



Title: Antisocial Behaviour and Harassment - Scotland Policy

Business Function: Housing Functions across Sanctuary Scotland

Author: Service Development Manager

Authorised by: Sanctuary Scotland Management Committee
Executive Committee

Sanctuary Scotland:
Sanctuary Scotland Housing Association Limited is a subsidiary
of Sanctuary Housing Association, an exempt charity.

Uncontrolled copy if printed.

1. Policy statement

- 1.1 This policy covers our approach to addressing antisocial behaviour (ASB) and harassment. It outlines how Sanctuary Scotland Housing Association Limited (Sanctuary) aims to deliver excellent customer service by preventing, and dealing effectively with all forms of ASB.
- 1.2 This policy aims to give a clear and consistent message that ASB, racial harassment or hate crime in any form will not be tolerated and that there will be consequences of such behaviour. Sanctuary aims to address all forms of ASB effectively, fairly, timely and transparently.
- 1.3 Where there is behaviour that causes harassment, alarm, and distress, all the tools available to Sanctuary will be utilised in a prompt and proportionate manner based on the circumstances of the case.
- 1.4 Below is a summary of Sanctuary's policy commitments to:
- work to prevent ASB happening in the first place by having a clear focus on prevention and early intervention;
 - provide leadership and training in tackling ASB, racial harassment and hate crimes doing so effectively, and in a timely and appropriate manner;
 - where possible look to modifying behaviour through support, persuasion and legal sanction with eviction or re-housing used as a last resort when all other options have been exhausted;
 - focus on the impact the ASB has on the victim, as this is likely to vary from one individual to another, and to respond appropriately given the severity of the impact;
 - work with partners to tackle all forms of ASB and refer people on to support services where appropriate;
 - enforce rigorously our tenancy agreements which cover issues of ASB;
 - identify vulnerable people, whether victim or perpetrator, and ensure employees work with them appropriately;
 - take all possible measures to support and protect victims and witnesses associated with incidents of ASB;
 - comply with all relevant legislation in relation to ASB;
 - increase awareness of ASB, racial harassment and hate crimes in order to adopt preventative or early intervention measures.

2. Roles and responsibilities

- 2.1 The Group Director - Housing is responsible for ensuring adoption of, and adherence to, this policy and its associated procedures relevant to their operation.
- 2.2 The Director - Sanctuary Scotland is responsible for ensuring adoption of, and adherence to, this policy and its compliance with legislative/regulatory requirements and good practice.

2.3 Housing Managers have day-to-day responsibility for the implementation of this policy in practice. They are responsible for ensuring:

- this policy is communicated with all staff;
- suitable and sufficient training and instruction is provided;
- this policy is followed by all staff; and
- the necessary equipment and resources are available to make sure compliance can be achieved.
- staff are managed on their performance of ASB through the one to ones and the annual appraisal process.

2.4 To assist Sanctuary in carrying out its obligations, employees must:

- be aware of, understand and comply with this policy and any related operational guidance;
- participate in any training which Sanctuary makes available; and
- communicate any issues with implementing this policy to their line manager and identify opportunities for continuous improvement.
- identify opportunities for continuous improvement.

3. References and sources

3.1 The following legislation, references and sources are relevant to the development and delivery of this policy and associated procedure:

- The [Antisocial Behaviour \(Scotland\) Act 2004](#) sets out a range of relevant legislation including a legal definition of ASB, arrangements for information sharing, and tools available to local authorities to tackle ASB;
- [Data Protection Act 2018](#);
- [General Data Protection Regulation](#);
- [Data Protection - Group Policy and Procedure](#);
- [Equality Act 2010](#);
- The [Housing \(Scotland\) Act 2001](#) incorporates and adds to the [Housing \(Scotland\) Act 1987](#) in giving ASB as a ground for eviction;
- The [Housing \(Scotland\) Act 2014](#) introduces new powers including streamlined eviction for ASB and increased powers to use short Scottish Secure tenancies where the prospective tenant has a history of ASB;
- The [Protection from Harassment Act 1997](#) sets a criminal definition of harassment;
- [Personal Safety - Group Procedure](#);
- [Antisocial Behaviour and Harassment - Scotland Procedure](#);
- [Adult Support and Protection \(Safeguarding\) – Scotland Policy and Procedure](#);
- [Safeguarding Children and Young People - Scotland Policy and Procedure](#);
- In implementing this policy Sanctuary complies with [The Scottish Social Housing Charter](#) outcome 6; ‘tenants and other customers live in well- maintained neighbourhoods where they feel safe’.

