissatisfied, either individually or collectively. As such, this can result in social disharmony that is at odds with an inclusive society in which people can live peacefully.

However, we accept that antisocial behaviour may cease and, in the case of people whose behaviour has been addressed through judicial means, then people need to be re-integrated into their community.

Examples are given relating to civil and criminal actions to illustrate this point.

Civil Actions

If someone is evicted due to antisocial behaviour, then we advise people of their rights, including how steps can be taken to find alternative accommodation.

Criminal Actions

If someone is imprisoned due to crime relating to antisocial behaviour such as racism, then we work with individual people to advise them of their housing options. This is essential to comply with homelessness law and the relevant code of guidance.

5.6. Summary

We have established a comprehensive approach to addressing antisocial behaviour that is based on law and good practice. Using the PIER framework, our antisocial behaviour approach ensures that addressing antisocial behaviour is not seen as a specialist activity, but as something covered by all our major housing policies and procedures.

¹³ Housing (Scotland) Act 2001 Schedule 2, Part 1.

Section 6: Other Policy Issues

It has been emphasised that housing services must be implemented holistically if this policy is to be implemented effectively. Commitments to prevent or eradicate antisocial behaviour have, therefore, been incorporated into housing policies and procedures. A summary of these commitments is given below by reference to our key policies.

These policies are:

- Lettings (incorporating suspensions).
- Complaints.
- Development programmes.
- Equality and diversity (discrimination and harassment).
- Estate management.
- Repairs and maintenance.
- Void housing (managing empty houses).

6.1. Lettings

When letting houses we must address housing need. This is not simply a legal requirement, but also socially inclusive as it ensures that people living in the poorest conditions receive priority. But letting practice must strive to avoid the creation of areas affected by antisocial behaviour through inappropriate lets.

For example, we avoid, wherever possible, concentrating families together in flats. This is particularly relevant where design factors could exacerbate potential problems, for instance, inadequate sound insulation in flats where there are many children.

Note: Most tenancies are let as Scottish secure tenancies that encourage stability and promote tenants' rights. We also offer short Scottish secure tenancies as discussed above if this is considered to be a way of addressing the antisocial behaviour in question.

In addition, we establish support systems, as appropriate, to ensure that potentially vulnerable households manage to sustain their tenancies. This would be relevant, for instance, in the case of certain young people, or homeless families. It is also important in the prevention of future homelessness.

6.2. Complaints

Complaints are regularly monitored to evaluate the numbers and types of complaints that involve antisocial behaviour and harassment. This includes monitoring of all relevant equality issues such as discrimination or harassment on grounds of age, disability, sex, sexual orientation and race.

6.3. Development Programmes

We implement development programmes that promote sustainable tenancies. In designing properties, for instance, we take account of factors such as:

- Improved sound insulation through double glazing to minimise noise levels.
- Provision of play areas so that children can play away from neighbours.
- Maximisation of “defensible space,” whenever possible, for example, having common areas lit and visible to neighbours.

6.4. Equality and Diversity (Discrimination and Harassment)

Harassment may also constitute antisocial behaviour since it causes alarm or distress to other people. Such conduct may include speech, for example, abusing other people with comments about their racial origin.

Harassment is defined in law and involves pursuing a course of conduct that is either:

- Intended to harass another person.
- Or occurs in situations that a reasonable person would agree amounts to harassment.¹⁴

Conduct includes speech and a course of conduct must involve conduct on at least two occasions.¹⁵

We are committed to:

- Promoting equality objectives throughout all housing services.
- Addressing any form of antisocial behaviour or harassment.

As well as the grounds (“protected characteristics in law”) on which discrimination is prohibited, our policy also seeks to eliminate discrimination on any of the following grounds:

“Sex or marital status, or racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions”.¹⁶

6.5. Estate Management

Orkney Islands Council has specified particular obligations within the tenancy agreement to promote respect for other people, for example, neighbours and staff.

The tenancy agreement states that tenants, as well as other household members and visitors, must not:

“Harass or act in an antisocial manner to, or pursue a course of antisocial conduct against, any person in the neighbourhood”.¹⁷

¹⁴ Protection from Harassment Act 1997, section 8 (1) (a) and (b).

¹⁵ Housing (Scotland) Act 2001, Schedule 2, Part 1, 7 (2).

¹⁶ The Scotland Act 1998, Schedule 5, L2, defines equal opportunities.

¹⁷ Orkney Islands Council Tenancy Agreement, paragraph 3.1.

Our tenancy agreement also includes a detailed section on the tenant's responsibilities towards other people. These responsibilities are emphasised when tenants sign their tenancy. Tenants are also advised of actions that might be taken should they fail to adhere to their terms of let. We also consider the implementation of new initiatives as appropriate.

In order to reduce potential problems, we have established the following initiatives:

- Encouraging residents to become involved in environmental improvement schemes for example tree planting.
- Providing services to vulnerable tenants, as appropriate, for instance we employ an in-house social worker.

