

BUIDHEANN TIGHEADAS LOCH AILLSE AGUS AN
EILEIN SGITHEANAICH
LOCHALSH AND SKYE HOUSING ASSOCIATION

Anti-Social Behaviour Policy

DATE APPROVED:	10 July 2006
APPROVED BY:	Management Committee
DATE OF REVIEW:	June 2011

ANTI-SOCIAL BEHAVIOUR POLICY

CONTENTS

1. INTRODUCTION
2. PURPOSE
3. AIMS & OBJECTIVES
4. WHAT CONSTITUTES ANTI-SOCIAL BEHAVIOUR?
5. REDUCING CONFLICTS
6. DEALING WITH ANTI-SOCIAL BEHAVIOUR
7. COMMITTEE INVOLVEMENT
8. REVIEW

ANTI-SOCIAL BEHAVIOUR POLICY

1. INTRODUCTION

- 1.1 Anti-social behaviour is a serious concern for communities across Skye and Lochalsh.
- 1.2 The Anti-Social Behaviour Act 2004 (referred to in this document as “the ASB Act 2004”) has been approved by the Scottish Parliament and provides Registered Social Landlords (RSL’s) [i.e Lochalsh and Skye Housing Association], Local Authorities and the Police with a range of additional measures which can be drawn upon as necessary to deal with anti-social behaviour. The Act requires that anti-social behaviour strategies developed by RSL’s, local authorities and the police are kept under review and appropriately revised.
- 1.3 The primary aim of this policy document is to set out clearly how Lochalsh and Skye Housing Association will deal with anti-social behaviour. Difficulties have arisen in the past from the localised, sometimes unpredictable and sporadic nature of anti-social behaviour and the fact that such behaviour can cover a range of activities that may not be classified as “criminal”. It has therefore been challenging for the Housing Association and Police to respond effectively.

2. PURPOSE

- (a) This policy statement outlines the ways in which Lochalsh and Skye Housing Association will deal with anti-social behaviour.
- (b) The Association believes that all everyone has the right to live peacefully in their home and the Association takes the issue of anti-social behaviour seriously.
- (c) In December 2000, the Association in partnership with The Highland Council and Northern Constabulary, signed a Housing Liaison Protocol for tackling crime, harassment and anti-social behaviour. The purpose of the protocol is to ensure that all agencies concerned have effective strategies in place to tackle such behaviour and co-operate in the exchange of relevant information. This Policy reflects the terms of the Protocol and describes the contribution the Association will make to achieving its aims.

3. AIMS AND OBJECTIVES

- 3.1 The aims and objectives of Lochalsh and Skye Housing Association are as follows:-
 - To make Skye and Lochalsh a safer and more attractive community.

- To deal effectively with cases of anti-social behaviour using the range of tools specified in this document.
- To effectively track the progress of anti-social behaviour cases.
- To fully support victims, witnesses and complainants of anti-social behaviour.
- To work in partnership to identify the best solution.
- To minimise the opportunities for conflict between neighbours.
- To ensure that all relevant staff are trained on how to deal with anti-social behaviour and neighbour disputes.

4. WHAT CONSTITUTES ANTI-SOCIAL BEHAVIOUR?

4.1 Anti-social Behaviour takes many forms within the community and covers a range of problematic behaviour. It is clear that this behaviour has a considerable impact on communities, affecting the quality of life for many residents in Skye and Lochalsh.

4.2 The Anti-Social Behaviour Act 2004 provides that a person engages in anti-social behaviour if they:-

- Act in a manner that causes, or is likely to cause, alarm or distress; or
- Pursue a course of conduct that causes, or is likely to cause, alarm or distress to at least one person not of the same household as them.

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

4.3 The expression “is likely to cause” means that, in effect, someone other than the victim of anti-social behaviour can give evidence about whether behaviour is anti-social or not and this permits the use of professional witnesses. Such witness maybe used, for example, in cases where those victimised by anti-social behaviour feel unable to come forward for fear of intimidation or reprisals. The evidence may not be as strong without direct evidence from victims, but the opportunity exists to pursue such cases without their involvement.

