

**Report
to the Housing Management Sub Committee
at meeting on 22 May 2008
For approval**

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Date: April 2008**

1.0 Subject

Outcome of consultation exercise on the review of the Antisocial Behaviour and Harassment Policy.

2.0 Summary

The purpose of this report is to analyse responses to the consultation exercise on the above policy and to seek formal approval for the policy document. This Policy now includes the former Racial Harassment Policy.

The Housing Scotland Act 2001 requires specific consultation to be carried out on policy documents when being reviewed and in particular to highlight any significant changes to those policies.

A letter, questionnaire and copy of the policy document was issued to stakeholders (agencies who have a working link with the Co-operative), members, Tenant Management Boards and Residents Tenants Organisations of the Co-operative. Appendix One is a copy of the letter issued to members.

3.0 Link to Internal Management Plan

Consultation with members supports the following objectives in the Co-operatives Internal Management Plan:

- 1a) To deliver the service to clients satisfaction and expectations
- 2b) To develop a system for clients to communicate what they want
- 2c) To encourage the realisation of the Co-operative ethos

4.0 The Results of the Consultation

There were sixty-eight packs issued to stakeholders; one-hundred and twenty to members and five to the Resident Tenant Organisations. Of the packs issued there were sixteen responses received from stakeholders; seventeen from members and one from the Residents Tenants Organisations. Four Tenant Management Boards were consulted and all responded with fourteen individual responses received. All staff (42) were consulted with and three responses were received. This represented an overall return of 17%. Appendix Two summarises these responses and lists the comments received along with the action the Co-operative took in amending the Policy.

From the feedback received the following key conclusions may be drawn:-

- The vast majority of respondents agree with the key principles; racial, lesbian, gay, bisexual and transgender harassment; disability; monitoring, reporting and targets elements of the Antisocial Behaviour

and Harassment Policy. It should be noted that some respondents chose not to answer these questions.

- In terms of understanding the vast majority of respondents found the policy clearly set out, easy to read, easy to understand and free from jargon. Again, it should be noted that some respondents chose not to answer these questions.

5.0 Financial Implications

There are no financial implications as a result of this report.

6.0 Risk Assessment

By carrying out consultation on policy documents the Co-operative adheres to its statutory duties and its legal obligations. It also fulfils the strategic and operational aims of its Internal Management Plan to involve members in policy formulation.

7.0 Sustainability

There is no sustainability issues connected with this report.

8.0 Staffing Issues

Following approval of the policy document staff training will be required.

9.0 Equal Opportunities

A statement on the above has been included in the policy document.

10.0 Recommendations

It is recommended that the members of the Housing Management Sub Committee agree the following:-

- To approve the contents of this report
- That the changes proposed to the draft copy of the Antisocial Behaviour and Harassment Policy are accepted
- That the draft review of the Antisocial Behaviour and Harassment Policy at Appendix Three is approved and recommended for ratification to the Committee of Management
- That the results of the consultation exercise are made available to all members via the Tenants Tribune newsletter and the Co-operative's Website.

Our Ref: CM/PC/tf/asbpolicy

Appendix One

Date

Name

Address

Address

Address

Dear

ANTI SOCIAL BEHAVIOUR AND HARASSMENT POLICY CONSULTATION

We are carrying out a consultation exercise, as part of the above Policy review, to get the views of our members, non-members, Residents Tenant Organisations, Tenant Management Boards and stakeholder agencies, such as the Grampian Society for the Blind. We wish to know your views on this document and attach a copy of the Policy for your consideration.

The Policy Document

The Anti Social Behaviour and Harassment Policy was last in September 2004 and has merged with the Racial Harassment Policy, last approved in March 2000. In reviewing the Policy we have consulted several documents and good practice guidance. The key documents used were Communities Scotland Performance Standards, the Scottish Federation of Housing Associations Raising Standards, the Scottish Federation of Housing Associations Information Notes and appropriate guidance from the Scottish Government.

The Changes

There are key changes and additions to the document which are listed below, however we would also welcome your feedback on the layout, presentation and clarity of the policy document.

Racial Harassment Policy

Following on from good practice guidance and advice, and to ensure that all categories of antisocial behaviour and harassment are acknowledged within the same policy, the Racial Harassment Policy has been merged with the Antisocial Behaviour Policy.

Non-Legal Remedies

This section has been added to show the remedies that the Co-operative can take to resolve reports of antisocial behaviour and harassment without the need to resort to legal action.

Lesbian, Gay, Bisexual and Transgender (LGBT) Harassment

Disability Harassment

The Co-operative recognises that antisocial behaviour and harassment in particular, can relate to more than one group of people in society. The two new sections above added have been added to the Policy detailing the Co-operative's aims in managing these minority communities.

How to Respond

You will find enclosed a reply sheet to assist you on commenting on the document and a prepaid envelope for ease of return. To ensure that we accurately take account of everyone's views with regard to improving this policy document we have asked you to provide your name, address and phone number so that we may contact you to discuss any issues you raise. Provision of this information is optional and you do not need to give us these details if you prefer not to.

We will also be happy to discuss your comments verbally if you prefer to do this and our contact details are below.

