

CLYDESDALE HOUSING ASSOCIATION LIMITED

Policy: Tenancy Management Policy

Date: 31 August 2022

Lead Officer: Depute Chief Executive

Review Date: 26/04/2025

Regulatory Standards: Standard 1

The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.

Guidance

- 1.1 The governing body sets the RSL's strategic direction. It agrees and oversees the organisation's business plan to achieve its purpose and intended outcomes for its tenants and other service users.
- 1.2 The RSL's governance policies and arrangements set out the respective roles, responsibilities and accountabilities of governing body members and senior officers, and the governing body exercises overall responsibility and control of the strategic leadership of the RSL.
- 1.3 The governing body ensures the RSL complies with its constitution and its legal obligations. Its constitution adheres to these Standards and the constitutional requirements set out below.
- 1.4 All governing body members accept collective responsibility for their decisions.
- 1.5 All governing body members and senior officers understand their respective roles, and working relationships are constructive, professional and effective.
- 1.6 Each governing body member always acts in the best interests of the RSL and its tenants and service users and does not place any personal or other interest ahead of their primary duty to the RSL.
- 1.7 The RSL maintains its independence by conducting its affairs without control, undue reference to or influence by any other body (unless it is constituted as the subsidiary of another body).

The Scottish Social Housing Charter

6: Estate Management, anti-social behaviour, neighbour nuisance and tenancy disputes

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

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

11: Tenancy sustainment

Social landlords ensure that:

Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.

Clydesdale Housing Association will provide this policy on request at no cost, in large print, in Braille, in audio or other non-written format, and in a variety of languages.



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Introduction

The purpose of this Policy is to demonstrate a comprehensive approach to the Association's management of its neighbourhoods. This involves the condition of the common areas, common parts of buildings and individual gardens within its developments. It is also about dealing with problems of minor tenancy disputes and more serious anti-social behaviour, all of which manifest themselves in various forms.

Where people live close together, there is always the potential for friction and disputes. Clashes of lifestyles can occur where, for example, people have different age groups or cultural backgrounds, or have different working or sleeping patterns. These 'differences' can easily give rise to arguments and lead to neighbour disputes and antisocial behaviour.

The Association recognises that anti-social behaviour may have its roots in many different social factors e.g. unemployment, drug misuse and mental health problems. The Association accepts that while its role may be limited in tackling the underlying causes it aims to deal quickly and effectively with all forms of neighbour disputes.

1. Estate Management

The Management of estates relates to the management and monitoring of the as built physical environment – common, public and landscaped areas and individual gardens. The following list of issues need to be considered:

Individual Gardens

It is the tenant's responsibility to make sure their garden is kept in a tidy condition, free from rubbish and household items. The detailed conditions relating to gardens are contained in the Tenancy Agreement at 5.7 – Private Garden Area.

Common Landscaped Areas

It is the responsibility of the Association to maintain common landscaped areas including car parks.

Car Parking – Individual Homes

Some developments have on curtilage parking areas. They are designed for the use of family cars and cannot be used for any other purpose, specifically:

- The storage of vehicles that are only used periodically e.g. caravans, mobile homes and trailers etc.
- To carry out repairs or maintenance to any vehicle

Car Parking – Common Areas

Many of the Association's developments do not have on curtilage parking. In these developments there are car parking spaces available for the use of tenants and visitors to the development. The Association does not provide designated car parking spaces and will not get involved in car parking disputes where cars are appropriately parked in a car parking space. Tenants who are involved in car parking disputes, where agreement cannot be reached between the parties, will be encouraged to participate in mediation to resolve their difficulties. The Association will only become involved in car parking disputes where the action of the tenant is a deliberate act of anti-social behaviour for example impeding another tenant's ability to move their car by blocking it; or, parking in the middle of two spaces thereby restricting the number of available spaces

Disabled Car Parking Spaces

The Association has on occasion installed "non-enforceable" disabled parking bays. These are intended for the use of tenants with a "blue" disabled badge. It is not a requirement that a blue disabled badge is displayed but tenants are encouraged to do so. Non enforceable bays mean that anyone with a blue disabled badge could park there. The Association will not take action against someone who parks there and does not require the disabled space because they are non-enforceable bays.

Common Closets

It is the responsibility of tenants living in a common close to clean the stairs and make sure they are free at all time from household items.

Vandalism

Acts of vandalism to common areas should be reported to the Association and the Police.

