

June 09

Neighbour Complaints Procedure

A Partnership Approach

Between

***West Dunbartonshire Council's
Anti Social Behaviour Task Force***

And

Estate Management Section

And

***West Dunbartonshire's
Registered Social Landlords***

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Glossary of Terms

HO	Housing Officer
SHO	Senior Housing Officer
HM	Housing Manager
EMO	Estate Management Officer
ATL	Assistant Team Leader
RSL	Registered Social Landlord
WDC	West Dunbartonshire Council
ASIST	Anti Social Investigation and Support Team
NET	Noise Enforcement Team
ASBO	Anti Social Behaviour Order
ABA	Acceptable Behaviour Agreement
UBN	Unacceptable Behaviour Notice

1. Partners

- WDC Anti Social Behaviour Task Force
- WDC Estate Management Services
- Bellsmyre Housing Association
- Clydebank Housing Association
- Cordale Housing Association
- Cube Housing Association
- Dalmuir Park Housing Association
- Dunbritton Housing Association
- Faifley Housing Association
- Knowes Housing Association
- Trafalgar Housing Association

2. Introduction

- 2.1 This procedure should be read in conjunction with the Joint Policy on Anti Social Behaviour and the Neighbourhood Mediation Procedure.
- 2.2 While it is recognised that this procedure lays down a generic process for the investigation of neighbour complaints, it is also recognised that each partner must necessarily have discretion in certain aspects, i.e. service of Notice of Proceedings for Recovery of Possession, recording of complaints and information, etc.
- 2.3 It is also recognised that all partners may not utilise certain methods, such as Acceptable Behaviour Agreements (ABA) and Unacceptable Behaviour Notices (UBN) nevertheless it is a matter for each partner to pursue the action deemed most appropriate in the circumstances.
- 2.4 Where cases have been referred to ASIST by West Dunbartonshire Council, ASIST will make the decisions in respect of the most appropriate measures, and will instruct legal action where necessary.

3. **Anti Social Behaviour - Definition**

3.1 **Anti Social Behaviour** is defined under Section 143 of the Anti Social Behaviour, etc (Scotland) Act, 2004 as: -

A person (A) engages in anti social behaviour if 'A': -

(a) Acts in a manner that causes, or is likely to cause alarm or distress;

or

(b) 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 as 'A'.

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

However, it must be borne in mind that: -

(a) Conduct which in law amounts to anti social behaviour does not necessarily mean that that such conduct also amounts to a criminal offence, and

(b) Conduct which does amount to a criminal offence does not necessarily also fall within the legal definition of anti social behaviour.

4. **Categorisation of Neighbour Complaints**

4.1 Neighbour complaints are categorised under one of the following three groupings: -

- A: Extreme
- B: Serious
- C: Nuisance / dispute

4.2 Examples of each are as follows: -

Category A – Extreme

- Drug dealing
- Unprovoked assault
- Hate crime/other harassment
- Violent conduct towards neighbours/council staff

Category B – Serious

- Frequent disturbances
- Vandalism/damage to property
- Threatening behaviour

Category C – Other nuisance / disputes

- Infrequent disturbance
- Noise complaints
- Running a business
- Verbal harassment
- Unauthorised alterations
- Behaviour of visitors/children
- Basic breaches (i.e.) pet nuisance, stair cleaning
- Maintenance of garden/common grounds etc.
- Boundary disputes
- Family disputes affecting neighbours

5. Neighbour Complaint Response Times

Action	Category A	Category B	Category C
Contact Complainer	24 hours	3 working days	5 working days
Contact Neighbours / Witnesses	24 hours	3 working days	5 working days
Interview Alleged Offender	24 hours	5 working days	10 working days
Liaise with Other Agencies	24 hours	5 working days	10 working days
Case Evaluation / Action	24 hours	5 working days	15 working days