4. Impact on diversity

- 4.1 Sanctuary Group demonstrates its commitment to diversity and promoting equality by ensuring that this policy is applied in a manner that is fair to all sections of the community, with due regard to the protected characteristics identified under the [Equality Act 2010](#) and in accordance with its '[Fairness for All](#)' Single Equality Scheme.
- 4.2 Sanctuary evidences its obligation to equality and diversity by having 'Due Regard' when shaping policy and delivering services.
- 4.3 All customers are asked to provide diversity details which are used to monitor the services provided.

5. Customer consultation

- 5.1 Customer consultation has not taken place for this policy review due to mandatory legislative changes.

6. Monitoring and compliance

- 6.1 This policy will be monitored to ensure that the operational arrangements are compliant with legislation and reflect best practice. The Director - Sanctuary Scotland will commission cases to be audited on a regular basis. Records of ASB cases stored on the appropriate systems will be reviewed to ensure cases are dealt with in a timely, fair, and transparent manner.
- 6.2 Period of review
 - 6.2.1 Until a new policy is formally adopted this document will remain in force and operational.
 - 6.2.2 This policy will be reviewed in accordance with the policy review programme agreed by Executive Committee.
 - 6.2.3 If there are significant changes to legislation or regulation or there are found to be deficiencies or failures in this policy, as a result of complaints or findings from any independent organisations, the Director - Sanctuary Scotland will initiate an immediate review.
 - 6.2.4 Where appropriate, key stakeholders and interested parties will be consulted as part of any review of this policy.

7. Approval

- 7.1 This policy is approved by Sanctuary Scotland's Management Committee.

8. Operational arrangements

8.1 Antisocial Behaviour

8.1.1 The key factor in deciding whether any specific behaviour is antisocial or not is the impact of the behaviour on others. The definition of ASB in the [Antisocial Behaviour \(Scotland\) Act 2004](#) is that a person engages in ASB if he/she:

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

8.1.2 ASB mentioned in the tenancy agreement also includes nuisance and annoyance.

8.1.3 The following types of behaviour will always be considered antisocial:

- **Any kind of criminal or alleged criminal behaviour:** including sale or misuse of drugs; handling stolen goods; criminal damage; prostitution, theft or assault.
- **Noise nuisance:** for example, loud music, shouting, noise from televisions and hi-fi systems, owners failing to control the behaviour of their dog leading to excessive barking.
- **Intimidation and harassment:** including malicious phone calls, putting offensive materials through letter boxes, etc.
- **Aggressive and threatening language and behaviour:** including using verbal and physical abuse including threatening and offensive gestures and language.
- **Actual violence against people and property:** including vandalism, fire raising or attempted fire raising, and criminal damage.
- **Hate related behaviour that targets members of identified groups because of their perceived differences:** for example, their race and ethnicity, gender, age, religion, sexual orientation, mental health or disability.
- **Local environment quality issues:** including vandalism, litter, dog fouling, garden nuisance in circumstances where a complaint is made, graffiti, fly tipping, abandoning of vehicles, dumping of rubbish in communal areas, failing to control pets, storing vehicles in shared or undesignated areas etc.
- **Using housing accommodation for unlawful purposes:** for example, to grow, sell and/or consume drugs or to store stolen goods or unlicensed firearms.
- **Heated, aggressive, physical or unruly disputes between neighbours.**
- **Alcohol abuse and drunken behaviour in communal or public areas.**
- **Loitering in communal areas.**

8.1.4 Sanctuary will act responsibly and efficiently when it is within a landlords' remit to do so. There are incidents and actions which are not normally considered to be antisocial and may not always be investigated. Sanctuary respects that there can be behaviours within different cultures or lifestyles that are not unreasonable. Examples of this include but are not limited to:

- Cooking smells
- DIY during reasonable hours
- Minor or occasional car repairs
- Young people gathering socially
- Someone parking lawfully outside a tenant's home
- Civic disputes between neighbour's (such as boundary issues or shared driveways)
- Noise from televisions.