If you would like the policy document to be sent to you in another format, such as large type or another language, please let us know and we can arrange this for you.

We would be grateful if you could respond to us either by questionnaire or verbally by 29 February 2008.

What happens next

After 29 February, we will collate the replies and consider if these can be incorporated into the policy document. A report on replies received will be presented to the Housing Management Sub Committee who is responsible for recommending approval of the document to the Committee of Management. The report will be included on the Co-operative's website and we will also report on the outcomes of this exercise to members who responded to the consultation exercise and in a future newsletter that will be issued to all members.

How to contact us

I or my job share partner Pat Cahill, Housing Managers are available to discuss any aspect of the Antisocial Behaviour and Harassment Policy on 628400 between 10.00 a.m. and 3.00 p.m. Monday to Friday. If we are not available please leave your telephone number and we will contact you.

Thank you for taking the time to support your Landlord (Tenants First Housing Co-operative) and participating in this policy consultation process.

Yours sincerely



Cearda McGregor

Housing Manager

Encs

Appendix Two

Summary of Member/Resident Tenant Organisation and Stakeholder Consultation on the Antisocial Behaviour & Harassment Policy

	Yes	No	No answer
Do you agree with all aspects of the aims of the Policy on Page 3	25	0	26
3.0 Key Principles			
3.1 Response to Complaints	46	2	3
3.2 Approach to antisocial behaviour and harassment	46	2	3
3.3 Tenant Participation	42	2	7
3.4 Partnerships	45	5	1
3.5 Preventative Action	44	2	5
3.6 Non Legal Remedies	44	2	5
3.7 Legal Remedies	44	1	6
3.8 Action against non members and owner occupiers	44	1	6
3.9 Committee members involved in antisocial behaviour and harassment	42	2	7
4.0 Racial Harassment			
4.1 Definition	43	1	7
4.2 Identifying Racial Harassment	44	2	5
5.0 Lesbian, Gay, Bisexual and Transgender (LGBT) Harassment			
5.1 LGBT contact	41	1	9
5.2 Harassment of LGB & T people	41	1	9
6.0 Disability	Yes	No	
6.1 Definition of disability	46	1	4
6.2 Harassment of disabled people	46	2	3
6.3 Providing a complete service	45	2	4
9.0 Monitoring, Reporting & Targets			
Do you think there is anything we could add to this list?	13 (see comments)	21	17
Do you agree that the Policy should be reviewed every 3 years	42	3 (see comments)	6
What do you think of the way we have written the Policy? Is it clearly set out?	45	1	5

Did you find it easy to read?	42	2	7
Did you find it easy to understand?	39	6	6
Is it free from "jargon" or technical terms?	40	6	5
Do you wish to make any other comments about the Policy?			

Summary of Comments Received with Action Taken

Comment	Action Taken
"Can't see how it can be improved. If something not covered happens it can be examined separately".	Noted
"Glad to see mention of referral to Victim Support..."	Noted
"...is well written and easy to understand. The 'zero tolerance' approach to antisocial behaviour is commendable"	Noted
"Seems a very clear, and well laid out Policy"	Noted
"...I think it is excellent....it (is) clear that the Policy applies to all forms of harassment and I think the sections on racial, disability and LGBT harassment are very strong..."	Noted
"Each Policy is always well set out and easily understood".	Noted
"The Policy is excellent"	Noted
One respondent did not find the Policy easy to read or understand because of a learning disability and needed the assistance of their carer.	The respondent was written to explore ideas on how to improve the Co-operative's service in these situations.
"I would advocate a member/non member getting independent advice e.g. CAB"	Agreed and added to Policy.
" Be as inclusive as possible when dealing with serious complaints – advocate available supports"	Policy currently addresses this.
"Rather too many abbreviations e.g. NOP etc. Maybe have a key at the end."	Policy currently expands meanings of abbreviations.
"1.0...should you not acknowledge the source of the definition of antisocial behaviour? i.e. Crime and Disorder Act 1998. 3.2...is there an assumption here that the complainant	Agreed with most of comments, but referred to Antisocial Behaviour etc. (Scotland) Act 2004 as felt this was more appropriate, and Policy updated. Did not include last comment because decision made to keep the term 'harassment' as considered a