6.6. Property Management

Estates are increasingly multi-tenure due largely to tenants having bought their homes. We use the main remedies discussed above to address antisocial behaviour committed by owner occupiers and/or private tenants.

6.7. Repairs and Maintenance

We provide quality repair services that seek to ensure that repairs are carried out within set time scales; this would include removing graffiti and damage to property arising through antisocial behaviour. This approach ensures that actions are taken to prevent any further property deterioration and/or community dissatisfaction.

6.8. Suspensions

All applicants have a legal right to be registered on our housing list provided they are sixteen years or over.¹⁸ It is our policy, however, to consider conduct suspensions if:

- Applicants have a recent history of serious antisocial behaviour such as violence towards neighbours.
- This behaviour is likely to continue should they be rehoused by the council.

It is emphasised, however, that such suspensions are open to regular monitoring and applicants' cases are reviewed, as appropriate. Applicants are advised of this review system and also of their right to appeal the council's decision (Section 10).

6.9. Void Housing (Managing Empty Houses)

The occurrence of empty (or void) properties can easily lead to an area becoming stigmatised and potentially difficult-to-let.

We have established time scales, therefore, for the letting of empty property.

These targets are monitored on a regular basis to ensure that policy objectives are realised in practice. In order to re-let houses quickly, we operate a variety of initiatives such as the granting of decoration allowances.

¹⁸ The Housing (Scotland) Act 1987, section 19 (1).

Our lettings system is based on choice and this means that tenancies could be more sustainable as applicants are offered houses they need and choose.

6.10. Summary

Antisocial behaviour policy objectives are mainstreamed into practice, not through a specialist procedure, but through being part of all mainstream housing policies and procedures. This approach enables us to incorporate the PIER framework and to ensure that issues are addressed holistically and systemically. The ethos of this approach is not just to prevent antisocial behaviour from happening, but to address it – should such behaviour occur – using a wide range of management and judicial remedies.

Section 7: Training and Development

Training is a key part of the council's organisational policy. It is recognised that dealing effectively with antisocial behaviour requires comprehensive and ongoing training of staff, as well as specific training for Members.

Training provision will also vary depending on the job description of individual staff and their specific job responsibilities.

Training provision includes the following issues:

- **Legal information.**

Training will be provided on all relevant legal provisions to enable staff (a) to take the appropriate actions and (b) instruct our solicitor accordingly. This will include awareness of the broad range of judicial remedies so that staff can provide tenants with appropriate levels of information.

- **Policy and good practice guidance.**

Training will be provided on the general council policy, this policy and all relevant good practice guidance.

- **Inter-agency training.**

Joint training between departments and other agencies will be developed and encouraged to ensure that there is awareness of the broad range of legal remedies and powers available to different organisations.

- **Skills training.**

Skills training will be developed to include issues such as:

- Dealing with difficult situations, including awareness of body language issues.
- Mediation.
- Personal safety during home visits.

7.1. Summary

Training and development is essential if this policy is to be implemented effectively. Antisocial behaviour training is a key aspect of the training programmes that housing staff receive. Training is developed in line with job requirements and staff personal development plans.

Section 8: Performance Management

Performance management is a key strategic issue since monitoring is part of the Scottish Housing Regulator's monitoring framework (the annual return on the Charter or ARC).

Performance management is equally important for ensuring that general council policy objectives are achieved, including ensuring value for money.

We have tailored monitoring to suit local needs, as well as information required to meet the Scottish Social Housing Charter. The section below covers the regulatory indicators and our tailored indicators.

8.1. Regulatory Performance Measures

We monitor:

- The number of notices of proceedings issued in respect of antisocial behaviour and court action initiated.
- The percentage of the court actions initiated which resulted in eviction for antisocial behaviour.

8.2. Tailored Indicators in Orkney

We monitor the following issues in relation to antisocial behaviour:

- Complaints of antisocial behaviour by number, by type and timescale and by area/locality, for example, noise or harassment.
- Numbers and types of management actions, for example, meetings, mediation, including outcomes and appeals.
- Numbers and types of legal actions, for example, interdict, specific implement, ASBO's, eviction, including outcomes and appeals.
- Costs of court actions in respect of antisocial behaviour.
- Household data of people against whom actions are raised, including by age, impairment, race or ethnic group, sex and sexual orientation.
- Number of abandonments and antisocial issues, for example, how many abandonments occur in areas where there have been reports of antisocial behaviour.
- Transfer and mutual exchange requests due to antisocial issues.
- Refusal of offers of housing due to antisocial issues.
- Numbers of offers to applicants suspended due to antisocial behaviour.
- Numbers of short Scottish secure tenancies granted due to antisocial behaviour, extensions to the full period and court actions and outcomes.
- Training provided by type to individual staff members, including details of staff by grade and equality profiles.