8.1.5 However, if any of the above examples were having a harmful impact on a vulnerable person, then we would investigate further.

8.2 Harassment and hate incidents

8.2.1 Harassment is a very specific type of ASB. The following definition of harassment is used for this policy and procedure:

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

8.2.2 Sanctuary adopts a zero-tolerance policy in the occurrence of harassment. This means that Sanctuary will seek a decree for eviction where the case is considered to be hate crime and/or racial harassment, where such a course of action is considered to be reasonable and proportionate. Sanctuary will make known that there will be consequences of such behaviour and that all forms of ASB will be addressed effectively, fairly, timely and transparently.

8.2.3 If a decree is granted, the Director - Sanctuary Scotland will then make a decision on whether to pursue eviction or not. This will be based on the circumstances of the perpetrator and taking into consideration:

- the scale of the offence;
- the material quantity or value created as a result of the offence (this could be cost of damages, or value of illegal substances with the intent of selling);
- the duration of the criminal conduct;
- the frequency of the criminal conduct; and
- whether the perpetrator has a learning disability or mental health condition.

- 8.2.4 The [Protection from Harassment Act 1997](#) sets out that for harassment to be a criminal offence, the conduct must be intended to amount to harassment, occurs in circumstances where it would appear to a reasonable person that it would amount to harassment, and involve conduct on at least two occasions.
- 8.2.5 The reason why harassment is often separated out from the generic ASB is that harassment is generally premeditated, targeted and reoccurring whereas ASB can be unintentional and spontaneous.
- 8.2.6 Harassment is often unlawful whereas ASB may not be. Harassment on the grounds of sex, race, religion, disability, sexual orientation or any other protected characteristic may amount to unlawful discrimination under the [Equality Act 2010](#) and may also breach other legislation. Harassment which meets the description above, and is carried out on more than one occasion, is a criminal offence under the provisions of the [Protection from Harassment Act 1997](#).
- 8.2.7 Harassment on the grounds of a protected characteristic including race, colour, nationality, religion/belief, disability, sexuality, gender identity, gender or age becomes such if it is perceived that way by the recipient of the harassment. This is regardless of the intent behind the harassment. This type of harassment is often termed a '**Hate Incident**'. For harassment to fall into the category of a hate incident it must be perceived as such by the victim or by any other person and if so, it must be treated and investigated as such.
- 8.2.8 Sanctuary is committed to preventing and eliminating all forms of racial harassment and hate crimes towards tenants and owners where the alleged perpetrator is a Sanctuary tenant. Sanctuary will respond swiftly and effectively to any report of racial and hate incidents received with the aim of protecting the complainant, stopping and preventing further incidents. Where Sanctuary believes a criminal offence has taken place Sanctuary will either report it to the police or encourage the resident or service user to do so.
- 8.2.9 Sanctuary recognises that racial harassment and hate crimes are generally under reported and will provide positive support and advice to all tenants, owners and service users who ask for help or assistance.
- 8.2.10 Racist behaviour which can be defined as racial harassment includes, but is not limited to:
- Physical attacks
 - Threats of violence
 - Racist graffiti
 - Damage to property
 - Nuisance incidents such as noise or door knocking
 - Written or verbal abuse
 - Offensive or dangerous material through a letterbox
 - Behaviour such as wearing racist badges or insignia.