is the 'victim'? This is not always the case. 3.6...only 1 party needs to agree to refer to us. Neighbour Complaints Unit now ASBIT 'Antisocial Behaviour Investigation Team'. Why antisocial behaviour and__harassment? Is harassment not part of the definition of ASB?	separate meaning from antisocial behaviour, as per Stonewall's definition below.
"Section 5...I suggest you strengthen this section by making further reference to what might constitute LGBT harassment..."	Agreed and included Stonewalls definition of harassment in Policy.
More frequent review of Policy to allow for change. This comment was made by a number of people.	The Policy document makes allowance for legislative and other fundamental changes if needed within the three-year review period, therefore no change made.
"We are all old and fed up of these questionnaires"	Respondent written to explaining purpose of consultation and option to 'opt out' of receiving future mail. To look at how we can improve communication with elderly members.
"Encourage one to one with tenants"	Policy makes reference to mediation.
" We do not want people who are on drugs to be housed in our community"	Policy advises on action associated with antisocial behaviour involving substance abuse.
"I think these policies are too longwinded and elderly people will not bother to read them. There seems to be a lot of repetition e.g. training, equal opportunities, monitoring crops up continually. Aims, objectives – purpose; to me these words have the same meaning".	Respondent written to explaining purpose of consultation. To look at how we can improve communication with elderly members.
"Section 1.0...you may wish to include at the second bullet point after ethnicity 'religion and faith'".	Agreed with comment and appropriate changes made to Policy.
Some grammatical and typing errors highlighted, of all which were corrected. The same respondent thought that 'preventative' should be changed to 'preventive'.	No change was made as both words have the same meaning.
"It would be good if there could be a team to identify incidents of harassment because every time people don't come up on their own out of fear"	Noted. The Co-operative has a clear policy on confidentiality with staff trained to identify 'hidden' incidents. The Co-operative also has access to the teams in place with Aberdeen City and Angus Council that respond and investigate complaints of antisocial behaviour and harassment.
Suggestion made to give information to people on reporting incidents to police even if they don't attend.	Information added to ASB & Harassment Fact Sheet.

<p>Suggestion made to use success stories where ASB and harassment complaints have been resolved.</p>	<p>To include in Co-operative's Newsletter when success stories identified.</p>
<p>a) "Response to complaints, personal contact before any action taken b) Racial problems c) They choose to live in the country so must abide by our rules and law".</p>	<p>a) This course of action already pursued and included in procedures b) Addressed in Policy c) Personal view. Requirement for further work to be done to ensure that members understand what the Co-operative means by equality of opportunity</p>
<p>One respondent made several positive suggestions as listed:</p> <ol style="list-style-type: none"> 1. "The rights of tenants to privacy and the peaceful enjoyment of their home and Tenants First's commitment to supporting this right could be mentioned (Section 1.0 Aims) to emphasise the positive approach being taken. 2. The respondent's experience (and one that is likely to be shared by most social landlords) is that many of the complaints it deals with are "neighbour disputes". These complaints are often met with counter complaints and the work of social landlords is one of attempting reconciliation and encouraging people to live in harmony. It is not always possible to identify a "victim" or "culprit" and you may therefore wish to consider this in terms of the Policy. 3. Mediation is increasingly seen as a solution to low level disputes and it is suggested that the positive benefits should be explained in more detail in this section. 4. Acceptable Behaviour Contracts: query the use of the term "significant" anti-social behaviour, as the respondent finds that these are often appropriate for minor disputes. 5. Non-legal remedies – it may be worth mentioning the use of 	<ol style="list-style-type: none"> 1. Agreed to first part and added to Policy. It is believed that the Co-operative's commitment to supporting this right is already made in the first paragraph of Section 1.0 therefore no change made. 2. Agreed and added to Policy. 3. Agreed and added to Policy. 4. Agreed and Policy amended. 5. Agreed and to be added to procedures. 6. Agreed and added to Policy. 7. Agreed and added to Policy. 8. The Co-operative has a clear policy statement at section 8.0 on its commitment to the non-discrimination of all minority groups. Not added to Policy. 9. Tables listed in section 9.0 have been moved to the associated procedures as considered an operational rather than strategic issue. However, agreed with comments and will amend procedures. Aim is to start this from 1 April 2008. 10. Agreed and added to Policy. 11. Policy to be updated 12. In circumstances where antisocial behaviour and harassment is identified, it is considered reasonable and appropriate, if an applicant's behaviour is serious enough to merit their SST being converted to a Short SST, that their RTB contract is revoked. Policy updated to reflect change. <p>There is no legal obligation for the Co-operative to revoke contractual Right to Buy from member if a NOP served. It is considered to be an inappropriate solution for what could be relatively minor breaches at the time an NOP is served. No changes to Policy made.</p>

<p>verbal and written warnings to tenants guilty of anti-social behaviour as another “tool” in tackling anti-social behaviour, this may be contained within Tenants First procedure.</p> <ol style="list-style-type: none">6. Short Scottish Secure Tenancy – the reason for conversion should be mentioned, i.e. the need for the tenant or member of the household to change their behaviour, and that they also need to agree to a support programme aimed at changing their behaviour when conversion takes place.7. Eviction – prior to eviction, RSLs have a duty under Section 11 of the Housing (Scotland) Act 2003 to advise the appropriate local authority that an eviction is likely to proceed and that the household may present themselves as homeless. Local authorities will offer advice and information to try to prevent homelessness. In the event that an eviction takes place, tenants need to contact the local authority Homeless Section.8. Training – the Policy is fairly comprehensive in addressing the issues of minority groups, but it may be worth mentioning that this would also be addressed as part of the training plan.9. Type of Complaints – for clarity it would be useful to label the type of complaints e.g. Extreme; Serious, General, or categories 1, 2 and 3 or A, B and C.10. Review – monitoring could also include the number of legal actions commenced and evictions carried out because of anti-social behaviour.	
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<p>11. Right to Buy – you may wish to mention the implications of converting a Scottish Secure Tenancy (SST) to a Short Scottish Secure Tenancy (Short SST) for those tenants who have a preserved Right to Buy (RTB) with Tenants First. Also the effect on their Right to Buy as a result of being served with a Notice of Proceedings for Recovery of Possession because of anti-social behaviour.</p>	