6. Evidence Gathering

- 6.1 While it may be possible to resolve a neighbour complaint informally, it may also be the case that the complaint may necessitate a protracted investigation. This being the case, it is essential that evidence gathering should commence once a complaint has been received and acknowledged.
- 6.2 Any information relating to the case should be documented and retained on file
Evidence may take the form of:
- Neighbour complaint form / letter of complaint
 - Letters
 - file notes
 - telephone calls
 - details of visit / interviews
 - diaries
 - incident logs, police / social work reports
 - photographic / video evidence
 - newspaper cuttings etc
 - notes / minutes of meetings / case conferences
 - Court extract of convictions
- 6.3 Housing Officers / Estate Management Officers (HO / EMO) should also remember to check existing records for any previous complaints / incidences of anti-social behaviour. Checks should also be made with social work department to ascertain if they have had any involvement with the person(s) being complained about.
- 6.4 Legal cases against anti-social tenants, residents, family members or other persons can often take considerable time to conclude, and therefore we should continue to maintain records even once the court

proceedings have commenced, as they may be required for inclusion in the pleadings at a later date.

- 6.5 It is also important that if a case proceeds to court, any files held by us relating to the case can be viewed by the “defendant’s” legal team. Therefore staff must ensure that any documented views (made by the investigating officer) are based on fact and are not merely subjective comments.
- 6.6 It is essential that throughout the period of investigation that the complainer(s) and the person subject of the complaint are kept up to date with what is happening with the case.
- If we have no fresh information to report, for example due to awaiting a police report, we should still ensure that contact with the complainer is maintained.
- By maintaining good communication we will show that we are treating the complaint seriously and that may in itself help the situation.
- 6.7 It is essential the complainer reports all further incidents to the police and to the HO / EMO (or ASIST Officer where the case has been referred to ASIST) and the complainer should be advised of this.
- 6.8. In order to encourage the complainer to do so, the HO / EMO should agree an action plan with the tenant.
- The action plan should include: -
- What actions the HO / EMO will take to resolve the complaint
 - What actions the complainer should take to resolve the complaint
- 6.9 The Neighbour Complaint Action Plan (*Appendix 3*) should be completed in conjunction with the complainer and signed by both the complainer and the HO / EMO.
- A copy should be handed to the complainer, and a copy retained in the case file.

- 6.10 If necessary, the complainer should be advised to keep a diary, indicating: -
- Time, day and date of incident
 - Description of the incident
 - Details of any witnesses
 - Whether police were called
 - Time and date police were called
 - Police officer attending
- 6.11 The Community Wardens are a useful resource in gathering evidence, and will respond to complainers' calls to witness ongoing incidents.
- 6.12 The Community Wardens operate on foot within six core areas: -
- Whitecrook / Clydebank East
 - South Drumry / Linnvale
 - Dalmuir / Mount Blow
 - Dumbarton West
 - Bonhill
 - Haldane
- Mobile Community Wardens cover the remainder of the West Dunbartonshire area, ensuring that all partners have access to either foot patrol or mobile wardens.
- 6.13 A referral can be made to the Community Wardens, using the Wardens Referral Form (*Appendix 7*), requesting that they monitor a specific address for specific behaviour.
- 6.14 The Wardens Service will report back to the referring officer with the outcome of their checks, and will give evidence in court should this be required.

- 6.15 The Out of Hours Noise Enforcement Team (NET) will respond to noise complaints, and where excessive noise levels are recorded, can issue a warning notice or Fixed Penalty ticket to the householder.

- 6.16 NET Officers will provide reports to relevant partners in respect of tenants whom they have issued a warning notice or Fixed Penalty ticket.

- 6.17 NET Officers will only attend calls referred directly from the police, and do not accept calls from members of the public.

7. Interview Techniques

7.1 It is important to obtain as much valuable information as we can at the interview stage. Good practice guides highlight 5 key questions, which we should ensure are asked at the interview stage.