- 8.2.11 All hate incidents need to be reported to Police Scotland in addition to recording and investigating the incident on the ASB IT system ReACT.
- 8.3 Reports of antisocial behaviour
- 8.3.1 The initial report of an ASB incident may be reported by:
- the victim;
 - a third party, for example a relation, employee, contractor, neighbour or another service user; or
 - a specialist organisation, for example Police, Social Work Services, Citizen's Advice or Shelter.
- 8.3.2 Anonymous complaints will also be investigated as it is acknowledged that they are sometimes an indication of fear of reprisal or intimidation.
- 8.3.3 If a victim or alleged perpetrator of ASB requires an advocate to act on their behalf or help with interpretation, then Sanctuary will contact the relevant organisations for assistance (See [Catalogue of Providers](#)).
- 8.3.4 Incidents of ASB will be investigated if it is reported that the behaviour has been carried out by a Sanctuary tenant in a particular property owned by us, in the environs of a particular property, or in the neighbourhood where Sanctuary owns properties.
- 8.3.5 Incidents of ASB can be reported in person, by telephone, in writing, via email, text, or through a third party to any employee.
- 8.3.6 Sanctuary defines ASB as either Category One or Category Two, depending on the seriousness of the behaviour and the impact on the victim. For Category One ASB an investigation will start within one working day. For Category Two ASB an investigation will start within five working days. Employees will aim to respond to all ASB complaints within these timescales.
- 8.4 Resolving antisocial behaviour complaints
- 8.4.1 Sanctuary will aim to resolve ASB complaints within locally agreed target timescales. These timescales must be agreed with tenants before seeking approval from governing bodies.
- 8.4.2 All reports of ASB will be taken seriously and individuals will be provided with the opportunity to discuss their concerns with a Sanctuary employee.
- 8.4.3 An impartial stance will be maintained when dealing with complaints received, with an overall aim for reconciliation between those involved and encouragement for people to live in harmony.

- 8.4.4 It is recognised that many complaints received and dealt with refer more to 'neighbour disputes' than ASB and in these circumstances a more measured approach may be taken. However, it is also recognised that these disagreements can impact significantly upon tenants' and owners' quality of life and employees will take appropriate measures to facilitate harmonious relations.
- 8.4.5 Support, including regular feedback/updates on action taken or progress of cases, will be provided to the victims of ASB. This feedback may include advice on the limitations of our powers to deal with specific incidents or circumstances, and on the most appropriate other agency to be contacted or involved.
- 8.4.6 Confidentiality of all parties involved in cases of ASB will be respected, except where an offence is disclosed, and Sanctuary has other duties such as those detailed in our policies for the protection of children or vulnerable adults. It is recognised, however, that parties involved in cases can often be identified from the nature of the complaints made.
- 8.4.7 In responding to reports of ASB Sanctuary may have to approach other tenants, owners, or residents to seek confirmation or corroboration of events. In cases of persistent or widespread ASB the support of community groups may be sought to assist in addressing problems and to support the initiatives being pursued.
- 8.4.8 A range of non-legal measures to prevent and address ASB will be adopted. Non-legal measures will always be pursued first with formal legal action as a last resort. Only when preventative and management approaches have failed to resolve the problem Sanctuary will consider using legal remedies. The only exception to this is when the incident involves racial harassment, hate crime and/or serious criminal offences such as drug dealing. The decision to commence legal action is taken by the Housing Manager and governing body approval will be sought if Decree has been obtained and eviction proposed. With regards to ASBOs, approval does not need to be sought from the governing body, but Sanctuary is expected to report on any granted. Where legal action is taken, housing managers should provide updates on cases referred for court in their reports to Sub Committees.
- 8.4.9 Non-legal preventative measures include but are not limited to:
- assessing tenants needs at sign up and subsequent visits;
 - working with tenants, owners and residents' groups to ensure that they are aware of their responsibilities with regards to preventing incidents and the support that they can receive if they are ever a victim of harassment or hate crime
 - forming links with partners; and
 - using Good Neighbourhood Agreements.

8.4.10 Non-legal interventions include but are not limited to:

- Mediation
- Tenancy Support
- Verbal/written warnings
- Acceptable Behaviour Contracts (ABCs)
- Unacceptable behaviour notice (UBNs)
- Conversion from Secure Tenancy to Short Secure Tenancy
- Local Authority action against noise nuisance
- Management transfers.