DRAFT

Tenants First Housing Co-operative

ANTISOCIAL BEHAVIOUR

and

HARASSMENT POLICY

Date Approved:

Date of Next Review

Table of Contents

1.0	Aims	13
2.0	Objectives	14
3.0	Key Principles	14
3.1	Response to Complaints.....	14
3.2	Approach to Antisocial Behaviour and Harassment.....	14
3.3	Tenant Participation.....	15
3.4	Partnerships	15
3.5	Preventative Action	15
3.6	Non Legal Remedies	15
3.7	Legal Remedies.....	17
3.8	Action against Non Members and Owner Occupiers.....	19
3.9	Committee Members involved in antisocial behaviour and harassment	20
4.0	Racial Harassment	20
4.1	Definition	20
4.2	Identifying Racial Harassment.....	21
5.0	Lesbian, Gay, Bisexual and Transgender (LGBT) Harassment.....	21
5.1	LGBT contact.....	21
5.2	Harassment of LGB & T people.....	21

6.0	Disability Harassment.....	22
6.1	Definition of disability	22
6.2	Harassment of disabled people.....	22
6.3	Providing a complete service.....	23
7.0	Training.....	23
8.0	Equal Opportunities	23
9.0	Monitoring, Reporting and Targets.....	23
10.0	Review.....	24
11.0	Legal Framework.....	25
12.0	References.....	25
13.0	Related Policies/documents	25

[**Return to Main Policy Index**](#)

1.0 Aims

Tenants First Housing Co-operative (hereafter referred to as the Co-operative) takes a stance of zero tolerance towards any form of antisocial behaviour and harassment, particularly when motivated by hate. Section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 sets out the interpretation of antisocial behaviour. This is:-

“...that a person is involved in antisocial behaviour if they:

- Act in a way that causes or is likely to cause alarm or distress to anyone; or
- Behave in a way that causes or is likely to cause alarm and distress to at least one person not of the same household as them.”

The following are the Co-operative’s key aims in the tackling of antisocial behaviour and harassment:

- To effectively manage antisocial behaviour and harassment within its geographical area to provide a safe environment for all members
- To actively reinforce and publicise its zero tolerance stance towards hate crime. That is harassment targeted at people because of their race, ethnicity, religion and faith, sexual orientation, gender, gender identity or disability.
- To ensure that the rights of members to the privacy and peaceful enjoyment of their home is protected
- To take early and effective action to prevent the escalation of incidents of antisocial behaviour and harassment
- To offer support and guidance to those affected by antisocial behaviour and harassment, regardless of the nature of the crime, in a safe, secure and confidential environment when issues of antisocial behaviour and harassment are reported
- To work in partnership with other agencies in the prevention and tackling of antisocial behaviour and harassment
- To ensure a variety of options are available to members and staff in resolving antisocial behaviour to prevent legal action being necessary
- To recognise the needs, lifestyle and culture of individuals in tackling and resolving antisocial behaviour and harassment

2.0 Objectives

This policy links with the following objectives contained in the Co-operative's Internal Management Plan:

- 1a) To deliver the service to clients satisfaction and expectations
- 1f) To enhance and maintain the quality of environment, security and health of members
- 3a) To encourage responsibility of members for their community

3.0 Key Principles

The Co-operative aims to offer the best service it can provide and has based its Antisocial Behaviour and Harassment Policy on the following principles to achieve this aim.

3.1 Response to complaints

The Co-operative at all times will maintain an impartial stance when dealing with complaints received, with an overall aim for reconciliation between those involved and encouragement for people to live in harmony.

The Co-operative will respond to complaints quickly, efficiently, within the time limits set and will address all the points at issue, although it is recognised that on occasions it is not always possible to identify who is the victim or the culprit in some situation reported. The Co-operative also recognises many complaints received and dealt with refer more to 'neighbour disputes' opposed to reports of antisocial behaviour and in these circumstances a less rigorous approach is taken. In all situations reported the Co-operative will keep the complainant regularly informed of developments both verbally and in writing.

It will not always be necessary for complaints to be made in writing before action is taken, although this will be preferable, and support will be given to anyone who has difficulty with this.

Anonymous complaints will be treated with caution and will only be accepted in exceptional circumstances. An example would be where antisocial behaviour relates to serious problems, such as violence towards a member or members, and there is good reason to believe that there could be fear of reprisals.

3.2 Approach to antisocial behaviour and harassment

The Co-operative's approach will be victim centred with investigations and solutions sympathetic to the needs and circumstances of the complainant, particularly when a complainant believes behaviour to be motivated by hate e.g. racism, disability discrimination, homophobia, transphobia or biphobia. By complainant we mean the person reporting the complaint but recognise that

this person may not always be the victim. The Co-operative will make referrals to other agencies, such as Victim Support, where it is appropriate.