4.4 It is the effect, or likely effect, of behaviour on other people that determines whether the behaviour is anti-social; therefore it is not necessary for a prosecuting authority to prove intent on the part of the defendant to cause alarm or distress.

4.5 The ASB Act 2004 also makes it clear that the Sheriff, in determining whether a person has engaged in anti-social behaviour, shall disregard any behaviour shown to be reasonable. Therefore, consideration of whether behaviour is anti-social will be subject to a “test of reasonableness”.

4.6 Finally, it is important to point out that anti-social behaviour is not necessarily behaviour that is different, or is a result of a medical or developmental

condition, or a mental health problem. Therefore, awareness and tolerance of others' needs is an important part of tackling anti-social behaviour.

- 4.7 The definitions above describe the scope and impact of anti-social behaviour. However, it is also important for the communities of Skye and Lochalsh that the ranges of behaviours that can be understood as anti-social behaviour are also outlined.

5. REDUCING CONFLICTS

- 5.1 The Association believes that the prevention of anti-social behaviour is of vital importance in building and maintaining stable and peaceful communities. It will therefore ensure that the opportunities for neighbour disputes are minimised wherever possible.

(a) **The responsibilities of being a tenant/sharing owner:**

Lochalsh and Skye Housing Association will:

- (i) make sure that all existing and prospective tenants/sharing owners are fully aware of their responsibilities and of the action that will be taken against them if they (or anyone whom they are responsible) behaves in an anti-social manner.
- (ii) identify what constitutes anti-social or unneighbourly behaviour. Such behaviour is likely to include:
excessive noise, dumping rubbish, verbal abuse, intimidation, harassment, domestic violence, uncontrolled dogs, drug dealing, vandalism, uncontrolled children, graffiti, crime, prostitution, work incompatible with a residential area, disturbing neighbours, frequent late parties, drug and alcohol misuse resulting in anti-social behaviour.
- (iii) publicise the responsibilities of tenants/sharing owners and of the Association in relation to anti-social behaviour:
 - in the Tenancy Agreement/Occupancy Agreement
 - in the Tenant's Handbook
 - in Newsletters and other specific publicity

Tenants/Sharing Owners responsibilities will include:

- keeping to their tenancy agreement/occupancy agreement;
- being responsible for the actions of the members of their household and of their visitors;
- ensuring that they do not annoy or disturb their neighbours with loud music, late parties etc;

- disposing of rubbish in bins provided, ensuring bin stores are kept tidy and notifying the Local Authority of any large items to be collected;
- ensuring that children do not cause nuisance or disturbance;
- obtaining written permission from the Association before keeping any pets outwith the number specified in the tenancy agreement and being responsible for their behaviour;
- keeping their gardens neat and tidy where applicable;
- seeking in writing, and obtaining permission to sub-let, to carry out alterations to their houses, or to run a business from home.

(b) Allocations Policies

While acknowledging the rights of people in need to gain access to housing, the Association recognises the part placed by insensitive or inappropriate allocations in potentially contributing to neighbour disputes.

The Association will:

- (i) not “grade” application for housing on the basis of applicants housekeeping standards.
- (ii) ensure that contracts or arrangements are agreed with relevant organisations for tenants who require support to enable them to live in mainstream housing.
- (iii) adopt allocations policies which aim to achieve settled communities whilst ensuring access for those in housing need.

(c) Housing Management

Lochalsh and Skye Housing Association acknowledges the problems which can be caused by remote, inconsistent and ineffective management.

The Association will:

- (i) establish clear guidelines on the responsibilities of tenants/ sharing owners in relation to anti-social behaviour.
- (ii) adopt clear systems for the continual monitoring of activities such as:
 - garden maintenance
 - refuse collection

to ensure that tenants/sharing owners undertake the estate management duties for which they are responsible.

- (iii) work in partnership with other organisations to minimise the possibility of conflicts arising from poor service delivery or lack of support, including:
 - social work services
 - police
 - protective services
 - roads and transport services
- (iv) always use service charges for contract communal cleaning to prevent problems arising.
- (vi) set standards and targets in relation to estate management and monitor performance to ensure that they are being met.