These questions are: -

- **What is the problem? -** helps to establish the *main* problem
- **Who is affected? -** identifies the scale of the problem.
Are surrounding neighbours affected?
- **Where does it happen? -** Identifies locations and suggests
Other possible witnesses
- **When does it happen? -** details of precise times and dates
- **Why does it happen? -** although a subjective view this will
provide useful background
information

It is also useful to ask the following questions: -

- **Has this been reported before?**
- **Is there any previous history between the disputing parties?**
- **How has this affected you?**
How a person has been affected by anti social behaviour may be useful should the case proceed to court, and may help the Sheriff to reach a decision on the action applied for

In addition, it may also highlight any support needs which may not be immediately apparent, and allow the officer to access services to help alleviate any fear or anxiety.

8. Accepting / Recording / Acknowledging a Complaint

- 8.1 A complaint can be made verbally, in writing, or by email by the tenant themselves, or an agent working on their behalf e.g. Councillor, Police, Social Worker, Citizens Advice, etc.
- 8.2 Anonymous complaints should not be overlooked.
If the allegations can be easily substantiated by the HO / EMO e.g. untidy garden, car repairs, etc. then the HO / EMO should speak to the tenant directly.
If however, the allegations are not easily substantiated, then the HO / EMO should take advice from their SHO / HM / ATL on how to proceed with the complaint.
- 8.3 Each complaint whether written, verbal, anonymous, or by email should be recorded in the neighbour complaint register.
- 8.4 Each partner has discretion to record this information in the format which is appropriate to their operation.
- 8.5 The standard Neighbour Complaint Form (*Appendix 1*) affords complainers the opportunity of providing sufficient information to allow an investigation to commence, and complainers should be encouraged to submit complaints on this form. A Neighbour Complaint Continuation Form allows complainers to add further information, such as additional witnesses.
- 8.6 A letter acknowledging receipt of the complaint should be sent to the complainer and an appointment should be made with the complainer (either at their home or in the office) to enable the officer to gather more information about the complaint.

9. Actioning the Complaint

- 9.1 On receipt of a complaint, the HO / EMO will open a case file and record the case on the relevant spreadsheet / database / system which is in operation by the respective partner.
- 9.2 Based on the information provided by the complainer, the HO / SHO / EMO / HM / ATL will consider the level of seriousness of the case, and allocate it a Category A, B or C as necessary.
Further advice / assistance can be obtained from the Assistant Team Leader (ASIST) should any difficulties arise.
- 9.3 The relevant member of staff will carry out a check of the house file to ascertain any previous case history.
Any previous complaints made by or made against either the complainer or perpetrator may be relevant in investigating the complaint.
- 9.4 Checks should also be made to ascertain whether there are any other issues with the tenancy, e.g. rent arrears, and highlight if any other legal action is being considered in this respect.
- 9.5 Where necessary or appropriate, the relevant member of staff will contact the Duty Officer, Social Work Department in order to ascertain whether or not the perpetrator is known to them, whether he / she is a 'live' case, and if so, obtain the name of the social worker involved.
If necessary, the HO / EMO should discuss the case with the social worker involved, making them aware of the complaint. It should be noted that the social worker may be able to provide information which may assist in the investigation, and may also help to resolve the case at an early stage.

- 9.6 Where the complainer has advised that incidents have been reported to the police, the HO / EMO will request a written report from the police in respect of the incidents reported.
- 9.7 Where the complaint is considered to be of a low level or is a one on one dispute, the HO / EMO will consider whether mediation is an appropriate method to resolve the issues.
If so, the Neighbourhood Mediation Service procedure should be followed, and a referral to mediation made using the Mediation Referral Form (*Appendix 6.*)

10. Category A Complaints

- 10.1 Where a case has been graded as a Category A complaint the timescales at Section 5 should be complied with.
- 10.2 Where it is immediately identified that the complaint relates to extreme anti social behaviour, consideration should be given to referring the case directly to ASIST.
- 10.3 Where the complaint is a WDC case, it will be referred to ASIST immediately.
- 10.4 The HO will contact the complainer in order to obtain a statement and full details of the complaint.
An action plan (*Appendix 3*) should be discussed and agreed with the complainer.
A copy of the action plan is to be handed to the complainer, and a copy retained in the case file.
- 10.5 The action plan documents the action which will be taken by the housing officer, and also what action is expected to be taken by the complainer in resolving the complaint.
This action will normally include reporting all further incidents to the police, and to the housing officer, and will act as a reminder to the complainer as to what is expected in order to deal with the complaint.
- 10.6 Where any witnesses are identified, they should also be contacted and interviewed, statements noted and all relevant information obtained.
- 10.7 Corroboration is important at this stage, and the police should be contacted in order to ascertain what action was taken by them and whether or not any criminal charges have resulted.