3.3 Tenant participation

The Co-operative is committed to working with members and local residents to enforce its intolerance of antisocial behaviour and harassment. The Co-operative aims to resolve all such reports received and realises that consultation and discussion is invaluable in achieving this aim. An example of tenant participation would be policy consultation.

3.4 Partnerships

The Co-operative will continue to maintain good relations with other landlords in multi-tenure type situations and is committed to partnership working with key agencies, such as Local Authorities, the Police, the Environment and Infrastructure service and Social Work in preventing and dealing with incidents of antisocial behaviour and harassment.

The Co-operative particularly recognises the importance, in both strategic and operational terms, of supporting the Local Authority Antisocial Behaviour Strategies in the areas in which it operates. This will include sharing of information and services in accordance with agreed Protocols and Agreements and participation in appropriate working groups.

3.5 Preventative action

Obligations relating to antisocial behaviour and harassment shall be reinforced when member(s) sign their Scottish Secure Tenancy Agreement [SST] or Short SST and again when 'follow up' visits are carried out. Staff will explain in detail what the responsibilities of the landlord and members (their household members and visitors) are. A Tenants Handbook is also issued which includes relevant sections on antisocial behaviour and harassment.

Fact sheets on the Co-operative's approach to managing antisocial behaviour and harassment are also available for members and the public in the reception areas and on the Co-operative's website.

3.6 Non-legal remedies

The Co-operative will maintain a comprehensive procedure for the tackling of antisocial behaviour and harassment. The Co-operative recognises additional non legal remedies are available to achieve resolution which includes guidance, particularly to non-members, in seeking independent advice from external agencies, for example the Citizens Advice Bureau.

Mediation

Mediation is a solution that is used as an early intervention 'tool' in resolving low key antisocial behaviour, harassment or neighbour disputes and is a useful strategy for people to personally resolve difficult situations they are involved in without interference from the landlord. There is a high level of success in people resolving their differences using mediation.

Not all situations are suitable for mediation. Where it is, referral will be made to the appropriate mediation service in each local authority area. Depending on the mediation service available, it may be possible for only one party to be agreeable to this solution, otherwise it requires the agreement of all parties involved.

ASSIST Project

The ASSIST project, developed by the Co-operative in partnership with Grampian Housing Association, can provide support to the perpetrators of antisocial behaviour and harassment. Providing support to members in maintaining an effective tenancy and tackling any other underlying issues, can effectively tackle the root causes of unacceptable behaviour within a household.

Antisocial Behaviour Investigation Team – Aberdeen City Council area

As part of the Antisocial Behaviour Strategy, the Co-operative has access to the Investigation Team (ASBIT) which can assist in daytime and out of hours support and advice to complainants and also in the witnessing and recording of incidents. A formal referral process is used to facilitate this.

Antisocial Behaviour Unit - Angus

Angus Council, as part of their Antisocial Behaviour Strategy, provides a similar service to Aberdeen City Council's ASBIT. This service is only available in full to Angus Council tenants but Co-operative members, owner occupiers and private tenants can access this service, via referral to the Community Safety Team, for independent advice and assistance on antisocial behaviour matters.

Antisocial Behaviour Support Officers – Aberdeenshire

The Co-operative can access the services of two part time officers employed by Aberdeenshire Council for support to victims of antisocial behaviour. A formal referral process is in place.

Tenancy Support Officers - Angus

The Co-operative has access to the services of Angus Council's Tenancy Support Officers who will assist disruptive members to develop the skills necessary to become good and responsible neighbours, support vulnerable members who might be the victim of harassment and ensure that appropriate support is available to make the tenancy sustainable.

Community Wardens

Aberdeen City, Aberdeenshire and Angus Council provide Community Wardens who, generally, are employed to engage with residents to help prevent, and when necessary, provide early intervention where there are incidents of antisocial behaviour and harassment in certain localities. The Wardens' presence on the streets aims to deter antisocial behaviour in those areas.

Acceptable Behaviour Contracts (ABCs)

An ABC is a voluntary contract offered to perpetrators of antisocial behaviour and harassment and generally involves a multi agency approach. They are offered to the perpetrator as a final opportunity for them to amend their behaviour prior to commencing legal action, if no improvement is made. ABCs state the terms which the perpetrator will adhere to, to resolve the situation and is signed by them. ABCs are monitored and support provided where necessary to ensure the perpetrator avoids 're-offending' and thus complies with the terms of the ABC.

3.7 Legal remedies

When preventative, management approaches and non legal remedies have failed to resolve the problem, the Co-operative will consider using legal remedies. The following is a list of the legal options available.

Notice of Proceedings (NOP)

Where member's behaviour reaches a level that gives the Co-operative concern, a NOP will be served on the member(s) and anyone over the age of 16 who is part of the household. A NOP is the first step in the Co-operative pursuing legal action. It is a document which states what the Co-operative's legal intentions are should the member(s) behaviour not improve.

Those members served a NOP who have a Right to Buy (RTB) contract with the Co-operative will retain that contract. It is only if decree is awarded as a result of their behaviour and the member's membership is subsequently re-approved that their RTB contract will **not** be reinstated.