Graffiti

Abusive, harassing or discriminatory graffiti will be removed by the Association as quickly as possible. Other types of graffiti will be removed as soon as is reasonably practical.

Play Areas

Where provided and in Association ownership, play areas generally, their surfaces and installed equipment in particular, will be inspected to ensure they are safe to use and continue to meet recognised safety standards.

Environmental Issues

Any incidents of the following nature reported by tenants or identified in the course of an estate inspection, will be thoroughly investigated and action taken as necessary in conjunction with the relevant agencies, e.g. South Lanarkshire Council Public Protection Services, the police, water board etc.:

- vermin and pest infestation;
- abandoned / unroadworthy vehicles;
- permanent or long-term parking of caravans, trailers or unroadworthy vehicles on the street
- spillage of oil or other chemical pollutants
- fly tipping and or unauthorised dumping
- blocked drains and/or burst mains etc.

Pets

The Tenancy Agreement at Section 5.4 – Keeping of Pets, explains the circumstances and conditions for keeping pets. Except where the tenancy agreement allows, tenants are required to obtain prior written permission for the keeping of pets. Such permission will not be unreasonably withheld but may be subject to conditions deemed appropriate having regard to the circumstances in individual cases.

As a minimum, it will be a condition of every approval granted to keep a pet that:

1. The animal is kept under proper control at all times.
2. Will not be allowed to cause a nuisance or annoyance to other residents.
3. The animal will not be allowed to foul in the garden of other tenants /residents, or in common landscaped areas.
4. That 'poop scoops' will be used for the proper disposal of faeces

Failure to comply with the approval conditions will result in the withdrawal of permission to keep the animal.

Private owners who fail to exercise control over their pet in accordance with the standard above, are to be formally reported to the police as causing a public nuisance.

Problems / nuisances arising from stray animals within a development will be reported to the RSPCA.

CCTV Security

The Association recognises and acknowledges the increasing incidence of residents seeking to enhance their own personal safety and security of their home by the installation of CCTV.

Tenants wishing to enhance the security of their home by the installation of CCTV cameras must obtain prior written approval. Approval will not be unreasonably withheld but may be granted subject to certain conditions.

Under no circumstances will approval be granted where the proposed siting of CCTV cameras would capture images from another home or garden. The Association may grant permission for CCTV cameras to capture public areas provided the application meets all of the conditions required by the Association for its installation.

A standard condition of approval will be that the tenant must comply with Data Protection and other relevant legislation and are required to display CCTV signage.

Business Use

You, and anyone living with you must not run any kind of business from the property. However, if you ask us, we may give permission. This will depend on the type of business and how this could potentially impact on your surrounding neighbours.

Illegal Activities

A 'zero tolerance' approach will be taken in respect of any tenant who is convicted of a crime that could result in a custodial sentence or, actually receives a custodial sentence for illegal or immoral purposes. For example, the distribution of controlled drugs or prostitution, and the evidence confirms the activity was conducted in or from within the tenant's home. Such activities will be deemed to be '*antisocial behaviour*' and proceedings for possession vigorously pursued.

2. Tenant Disputes

Minor Neighbour Disputes

It is important to distinguish between one-off, or minor tenancy disputes, with the more distressing antisocial behaviour disputes as defined below. It is equally important to attempt to resolve neighbour disputes as quickly and efficiently as possible to avoid them escalating into more concerning behaviour.

Neighbour disputes as opposed to antisocial behaviour, are likely to be of a less serious nature and often revolve around issues such as:

- The condition of adjoining gardens
- The use of CCTV
- The use of or maintenance of common parts such as common stairwells
- Noisy or unruly children
- Damage to property
- Low level noise
- A business being run from a property
- Unroadworthy cars in common areas or driveways
- Cars being repaired in common areas or driveways
- Dog fouling
- (Source: <https://www.citizensadvice.org.uk/scotland/housing/problems-where-you-live/neighbours>)

This is not an exhaustive list

For the Association to take action against a tenant where a complaint has been received, it is important to determine whether or not:

- The action of the neighbour is a breach of their tenancy condition
- The action of the neighbour is against the law either a criminal or civil wrongdoing.

It is important that the Association is able to “manage the expectations” of tenants in dispute. In order to do this, we need to have clear guidelines of when we can take action, what we can do, and in what circumstances. Where we are unable to resolve a complaint to the satisfaction of the tenant complaining, clear information and advice will be given in every instance.