6. DEALING WITH ANTI-SOCIAL BEHAVIOUR

- 6.1 Although Lochalsh and Skye Housing Association will encourage neighbours to resolve their own problems, the Association will treat all cases of anti-social behaviour seriously and will take action against any tenant/sharing owners breaking the terms of their tenancy agreement/occupancy agreement.
- 6.2 The Association recognises that a wide range of solutions/actions are required to tackle the various forms of anti-social behaviour that exist and it is essential that all staff are aware of all possible measures.

(a) **General good practice in dealing with anti-social behaviour**

The Association will:

- (i) respond appropriately to all complaints concerning anti-social behaviour in line with agreed standards, targets and good practice.
- (ii) ensure that early action is taken in response to a complaint.
- (iii) listen sympathetically to all parties and will not pre-judge or make assumptions.
- (iv) advise tenants/sharing owners of the action they can take in response to anti-social behaviour, e.g. call the police, contact the protective services department.
- (v) record all complaints and action taken in a clear and confidential manner.
- (vi) respond sensitively, fairly and consistently in all cases.
- (vii) investigate and evaluate all more serious cases to assess the most appropriate action required.
- (viii) liaise with other relevant agencies in relation to the Housing Liaison Protocol.

(b) **“Minor” problems**

The Association will:

- (i) encourage tenants/sharing owners to resolve their own disputes wherever possible by speaking to their neighbours at the start of a minor problem.
- (ii) record all such problems in case they develop further.
- (iii) always be prepared to become involved where the resident does not wish to take action themselves. This will include:
 - visiting those involved.
 - checking all parties understanding of responsibilities.
 - advising of future action if problems continue.

(c) **Taking Action**

The Association will:

- (i) consider the use of arbitration to resolve neighbour disputes before further action is taken.
- (ii) where arbitration fails, take action against anti-social tenants/sharing owners, to include visits, letters, liaison with other agencies and take legal action where necessary.
- (iii) recharge tenants for:
 - vandalism caused by them, a member of their household or by their visitor, including repairs to communal areas, repairs within the Association property and removal of graffiti.
 - services provided as a result of the tenants/sharing owners failure to comply with their tenancy agreement, including areas for which they are responsible, such as not maintaining their garden.
- (iv) encourage all tenants to report, in confidence, cases of anti-social behaviour to Association staff and, where necessary, to the police, social work department, protective services department or other relevant authority.
- (v) only act where there is proof of anti-social behaviour:
 - collect evidence, including full and accurate records of complaints, visits, letters and conversations.
 - encourage those complaining to sign statements.
 - obtain a police report where involved.
- (vi) work with local police where appropriate.

(d) **Anti-social Behaviour Orders**

Anti-social Behaviour Orders (ASBO's) and Interim ASBO's for adults have been in existence since 2002, and new legal measures extend the

scope of ASBO's for adults and provide the power to use ASBOs for 12-15 year olds. ASBOs are civil orders intended to protect the community from anti-social behaviour. The orders are not criminal penalties and are not intended to punish the offender. Breach of an ASBO, however, is a criminal offence. An order contains prohibiting conditions that are aimed at preventing the person acting in such a manner once the order is imposed, for example not entering a defined area or engaging in a particular behaviour/s. Either the Local Authority or an RSL as defined within the Act may apply to the Sheriff Court for an ASBO. In applying for an ASBO, the local authority, police, alleged perpetrator and, if appropriate, Children's Reporter, must be consulted. Neither the individual affected, nor the individual causing the behaviour, need to be residents of the local authority area.

Anti-social Behaviour Orders (ASBOs) for use on Adults

In order to obtain an ASBO on an adult, the Local Authority or RSL will have to show a court that an order is necessary to protect people in its area from further anti-social behaviour. It is important to note that an ASBO will be used only as a last resort, although where the alleged perpetrator is a tenant of the RSL, eviction may be the last true resort. Therefore, it will be necessary for the Local Authority or RSL to show that other reasonable and relevant means of resolving problematic behaviour have been considered. In considering an application for an ASBO, each case will be dealt with on its own merit and all the facts and circumstances surrounding any complaint will be assessed. There is no exhaustive list to the kind of behaviour that an ASBO can seek to prohibit, taking into account the legal definitions of anti-social behaviour. ASBOs may be issued for indefinite periods of time and, if deemed necessary, the Local Authority and RSLs can re-apply for an ASBO. In accordance with the definition of anti-social behaviour, an ASBO should not be sought "where an individual cannot understand the consequences of their actions."