Anti Social Behaviour Orders (ASBO) and Interim Anti Social Behaviour Orders (Interim ASBO)

An ASBO is a civil preventative measure for antisocial behaviour that can be applied to persons of 12 or over. An ASBO, once it has been awarded, can be for an indefinite period and it will be specific about the acts which the offender is prohibited from carrying out. A breach of an ASBO is a criminal offence and is punishable by a fine and/or imprisonment up to five years.

Interim ASBOs may be applied for in cases where immediate protection is required from anti social behaviour pending the more substantive application for a full ASBO. The Sheriff needs to be satisfied that, were the alleged behaviour to be established at a full hearing, an order would be required to protect relevant persons from further acts. Breach of an interim ASBO is also a criminal offence.

The Co-operatives Antisocial Behaviour Order Policy states its approach to this.

Interdicts

An interdict is an order of the court requiring a person to whom it is addressed to stop doing something legally wrong. For an interdict to be granted by the court the defender must have done something, or about to do something, that infringes the pursuer's legal rights. An interdict may be and

usually is, granted on an interim basis pending final determination of the merits of the case. In other words the order is made without proof of the facts or full legal debate.

The Co-operative does not normally consider the use of interdicts as a solution to resolving issues, such as antisocial behaviour, now that other more robust remedies are available, for example ASBOs. However, the Co-operative may advise a person to pursue an interdict independently if that is felt to be the best and most appropriate course of action.

Short Scottish Secure Tenancy (Short SST)

The Co-operative will consider the offer of a Short SST in accordance with the legislation and terms of its Short Scottish Secure Tenancy Policy.

Where a full ASBO has been granted against a member, the Co-operative has the right to convert their SST to a Short SST. The Co-operative also has the power to offer a Short SST to applicants for housing where an ASBO, or other legal action, has been previously awarded against them.

The offer of a Short SST can be given to applicants who have a history of demonstrating serious antisocial behaviour or harassment in previous tenancies. A short SST can be issued to such applicants as a means of maximising the applicant's success in maintaining a tenancy without legal action being considered if further complaints of antisocial behaviour and harassment are received. In these circumstances a Short SST will be made available for a minimum of six months and a maximum of 12 months. If the tenancy is conducted in a satisfactory manner the Short SST will be converted to a full SST. Before a Short SST is offered to an applicant, they must accept the support provided either by the Co-operative or other agreed agency prior to signing the Short SST Agreement.

Existing members who have a contractual RTB contract with the Co-operative and have their tenancy converted to a Short SST will lose their RTB status as set out in Part 2, Chapter 1, Section 34 of the Housing (Scotland) Act 2001. If converted back to a full SST; they will **not** have their RTB contract reinstated.

Eviction for breach of the terms of the Scottish Secure Tenancy Agreement

The Co-operative recognises that pursuing eviction action is a measure of last resort when all other options have failed to resolve serious antisocial behaviour or harassment.

For an eviction to be successful the crucial legal issue is one of reasonableness. Within the Housing (Scotland) Act 2001 this means that courts, in deciding whether to evict, must have regard for the points listed below:

- a) the nature, frequency and duration of the alleged conduct

- b)** the extent to which the conduct is or was as a consequence of acts or omissions of persons other than the member
- c)** the effect that the conduct had, is having and is likely to have on any person other than the member, and
- d)** any action taken by the landlord, before raising proceedings, with a view to securing the cessation of that conduct.

Below is a list (although not exhaustive) of factors that Sheriffs will take into account when considering reasonableness.

- seriousness of the conduct
- frequency of the conduct
- length of time over which the conduct has occurred
- nature of the conduct complained of
- effect of the conduct on neighbours
- effect of the conduct on the landlord
- if the conduct was by a person other than the defender, the steps that have been taken to control the perpetrator
- the length of the tenancy and any previous problems
- conduct of other neighbours
- whether the conduct complained of has abated at the time of the hearing
- efforts made by the landlord to involve other agencies e.g. Police, Social Work department, Environmental Health.
- effect of the eviction on any 'innocent members' of the household, particularly dependent children
- other steps taken or considered by the landlord to deal with the problem by, for example, ASBO or non-legal means i.e. mediation, ABCs, insulation of property against noise nuisance, interdict
- whether the conduct was intentional or had some other cause - e.g. the defender's mental health problems

The Co-operative has a duty under Section 11 of the Housing (Scotland) Act 2003 to advise the appropriate local authority that an eviction is likely to proceed and that the household may present themselves as homeless. If an eviction takes place, the Co-operative will advise its members to contact the relevant local authority's Homeless Section, who will provide guidance and assistance on the prevention of homelessness.

3.8 Action against non members and owner occupiers

The Co-operative recognises that mixed tenure exists in the areas in which it operates including owner occupiers and the tenants of other Registered Social Landlords. This can lead to antisocial cases involving non members. The Co-operative will make every attempt to resolve the problem through informal, non-legal remedies and will give support and assistance to its members who are experiencing antisocial behaviour from an owner-occupier or tenants who is not a member of the Co-operative. In every case, advice will be given when

appropriate for people to seek independent advice from other agencies such as Citizens Advice Bureau.