Procedures have been written to provide Housing Officers with guidance on how to manage tenancy disputes. These are broken down into the following categories:

- Tenancy conduct in or around the home.
- Tenancy conduct in common areas – estate management issues.

Antisocial behaviour disputes

For the purposes of this policy the Association will adopt the definition contained within the Antisocial Behaviour etc. (Scotland) Act 2004 e.g. a person engages in antisocial behaviour:

“If they act in a manner that causes or is likely to cause nuisance, annoyance, alarm or distress; or if they 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”

Guidance issued by the Scottish Government indicates that in the above definition ‘conduct’ would include speech; and ‘a course of conduct’ must involve conduct on at least two occasions.

On the basis of this definition it is evident antisocial behaviour is not restricted or exclusive to any particular type or level of activity. Indeed, antisocial behaviour can be divided into 4 categories:

- disregard for community / personal well being
- acts directed at people
- environmental damage
- misuse of public spaces

Antisocial behaviour can arise from within a wide spectrum of activities - from the everyday frictions and disputes that routinely occur from living in close proximity to neighbours, which on their own and as one off incidents are relatively minor, but when persisted with over a period of time cause distress - to the more serious involving harassment, intimidation, verbal or physical abuse or criminal activity; from behaviour directed at the individual to behaviour directed at property or possessions.

Antisocial behaviour can be caused by a tenant, a member of a tenant’s household, a visitor or visitors to a tenant’s home, neighbouring private owners or their visitors, or others who simply frequent the area; by adults or young people.

Examples of Anti-Social Behaviour

- Drug/drink incidents
- Harassment
- Racism
- Sectarianism
- Violence or threat of violence
- People gathering and causing a disturbance
- Noise
- Loud music
- Criminal Activity
- Light Pollution
- Failing to control pets and threat of attack

This is not an exhaustive list.

3. Policy Objectives

Our objectives include:

- proactively managing the Association's estates
- being efficient and proactive in fulfilling our legal obligations as a landlord
- ensuring that tenants fulfil their legal obligations in relation to their tenancy agreement
- focusing on prevention and early intervention where appropriate
- developing a multi-agency approach to resolving disputes that we cannot resolve independently
- ensuring that tenants are kept regularly up to date on the status of their complaint
- ensuring that staff are appropriately trained so that they have the appropriate skills to deal with issues that arise
- monitoring and reviewing incidents of neighbour disputes, anti-social behaviour, identifying trends and intervening as appropriate
- making sure action taken as a result of anti-social behaviour is appropriate and reasonable in the circumstances

4. Scope of policy

This policy will be applied in relation to:

1. Tenants and subtenants, lodgers or other occupiers of Association owned property
2. Owners, sub tenants and occupiers of neighbouring privately owned dwellings
3. Other private individuals who perpetrate acts of antisocial behaviour in the vicinity of property owned by the Association
4. The prospective tenant; any prospective joint tenant; any visitor to a house currently occupied by the prospective tenant or by anyone who will be living with them; anyone who might be living with the prospective tenant

5. General Data Protection Regulations

Any information that we hold regarding an individual must be treated lawfully and correctly in line with the safeguards outlined in the General Data Protection Regulation 2016 (GDPR) which requires data to be:

- lawfully, fairly and transparently processed
- processed for limited purposes
- adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed
- accurate and kept up to date
- kept no longer than the period necessary and
- kept securely against unauthorised or unlawful processing and protected against accidental loss, destruction or damage.

The processing will be carried out in a way that ensures compliance with the rights of data subjects, including:

- the right to be informed
- the right of access
- the right to rectification
- the right to erasure (so far as applicable)
- the right to restrict processing
- the right to data portability (so far as applicable)
- the right to object to processing (including profiling); and
- the right not be subject to fully automated decision-making including profiling.

Further information is available by viewing the Association's Privacy Policy.

6. Equal Opportunities

Clydesdale Housing Association operates under the overarching duty of a Registered Social Landlord to provide housing accommodation and related services in a manner which encourages equality of opportunity. In particular the observance of equal opportunity requirements as specified in the Housing (Scotland) Act 2001 and the Equality Act 2010.