- 10.8 The HO will also contact and interview the alleged perpetrator, obtaining a statement and any relevant information.
- 10.9 Having gathered as much evidence as possible, the HO will discuss the case with the SHO / HM, and reach a decision on the future progress of the case.
It should be borne in mind that what was initially accepted as a category A complaint may, on investigation be downgraded to a category B or C.
- 10.10 At this point, consideration should be give to referring the case to ASIST.
- 10.11 Where there is no evidence to support the complaint or the complaint is unjustified both the complainer and perpetrator will receive written notification of this, and the case closed.
- 10.12 Where the complaint is justified, the perpetrator should be interviewed by the Housing Officer and issued with a formal warning.
Following the interview, the HO will confirm this warning in writing.
- 10.13 The complainer should be advised that the perpetrator has been issued with a warning.
- 10.14 Where the warning is subsequently heeded, the case should be monitored for a period of between four to six weeks, and thereafter closed if no further complaints are received.
- 10.15 Where the warning is not heeded and further complaints are received, further statements should be obtained from the complainer and any witnesses.
- 10.16 Further police reports should be obtained as necessary.

- 10.17 Where the further complaint is substantiated, the HO will interview the perpetrator and issue a second / final warning, which is again confirmed in writing.
- 10.18 The complainer should be advised of this further warning.
- 10.19 Should any further complaints continue to be received, the HO should discuss the case with the SHO / HM, and consideration should be given to the service of a Notice of Proceedings for Recovery of Possession and potential legal action.
- 10.20 Consideration should also be given to referral to ASIST at this stage.
- 10.21 The ASIST Referral Form (*Appendix 4*) and ASIST Referral Checklist (*Appendix 5*) should be completed with as much information as possible, and passed to the ATL, ASIST.
- 10.22 Where the case has not been resolved by this point, consideration should be given to raising legal proceedings in order to deal with the anti social behaviour.

11. Category B and C Complaints

- 11.1 Where a case has been graded as either a Category B or C, the timescales at Section 5 should be complied with.
- 11.2 On receipt of a Category B complaint, the HO / EMO will open a case file and record the case on the relevant spreadsheet / database / system which is in operation by the respective association.
- 11.3 The HO / EMO will carry out a check of the house file to ascertain any previous case history.
- 11.4 The HO / EMO will contact the complainer in order to obtain a statement and full details of the complaint.
An action plan (*Appendix 3*) should be discussed and agreed with the complainer.
A copy of the action plan is to be handed to the complainer, and a copy retained in the case file.
- 11.5 The action plan documents the action which will be taken by the HO / EMO, and also what action is expected to be taken by the complainer in resolving the complaint.
This action will normally include reporting all further incidents to the police, and to the HO / EMO (ASIST Officer if case referred to ASIST)
- 11.6 Where any witnesses are identified, they should also be contacted and interviewed, statements noted and all relevant information obtained.
- 11.7 Corroboration is important at this stage, and the police should be contacted in order to ascertain what action was taken by them and whether or not any criminal charges have resulted.