Conversely, there are times when complaints are made by people who are non members about experiencing antisocial behaviour from a member of the Co-operative. In such situations the Co-operative will ensure that the member is dealt with through the terms of this Policy.

3.9 Committee Members involved in antisocial behaviour and harassment

A member cannot remain or be re-elected as a Committee or Board member if they are subject to any legal proceedings in any Court of Law by the Co-operative.

Where a case of antisocial behaviour/harassment is referred to the Housing Management Sub Committee or Committee of Management for Legal Action Approval involving a Committee member, the individual concerned will be asked to either declare an interest at any meetings where the case is being discussed or take leave of absence pending investigation.

4.0 Racial Harassment

4.1 Definition

The working definition of racial harassment adopted by the Commission for Racial Equality in its report on racial violence and harassment in housing 'Living in Terror' – 1987 is as follows:-

“Racial Harassment is violence which may be verbal or physical and which includes attacks on property as well as on the person, suffered by individuals or groups because of their race, colour, nationality or ethnic or national origins, when the complainant believes that the perpetrator was acting on racial grounds and/or there is evidence of racism”.

In this definition the complainant's perception of racism is crucial and the Co-operative's approach will therefore be 'complainant' centred with the racial motivation behind an incident accepted as such unless on investigation it can reasonably be proven otherwise. The primary consideration is therefore the health, safety and welfare of the complainant and his/her family and support and encouragement will be given to the person suffering harassment at all times.

When visual evidence such as graffiti, damage to property or racist publicity is not in evidence, the dominant factor considered will be the complainant's daily fear of racial insults, humiliation or actual physical harm to their family and/or home.

4.2 Identifying racial harassment

Racial Harassment can occur in a variety of forms. The following are some examples of what constitutes racial harassment:-

- Racial abuse – verbal and written
- Racially abusive behaviour – such as spitting, threats, theft, offensive items left on doors and posted through a letter box, telephone calls
- Physical assaults on complainant, their dependants and relatives
- Incitement – stirring up racial hatred by variety of means such as petitions, leaflets and stickers
- Damage to property – such as racist graffiti and slogans – bricks through windows and doors, damage to cars and other possessions
- Threats to well being or life – such as lighted matches or rags being put through a letter box
- Arson or attempted arson

5.0 Lesbian, Gay, Bisexual and Transgender (LGBT) Harassment

Communities Scotland Review of Equality Thematic Study 2006 identified that LGBT issues are an area with the least attention and progress in social housing providers' equality network. Below is Stonewall's definition of LGBT harassment:-

"Harassment is usually defined as constant interference or intimidation that violates people's dignity or creates a hostile, degrading, humiliating or offensive environment . LGBT people can experience harassment specifically intended to demean them because of their sexual orientation or perceived sexual orientation".

5.1 LGBT contact

The Co-operative recognises that LGB and T people are a significant minority group in society and it aims to improve its understanding of this group by working closely with the LGBT community.

5.2 Harassment of LGB & T people

The LGBT community is diverse with a wide range of needs and concerns. Different factors influence the extent to which LGB and T people feel able to be 'out' in housing as members. Individual circumstances such as effective support networks while personal factors such as resilience, allied to levels of self esteem and self-confidence, will affect how 'safe' people feel about being able to come 'out' or to be 'out'.

The Co-operative recognises that LGB and T people may need support to take forward their complaints and will do its utmost to provide that support on all occasions. The Co-operative also recognises that LGB and T people are more

willing to communicate with organisations that promote positive LGBT issues and take a clear stand towards discrimination. Therefore provision of a complete and equitable service to LGB and T people experiencing harassment will require staff to be fully aware of and able to meet the needs as identified by the LGB or T person.

In addition to the above the Co-operative acknowledges that people can be subject to harassment who themselves are not LGB or T but may be perceived as such. In these circumstances the Co-operative will manage the complaints in the same way they would for all other reports of antisocial behaviour and harassment.

6.0 Disability Harassment

The Co-operative re-enforces its zero tolerance stance towards incidents of harassment or abuse targeted at a person because they are disabled.

6.1 Definition of disability

The Disability Discrimination Act (1995) defines a disabled person as “anyone with a physical or mental impairment which has a substantial and long term adverse effect upon his or her ability to carry out normal day-to-day activities” This could include any of the following:-

- People who are deaf or hearing impaired
- People with learning disabilities
- People who look different
- People who have speech or language difficulties
- People with hidden impairments such as epilepsy
- People who have a mental health problem
- People who are blind or partially sighted
- People with mobility impairments

Under this policy, it is for the victim to define the incidents that they have been the victim of as motivated by the fact that they are a disabled person. The Co-operative will accept this view and ensure that its approach is victim centred.

6.2 Harassment of disabled people

The Co-operative recognises that the harassment of disabled people takes many of the same forms as other harassment. For a disabled person these may have a different emphasis. For example dumping rubbish in someone’s garden when they have mobility difficulties, may prevent them from using the garden at all.

It is vital therefore that the procedures accompanying this policy address the practical issues associated with this such as prompt clearing of refuse, graffiti etc.

6.3 Providing a complete service

The Co-operative recognises that individuals with impairments can be disabled by the barriers that society places in their way. These barriers can include inaccessible information, poor design in the built environment, other people's attitudes or organisational issues, such as the way services are defined or delivered.