We do not discriminate against any tenant in any way either directly, indirectly or by association because of their age, disability, gender identify (reassignment), marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

To support our commitment to equality of opportunity an equality and human rights impact assessment has been carried out on this policy

7. Legislation

We will comply with all relevant legislation and associated regulations, including:

- The Housing (Scotland) Act 1987, 2001, 2010 & 2014;
- Environmental Protection Act 1990, as updated by Public Health etc. (Scotland) Act 2008;
- Protection from Harassment Act 1997;
- Crime and Disorder Act 1998;
- Data Protection Act 1998;
- Human Rights Act 1998;
- Criminal Justice (Scotland) Act 2003;
- Antisocial Behaviour etc. (Scotland) Act 2004;
- Police, Public Order and Criminal Justice (Scotland) Act 2006;
- Equality Act 2010; and

8. Expected outcomes

Key outcomes of operating an effective Tenancy Management Policy include:

- High levels of tenant satisfaction with the Association's management of neighbourhoods
- Ensuring that properties are well maintained, safe and secure.
- Delivering value for money
- That tenants fully understand the obligations and responsibilities of both the Association and themselves in terms of the tenancy agreement.
- Achieving tenant satisfaction with the manner in which the Association deals with all neighbour complaints whilst recognising that the initial expectations of the complainant may not always be achieved.
- Attempting to resolve as many disputes as possible by mutual agreement between the parties involved at an early stage.
- Ensuring that all complaints relating to neighbour disputes are dealt with in a sympathetic, effective manner and with the minimum of delay.
- Maintaining the confidentiality of the complainant unless the person concerned specifically gives permission for their identity to be revealed or the case involves South Lanarkshire Council's Anti-Social Investigation Team which may also lead to Court action at which time their identity will become known.

9. Complaint classification

Minor neighbour disputes will fall into the following categories:

Estate Management

- Estate Management 1 (EM01) First time offender or minor issue.
- Estate Management 2 (EM02) Second offence or more serious issue.
- Estate Management 3 (EM03) Escalation to more serious antisocial behaviour complaint.

Neighbour Disputes

- Neighbour dispute 1 (NDM1) First time offender– 5 days to conclude
- Neighbour dispute 2 (NDM2) Escalated from NDM1 or more serious complaint than NDM1

Antisocial Behaviour

- Anti-Social Behaviour 1 (ASB1) First time offender or repeat Estate Management offender – 5 days to conclude
- Anti-Social Behaviour 2 (ASB2) Escalated from ASB1 or serious complaints – 10 days to conclude
- Anti-Social Behaviour 3 (ASB3) Escalated from ASB2 or serious complaints – 20 days to conclude
- Blocking a driveway or blocking someone in a car parking space

10. Approach to dealing with Tenant Disputes

Tenants are entitled to live in their home free from fear and disruption from others. We will deal with minor tenancy complaints promptly in an effort to avoid the risk of escalation into more serious and concerning behaviour. We will make sure the advice and information we give tenants is consistent with written procedures for dealing with complaints and where appropriate, sign-post to other agencies.

Specifically, we will:

- Make it clear at the point of contact, whether or not the complaint is an issue that the Association can take forward. Many of the complaints received are not breaches of the tenancy agreement or are breaking any laws. Unfortunately, some tenants simply do not like one another and consequently, their behaviour towards each other can deteriorate. It is not the Association's responsibility to address immature or unreasonable behaviour.
- Deal with all complaints fairly and effectively and will regularly update the complainant on all action being taken.
- Contribute to and work in partnership with other agencies to prevent and manage ASB.
- Take a multi-agency approach and work with perpetrators to improve their behaviour.
- We will work closely with local authorities, relevant partners, and agencies, to ensure that an appropriate assessment takes place prior to rehousing any person who has been linked with ASB and to identify perpetrators who may attempt to move from property to property.
- We will form and maintain links with statutory and other agencies to work towards preventing and reducing ASB.
- We will be active members of key local partnerships.
- We will hold perpetrators accountable for their actions and ensuring that the full range of civil and criminal remedies are considered.
- When allocating tenancies, we will seek to manage potential risks and identify support needs.
- We will ensure appropriate support is identified by working in partnership with other service providers and agencies, and that where appropriate this support is ongoing.
- We will view all complaints of alleged anti-social behaviour confidentially and impartially. Complaints about anti-social behaviour should generally be made in writing, otherwise it may be difficult for the Association to pursue them. However, there may be circumstances where it is appropriate for us to respond to verbal complaints. The Association's staff will offer assistance where required and a sign or language interpreter can be made available and the complainant can have a family member, friend or other representative with them at all times, if they so wish. We will discuss complaints in a location where complainants feel comfortable and details of the alleged anti-social behaviour will be treated confidentially.