- 11.8 The HO / EMO will also contact and interview the alleged perpetrator, obtaining a statement and any relevant information.
- 11.9 Having gathered as much evidence as possible, the HO / EMO will discuss the case with the SHO / HM / ATL, and reach a decision on the future progress of the case.
- 11.10 Where there is no evidence to support the complaint or the complaint is unjustified both the complainer and perpetrator will receive written notification of this, and the case closed.
- 11.11 Where the complaint is justified, the perpetrator should be interviewed by the HO / EMO and issued with a formal warning.
Following the interview, the HO / EMO will confirm this warning in writing.
- 11.12 The complainer should be advised that the perpetrator has been issued with a warning.
- 11.13 Where the warning is subsequently heeded, the case should be monitored for a period of between four to six weeks, and thereafter closed if no further complaints are received.
- 11.14 Where the warning is not heeded and further complaints are received, further statements should be obtained from the complainer and any witnesses.
- 11.15 Further police reports should be obtained as necessary.
- 11.16 Where the further complaint is substantiated, the HO / EMO will interview the perpetrator and issue a second / final warning, which is again confirmed in writing.
- 11.17 The complainer should be advised of this further warning.

- 11.19 Should any further complaints continue to be received, the HO / EMO should discuss the case with the SHO / ATL, and consideration should be given to the service of a Notice of Proceedings for Recovery of Possession and potential legal action.

- 11.20 Consideration should also be given to referral to ASIST for investigation.

- 11.21 The ASIST Referral Form (*Appendix 4*) and ASIST Referral Checklist (*Appendix 5*) should be completed with as much information as possible, and passed to the ATL, ASIST.

12. Case Evaluation

- 12.1 Once all the relevant evidence has been gathered, consideration should be given as to the most appropriate course of action.
- 12.2 Where the evidence indicates that the complaint is of a low level, or is a one on one dispute, consideration should be given to referring the case to the Neighbourhood Mediation Service
- 12.3 In this case, the HO / EMO should complete the Mediation Referral form (*Appendix 6*) and forwarded to the Mediation Co-ordinator, Anti Social Behaviour Task Force.
- 12.4 Where it has been identified that there may be addiction issues or a support need in respect of either the complainer or perpetrator, consideration should also be given to making a referral to the Social Work Department, or to the appropriate agency.
- 12.5 It may useful, and indeed necessary in certain cases, to arrange a formal case conference in order to discuss the relevant issues.
- 12.5 It is equally important that complainers and witnesses feel that are supported during the investigation, and where necessary they should be referred to Victim Support.
- 12.7 Once all relevant evidence has been gathered and documented, an informed decision may be taken as to the most appropriate way to resolve the case.

13. Referral to ASIST

- 13.1 Where, following discussion with the SHO / ATL it has been agreed to refer the case to ASIST, the ASIST Referral Form (*Appendix 4*) should be completed by the HO / EMO, providing as much information and detail as possible.
- 13.2 The ASIST Referral form should be signed off by the SHO / HM / ATL and forwarded to the ATL, ASIST.
- 13.3 Copies of all relevant paperwork and other documentary evidence should be attached to the referral form.
- 13.4 The Referral to ASIST Checklist (*Appendix 5*) provides a useful prompt to ensure that all relevant evidence is passed on. This should also be completed and a copy attached to the referral form.
- 13.5 On receipt of the referral by ASIST, written confirmation of receipt will be sent to the referring officer within 5 days of receipt.
This confirmation will also give the name of the ASIST Officer allocated the case.

14. ASIST Investigation

- 14.1 On allocation of a case, the ASIST Officer will meet with the referring officer to discuss the case. This will provide an opportunity to discuss any sensitive information and highlight any areas of concern. This meeting should take place within 10 working days of receipt of the referral.
- 14.2 The ASIST Officer will carry out a full investigation of the complaint, and in doing so will: -
- Interview all complainers and witnesses.
 - Interview the perpetrator(s).
 - Liaise with the police.
 - Liaise with other relevant agencies as necessary.
 - Call / attend meetings relating to the case
 - Issue warnings to the perpetrator(s) as necessary on behalf of the referring officer.
 - In the case of a Housing Association, where the outcome is legal action, provide any necessary assistance and information to the referring officer, or the association's solicitor.
 - Provide any relevant advice in order to achieve a successful legal action.
 - In a WDC case, instruct the relevant legal action.
 - Where required in any legal proceedings, give evidence on behalf of the referring association / WDC/
- 14.3 The ASIST Officer will maintain regular contact with the referring officer, and provide regular updates as to the progress of the investigation.