8.3. Summary

We monitor the issues as required by the Scottish Housing Regulator. This focusses on quantitative issues. In order to ensure that antisocial issues pertinent to Orkney

Islands Council are measured, we have developed other performance measures. These include quantitative and qualitative measures. They also link to broader strategic issues such as equality themes; this enables us to use this information to support equality mainstreaming objectives.

Section 9: Consultation

When the policy was originally developed, a detailed process of consultation was undertaken. The Council worked with tenants' groups in Orkney in developing the policy. In specific areas where a tenants group had not been formed, consultation took place with individual tenants who had expressed an interest in participation.

The process of consultation has involved a range of activities since 2003 including (in alphabetical order):

- Auditing of the existing arrangements for tackling antisocial behaviour and assessing their effectiveness.
- Consulting with Residents Associations and with staff.
- Disseminating information about the policy, including information being provided in our quarterly newsletter.
- Establishing a small working group of key officers and representatives from Orkney Islands Council to discuss how the policy might be developed in light of requirements of the Scottish Government.
- Reviewing the policy against best practice.

The antisocial behaviour policy is intended to be a fluid document which all stakeholders continuously review and one which continues to develop and grow.

The policy is a framework enabling all those involved in both the delivery of the housing service and its associated services, together with those who are recipients – or future recipients of the housing service to work towards continuous improvement in this aspect of the housing service.

Section 10: Appeals

Individuals have the right to appeal against the way their case has been handled if they feel this is justified.

In the first instance they should put in writing the reasons why they feel aggrieved, including details of any independent agencies they feel may be able to support their appeal.

Where such an appeal is received, it will be acknowledged within two working days, and the Head of Housing, Homelessness and Schoolcare Accommodation Services will review the entire case within ten working days of receipt.

The applicant will be notified in writing of the decision reached. In addition, she/he will be advised of their right to request a further review of the situation by the appeals committee.

Full details of this process are explained to tenants and customers, including where further details and advice and assistance can be obtained.

Appendix 1: Law and Good Practice

This section provides details of key legislation that is used to tackle antisocial behaviour. Details of a broader range of relevant law are contained in the staff procedures.

This Appendix lists key law and guidance linked to antisocial behaviour issues. It is not intended as an exhaustive guide. Other law that is relevant to possible antisocial behaviour such as equality law is also noted.

Law

Antisocial Behaviour etc (Scotland) Act 2004.

Criminal Justice Act 2003.

Housing (Scotland) Act 2001 (as amended).

Crime and Disorder Act 1998.

Protection from Harassment Act 1997.

Environmental Protection Act 1990.

Note: A variety of secondary legislation is used to implement specific legal provisions into practice. These are available on the Scottish Government website.

Key Guidance

Scottish Housing Regulator, 2017, the Scottish Social Housing Charter, Edinburgh: Scottish Housing Regulator.

Other Law

Equality Act 2010.

Human Rights Act 1998.

Scotland Act 1998.

Appendix 2: Useful Contacts

Housing Services

Orkney Islands Council, School Place, Kirkwall.

Telephone: 01856873535.

Police Scotland

Police Station, Burgh Road, Kirkwall.

Telephone: 101.

Advocacy Orkney

18 Queen Street, Kirkwall.

Telephone: 01856870111.

Citizen's Advice Bureau

6 Bridge Street, Kirkwall.

Telephone: 01856875266.

Orkney Housing Association Ltd.

39a Victoria Street, Kirkwall.

Telephone: 01856875253.

Victim Support Orkney

6 Bridge Street, Kirkwall.

Telephone: 01856871965.

Voluntary Action Orkney

6 Bridge Street, Kirkwall.

Telephone: 01856872897.

Women's Aid Orkney

Phoenix House, Junction Road, Kirkwall.

Telephone: 01856877900.

Appendix 3: Reference List

Scottish Government, 2017, Justice in Scotland: Vision and Priorities, Edinburgh: Scottish Government.

Scottish Government, 2009, Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland, Edinburgh: Scottish Government.

Anderson, I, Brown, A, (with Judy Nixon and Caroline Hunter) 2006, Tackling antisocial behaviour in Scotland: An action framework for social housing practitioners and governing bodies, Edinburgh: Joseph Rowntree and CIH.

Scottish Executive, 2003: Putting Our Communities First: A Strategy for tackling Antisocial Behaviour, Edinburgh: The Stationery Office.

COSLA/Communities Scotland/SFHA, 2001: Performance Standards for Social Landlords and homelessness functions, Edinburgh: COSLA and Communities Scotland.

Scottish Office, 1998, Circular 16/1998: Housing and Neighbour Problems- Dealing with Nuisance and Antisocial Behaviour, Edinburgh: Scottish Office.

Collins S and O'Carroll D, 1997: Antisocial Behaviour and Housing: The Law, CIOH/LSA/Govan Law Centre/Scottish Legal Education Trust.