8.4.11 Verbal and written warnings are indefinite; if anti-social behaviour continues after a warning is issued then escalation procedures will commence. Normally a verbal warning will be issued first, and if the behaviour does not improve, a written warning will then be issued to explain that the tenancy is at risk. If there is no improvement or further incidents occur after a written warning, Sanctuary may start legal proceedings to recover the property.

8.4.12 Sanctuary recognises that drugs and other harmful substances can have a serious effect on those who misuse them, their families, and their communities. Involvement with drugs can often have a direct link to ASB, particularly where the supply or sale of drugs is taking place. Sanctuary therefore adopts a zero- tolerance policy and will pursue a decree for eviction in cases where its tenants or members of their families have been convicted of the sale or supply of drugs to others in their communities, where such a course of action is considered to be reasonable and proportionate.

8.4.13 Sanctuary will, as far as possible, attempt to reach a satisfactory resolution without resorting to enforcement but there will be times when this is not possible. Action will be taken against the perpetrator of ASB, harassment or hate crime rather than moving the person affected by it. If the perpetrator is a tenant of Sanctuary, action can be taken to enforce the tenancy agreement. There is a range of enforcement measures that Sanctuary can use including:

- seeking compensation from the perpetrators for damage to property;
- possession proceedings;
- ASB orders, and conversion to a Short Scottish Secure Tenancy (SSST);
- refusing mutual exchange.

8.4.14 Performance indicators and targets on ASB will be set by, and reported regularly to, the relevant governing bodies.

8.5 Partnership working and information exchange

8.5.1 Commitment to partnership working

Sanctuary will work in partnership with other organisations to ensure that all available measures are used effectively to tackle ASB, regardless of tenure.

8.5.2 Antisocial behaviour strategies

Local authorities and the police have a joint responsibility for preparing an ASB strategy for each local authority area. Sanctuary co-operates in the preparation and implementation of ASB strategies. In implementation of ASB strategies employees will work with other agencies, including other local landlords, in appropriate community-wide initiatives aimed at achieving a consistent approach to tackling ASB.

8.5.3 External service providers

Sanctuary will enter into service level agreements with other service providers, such as local authority conflict resolution services, where appropriate. These services will normally be employed for cases of serious ASB, and/or where there are particularly vulnerable victims or perpetrators, where initial interventions have not resulted in a successful resolution. When using such services, employees may rely on the content of service level agreements and the service provider's own policies and procedures to determine the action to be taken.

Employees will consider referring cases to any specific projects or services provided locally where it is considered that this will be of benefit, such as tenancy support and family intervention.

8.5.4 Identifying lead responsibility

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

- Where there has been criminal damage, assault or harassment, it is not usually appropriate for Sanctuary employees to lead the investigation. In these cases, employees should take the advice of the other organisations involved, for example, the police, about the most appropriate level of involvement.
- If the case involves another council or housing association tenant, then the case may be referred to the responsible manager in that organisation's housing department.
- If the alleged perpetrator is an owner occupier or a private service user, the case may be referred to a solicitor, the police or local authority ASB team.

8.5.5 Information exchange

Information sharing protocols (**Appendix 1**) will be established with partner organisations who are willing. Protocols will list all the organisations involved in sharing the data, name the officers responsible for ensuring compliance, identify the information authorised to be exchanged, set out the process for exchange and agreed timescales, outline how the data will be held securely, explain the reasons for sharing the data, and must be signed by all the parties involved.

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

8.5.6 In general, all information received from victims and witnesses of ASB will be treated as being given in confidence. Where Sanctuary passes on information under section 139 to a relevant authority, the authority will be told where information is confidential, and the authority must respect that confidentiality. Similarly, if Sanctuary receives any confidential information from another party, that confidentiality will be respected.

8.5.7 For further information please see the [Data Protection - Group Procedure](#).

8.6 Governing body members involved in antisocial behaviour/harassment

8.6.1 Governing body members cannot remain or be re-elected if they are party to any legal proceedings involving us.

8.6.2 Where a case of ASB or harassment involving a governing body member is referred to a governing body, the individual concerned will be asked to either declare an interest where the case is being discussed, or take leave of absence pending investigation.