- 14.4 During the course of the investigation, the ASIST Officer may form the opinion that mediation may be an appropriate method of resolving the case.
In this circumstance, the ASIST Officer will advise the referring officer, and refer the case directly to the Mediation Co-ordinator to pursue.
- 14.5 Where mediation is successful and the complaint is resolved, The ASIST Officer will advise the referring officer, close the case and return all relevant paperwork.
- 14.6 Where mediation is refused by either party in the dispute, or mediation has not been successful, the Mediation Co-ordinator will pass the case back to the ASIST Officer.
The ASIST Officer will advise the referring officer of this development, and resume the investigation.
- 14.8 At the conclusion of an investigation, the ASIST Officer will discuss the case with the ATL and reach a decision on the most appropriate course of action.
- 14.9 Where the case is concluded without the need for legal action, the case papers along with the ASIST case summary will be returned to the referring officer.
- 14.10 Where further action is advised, ASIST will provide the referring officer with a written recommendation as to the action recommended.
The ASIST Officer will also meet with the referring officer in order to discuss the case and subsequent recommendations in more detail.

15. Cases Involving Legal Action

- 15.1 Where, in the opinion of ASIST, it is appropriate and necessary to raise legal action, this recommendation will be given in writing to the referring officer.
- 15.2 The ASIST Officer will then meet with the referring officer to discuss the recommendation.
- 15.3 In cases referred by an RSL, and where a decision is made to proceed to raising legal action, the referring officer will advise ASIST whether it is necessary for ASIST to continue to investigate further complaints / incidents while the legal process is ongoing.
- 15.4 In cases referred by WDC, ASIST will instruct legal action, and continue to investigate the case for as long as is necessary.
- 15.5 Where the decision is taken by an RSL to raise a legal action, this requires to be pursued by the RSL's solicitor, and they should seek their own legal advice.
- 15.6 A copy of all ASBOs / Interim ASBOs granted in favour of an RSL will be forwarded to ASIST.
- 15.7 Legislation requires that the local authority maintains a record of all ASBOs granted in its favour, and that all ASBOs are reviewed regularly. Therefore, ASIST will also maintain a record of all ASBOs granted in favour of RSLs.
- 15.8 All ASBOs granted in favour of WDC will be reviewed in line with the ASIST *Review of ASBO Procedure.*

15.9 RSLs who have obtained ASBOs may elect to adopt this procedure, or alternatively may elect to create their own guidance for the review of their ASBOs.

16. Case Closure

- 16.1 Before formally closing a case, the HO / EMO will advise the complainer in writing that the case will be formally closed following a period of between four and six weeks, during which time the case will continue to be monitored.
- 16.2 At this point, the HO / EMO will also request the complainer to complete a Case Evaluation / Exit Survey Questionnaire, which will be sent along with the letter advising closure of the case.
- 16.3 It is a matter for each RSL to decide the format of such a questionnaire, and indeed if they wish to carry out this survey.
- 16.4 Where the case relates to an ASIST investigation, ASIST will routinely issue an Exit Questionnaire to all complainers.

17. Freedom of Information (Scotland) Act 2002

- 17.1 The Freedom of Information (Scotland) Act 2002 governs access to information held by Scottish public authorities.
- 17.2 While this legislation places a requirement on local authorities to disclose information, there is no similar requirement in respect of RSLs.
- 17.3 The Act provides exemptions to disclosing information in certain circumstances, e.g. information which WDC does not own.
- 17.4 Where RSLs have referred cases to ASIST, then the information is owned by the referring RSL and not WDC. This therefore would be an exemption and WDC will not disclose this information.
- 17.5 WDC will not disclose any information owned by an RSL to a third party.
- 17.6 Likewise RSLs are requested not to disclose information owned by WDC to a third party without their express consent.
- 17.7 This does not preclude the sharing of this information with the RSLs solicitor for the purpose of legal proceedings.