11. Tenancy Management Action

Action taken by the Association needs to be proportionate to the incident. There will therefore be an escalation of action taken to encourage tenants to modify their behaviour as follows:

Early Intervention Action

1. Verbal caution reminding of conditions of let and obligations
2. Written caution reminding of conditions of let and obligations
3. Written warning
4. Mediation referral
5. Referral to Anti-Social Behaviour Team
6. Good behaviour contract
7. NOP
8. Management transfer (voluntary)

Legal proceedings

1. Interdict
2. parenting orders (Police / Children's Reporter led)
3. ASBO (juvenile in conjunction with Children's Reporter & Social Services)
4. sSST
5. Compulsory rehousing (section 8 transfer)
6. Repossession & eviction

The action taken may not always follow an escalation path depending on the severity of the incident.

12. Harassment

We will not tolerate any forms of harassment. Our initial assumption will be that harassment exists if the victim perceives this to be the case. We will take all allegations of harassment very seriously and act promptly.

'Harassment' exists when one party acts to adversely affect the peace or comfort of, or cause offence to, another party (the victim). It is different from anti-social behaviour (as described above) in that harassment is usually deliberate and directed at one person / household, although the distinction can sometimes be confused, and the terms used interchangeably. Often the harassment will be on at least one of the following grounds:

- Age
- Disability
- Gender identify (reassignment)
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation.

It is impossible to provide an absolute definition of the types of action that may constitute harassment, but the following list provides examples.

- the use of slogans (in written or spoken form) that cause offence;
- violence or threats of violence (whether empty or not);
- berating the victim to others; or
- any action that makes the victim feels ill at ease or harassed

Complaints should be made in writing; otherwise it may be difficult for the Association to pursue them. However, there may be circumstances where it is appropriate for us to respond to verbal complaints. The Association's staff will offer assistance where required and a sign or language interpreter can be made available and the complainant can have a family member, friend or other representative with them at all times, if they so wish. We will discuss complaints in a location where complainants feel comfortable and details of the alleged harassment will be treated confidentially.

As part of our investigations, and with the agreement of complainants, we will work with relevant agencies (e.g. Police, local authority, victim support, etc.), regularly monitoring progress and initiating follow-up action if required. We may issue complainants with a diary so that they can note any incidents of harassment.

Staff will be required to use their reasonable professional judgement on the best way to address a case of alleged harassment, with the steps taken depending upon the circumstances of each individual case. We will keep a detailed record of action taken – the type of action is likely to include:

- interviewing the alleged perpetrator (if appropriate);
- interviewing neighbours;
- seeking information from the Police, Social Work or any other agency likely to have information;
- interviewing others who have witnessed the harassment; or
- photographic evidence (of offensive graffiti, for example).

If we are satisfied that alleged harassment has taken place, we will consider the following factors in determining the most reasonable way to proceed:

- nature of the allegation/s;
- seriousness of the allegation/s;
- level of evidence available to support the allegation/s;
- degree of risk faced by the alleged victim if the harassment is to continue;
- wishes of the alleged victim; and
- likely effectiveness of one option versus another.

In addition to the above, where there is a suggestion that the perpetrator may have committed a criminal offence – for example under the Race Relations Act 1976 – we will assist the victim in taking the case to the Police or another organisation that may be better placed to offer advice.

13. Enforcing the tenancy agreement

Ending a tenancy is a very serious issue and is never taken lightly. For a tenancy to be at threat, the conduct of the tenant in question must be of a serious nature. It is therefore important that before legal action is commenced, there is a clear audit trail of all complaints received and action taken, including support provide to the tenant.


At the start of a tenancy we will take action to ensure residents are aware of their responsibilities including:

- making new tenants aware of their responsibilities as contained in the tenancy agreement
- provide them with a copy of “Being a good neighbour” leaflet

We will take prompt action against tenants who breach their tenancy agreement. In the event of the tenant continuing to breach the agreement, the action will become more serious and may lead to legal action such as an Anti-Social Behaviour Order (ASBO) or a Notice of Proceedings that could ultimately lead to eviction. Our Tenancy Management procedures contain full details of how we deal with breaches of the tenancy agreement in terms of anti-social behaviour.

14. Next review

We will review the Tenancy Management Policy every three years or sooner if required by statutory, regulatory or best practice requirements.

Approved by the Committee of Management on: 31 August 2022	
Signed: Secretary/Chairperson	Signed:  Chief Executive/Senior Staff Member