Anti-social Behaviour Orders for 12-15 year olds

This Policy specifically advocates four underpinning principles in relation to the use of ASBO's for under 16s, as outlined in national guidance:-

- (i) ASBOs are only intended to deal with a small number of persistently anti-social young people for whom available alternatives are not working.
- (ii) The children's hearing system should continue to be the primary forum for dealing with anti-social behaviour by under 16s.
- (iii) Early intervention is encouraged in all cases to prevent the need for legal remedies. Alternative approaches are particularly important in respect of young people.

- (iv) Where an ASBO is being considered, there should be a clear need to protect the community from the behaviour of the young person and there should be a level of agreement with other interested parties, including the Principal Children's Reporter, that an ASBO is the most appropriate intervention in the circumstances.

Essentially, this Policy holds that a juvenile ASBO will be deployed where all other interventions have failed to address the anti-social behaviour of a young person. In line with the Scottish Executive guidance, this Policy promotes the use of multi agency case conferences in cases to consider application for a juvenile ASBO where the needs of the young person will be balanced with the requirement to protect the community from anti-social behaviour.

In the event that a young person, upon whom an ASBO has been served, breaches this order, this would become a criminal offence only if grounds are accepted/established by the children's hearing system.

Where a person is aged 16-17, it is recommended that authorities consult the Principal Reporter as the young person may be under a supervision requirement.

Interim ASBOs

An interim ASBO can be made at an initial court hearing in advance of a full hearing. An interim ASBO can impose the same prohibitive conditions and has the same implications for breach, as a full ASBO. Interim ASBOs offer protection to complainers pending the full hearing of a case.

Regarding the use of ASBOs for under 16s, the guidance indicates that there should be a presumption against making an early application in cases involving under 16s as there is a wider range of alternatives to consider. The Principal Reporter must be consulted if an interim ASBO is being considered for an under 16. The Reporter must be provided in writing prior to decision being made to grant an interim order.

Domestic Abuse

Domestic Abuse take many forms, including violent and abusive behaviour and presents itself in all social backgrounds. Incidents often have a detrimental affect on people living in close proximity to households where domestic abuse take place. Anti-social behaviour may continue after an abusive relationship has been brought to an end. Often women and children will be subjected to serious harassment, threats and violence from an ex-partner

(d) **Legal Action**

Where all other attempts to resolve an anti-social behaviour problem have failed, the Association will take legal action against a tenant/sharing owner who is in breach of their tenancy agreement/occupancy agreement and if necessary ultimately seek a Court Order to evict the anti-social tenant/sharing owner.

The Association will:

- (i) ensure that staff and tenants/sharing owners are aware of the range of legal action which can be taken in response to anti-social behaviour.
- (ii) establish clear guidelines for the use of legal action and identify the staff responsible for taking it.

7. COMMITTEE INVOLVEMENT

- (a) In general, staff will have delegated authority to deal with cases of anti-social behaviour.
- (b) Where a very serious problem is referred to the Management Committee, tenant/sharing owner confidentiality will be maintained by use of non-identifying codes.
- (c) The Director will have delegated authority to raise legal action. All decisions concerning eviction as a result of anti-social behaviour must be taken by the Management Committee.

8. REVIEW

- 8.1 This policy was approved by the Management Committee on 10 July 2006 and will be reviewed by the Management Committee or Sub-Committee set up for that purpose no later than June 2011.
-

DETAILS OF COMPLAINANT	
Name	
Address	
Contact Details	

DETAILS OF PERSON THEY ARE COMPLAINING ABOUT	
Name	
Address	
Contact Details	

DETAILS OF COMPLAINT/INCIDENT (please note date and time of any incident)

REPORTED TO	
--------------------	--

DATE REPORTED	
----------------------	--