The Co-operative recognises that disabled people may need support to take forward their complaints. Provision of a complete service to disabled people experiencing harassment will also require that staff are aware of and are able to meet the access needs as identified by the disabled person. The Disability Discrimination Act requires service providers to make "reasonable adjustments" to the way in which services are provided so that disabled people can use them. The Co-operative will strive to ensure that it provides a complete, flexible and sensitive service that meets the needs of disabled individuals suffering harassment.

7.0 Training

The Co-operative through its Internal Management Plan is committed to training and developing staff and committee members to their full potential in order to deliver a high quality of service in all areas of its business to members and the public.

8.0 Equal Opportunities

The Co-operative will ensure that in implementing its Antisocial Behaviour Order Policy it will not unfairly discriminate against any individual, household or group on the grounds of gender, gender identity or marital status, on race grounds, or on the grounds of disability, age, sexual orientation, language or social origin, other personal attributes, including beliefs or opinions such as religious beliefs or political opinions.

9.0 Monitoring, Reporting and Targets

The Co-operative's daily time recording system will be used by staff to record time spent on antisocial behaviour and harassment cases. A recording system will also be in place to categorise the type of antisocial behaviour that is being reported.

The Housing Supervisor and Housing Manager will be responsible for supporting staff when dealing with antisocial behaviour and harassment cases and will review files as necessary to ensure the fullest possible investigations and action has been taken to resolve issues.

Quarterly reports will be submitted to the Housing Management Sub Committee and an annual report to Communities Scotland via the Annual Performance & Statistical Return (APSR) detailing:-

- the number of cases of extreme, serious and other reports of antisocial behaviour and harassment
- number of Notices of Proceedings issued because of antisocial behaviour and harassment
- legal action approvals sought because of antisocial behaviour and harassment
- number of legal actions commenced because of antisocial behaviour and harassment
- number of evictions carried out because of antisocial behaviour and harassment
- numbers of ABCs; ASBOs and Short Scottish Secure Tenancies have been issued

This report will also be used to identify any underlying trends in dealing with this subject and potentially inform the need for policy or procedure review.

Complaints received and responded to for both the victim and perpetrator will be categorised by their "seriousness" and appropriate targets set for response.

Any member who is dissatisfied with the management of their case will be advised of the Co-operative's Complaints Policy.

10.0 Review

The targets for monitoring the progress of antisocial behaviour and harassment will be reviewed annually, taking into account any legislative or other changes and the realistic ability to reach the targets set based on the previous year's performance.

When reviewing the reports of antisocial behaviour and harassment, the following information will be used to improve service delivery by:

- monitoring comments and complaints received from members
- the number of NOPs, ABCs and ASBOs issued
- the number of Short Scottish Secure Tenancies issued
- the number of extreme, serious and other complaints recorded and what these complaints were i.e. racial harassment; noise; drug abuse etc.
- feedback from the Committee of Management; Tenant Management Boards; Sub-Committees and Residents Associations in relation to antisocial behaviour and harassment
- analysing the performance against targets set for antisocial behaviour and harassment

Unless recommended through analysis of reports of antisocial behaviour and harassment received, feedback from members, a change in Communities

Scotland/SFHA best practice guidance or changes in legislation, the Abandonment Policy will be reviewed every three years.

11.0 Legal Framework

Housing (Scotland) Act 2001
Human Rights Act 1998
Disability Discrimination Act 1995
Race Relations Act 1976
Race Relations(Amendment) Act 2000 and Race Relations Act 1976
Sex Discrimination Acts 1976 and 1981.
Data Protection Act 1998
Schedule 7, Housing (Scotland) Act 2001
Criminal Justice (Scotland) Act 2003
Matrimonial Homes (Family Protection) (Scotland) Act 1981
Antisocial Behaviour (Scotland) Act 2004
Protection from Harassment Act 1997

12.0 References

The following publications have been referred to, to ensure the Antisocial Behaviour and Harassment Policy and associated procedures are based on good housing practice:-

- "Performance Standards for Social Landlords and Homeless Functions – COSLA, Communities Scotland and Scottish Federation of Housing Associations (SFHA), 2006 – Activity Standard 1.9 Antisocial Behaviour
- "Housing Management Standards Manual" – Chartered Institute of Housing.
- "Raising Standards in Housing" – Scottish Homes, SFHA.
- Housing (Scotland) Act 2001

13.0 Related Policies/documents

- [Allocations](#) Policy
- Anti Social Behaviour Order Policy
- Short Scottish Secure Tenancy Agreement Policy
- Short Scottish Secure Tenancy
- [Estate Management - Physical Environment](#) Policy
- [Development](#) Policy
- [Complaints](#) Policy
- [Racial Harassment](#) Policy
- [Equal Opportunities](#) Policy
- [Health & Safety](#) Policy
- [Eviction Procedure](#)
- Data protection Policy

- Internal Management Plan (IMP)
- The Anti Social Behaviour Strategies of Aberdeen City, Aberdeenshire and Angus Councils and all associated Protocols and procedures