

North Ayrshire Council - Housing Services

Harassment Policy

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This policy is available in other formats such as audiotape, Braille, and in large print. It can also be made available in other languages, on request.

(This sentence to be translated into the main local languages)

Section 1: Introduction

The development and implementation of this policy is key to the mainstreaming of equalities within Housing Services. This policy is specific to housing issues and supports both the North Ayrshire Council Corporate Equality Policy and the Housing Service Equality Policy.

It has also been developed to integrate with the Housing Service commitments contained within key corporate strategies of North Ayrshire Council, including its:

- North Ayrshire Council Plan;
- North Ayrshire Community Plan;
- Local Housing Strategy;
- Antisocial Behaviour Strategy;
- Homelessness Strategy;
- Disability Equality Scheme;
- Gender Equality Scheme; and
- Race Equality Scheme

The establishment of a harassment policy is important for two reasons. The first reason is that harassment affects many people throughout Scotland and having a detailed policy in place to address forms of harassment is, therefore, essential.

The second reason is that dealing effectively with harassment is part of our corporate aim to promote inclusive communities in which people can live free from harassment.

Harassment is defined in law to include behaviour that causes alarm or distress to another person. This policy addresses harassment on equality grounds; our antisocial behaviour policy and procedures covers all other forms of harassment. North Ayrshire Council has a statutory duty to promote equality, and eliminate harassment, on the grounds of race, gender and disability. Whilst this policy has been developed to ensure this statutory requirement is met it will also apply

equally to instances of harassment under the following equality grounds:

- sexual orientation;
- beliefs and opinions, including political and religious belief; and
- age.

Section 2: Policy aims

The Council condemns all forms of harassment and will vigorously pursue action against all perpetrators. North Ayrshire Council is committed to promoting a safe and secure environment so that its residents are able to live peacefully in their own home and communities. All complaints of harassment will be treated equally by the Council irrespective of the ground under which the complaint is made. The approach to dealing with all such complaints will be victim centred and achieved by working in partnership with Strathclyde Police and other agencies and service providers. The service is available across all tenures, although powers to act may vary depending on the tenure of the offender.

This policy covers incidents of harassment involving tenants, residents and service users. Incidents of harassment involving employees are dealt with through North Ayrshire Council's Corporate Employment Policy and Procedures. This also applies to incidents involving discriminatory practices.

The policy is supported by detailed staff procedures that outline what steps staff should take to address harassment.

This policy and the related procedures incorporate the policy principles contained in North Ayrshire Council's corporate Equality Policy.

Section 3: Policy objectives

To pursue the appropriate legal and management remedies to prevent or eliminate harassment.

To ensure that tenants of the Council are aware of and fulfil the obligations of their tenancy agreement regarding standards of behaviour, and that landlords fulfil their obligations to address instances of harassment.

To provide complainers and witnesses with high quality and accurate information and feedback throughout the investigation process and provide or refer them to support services as required.

To provide support for the perpetrators of harassment to assist them in modifying the offending behaviour.

To ensure that actual or potential perpetrators are aware of the consequences of their actions.

To ensure that services are easily accessible and that the complaint is dealt with in a sensitive and appropriate manner with due regard to the needs of the individual complainer.

To hold multi-agency case conferences as appropriate in order to make use of all available remedies and resources of partner agencies.

To ensure young people involved in instances of harassment are dealt with in an appropriate manner recognising the particular needs of this vulnerable group and the local authorities legislative obligations.

To ensure the appropriate sharing of information takes place between partners.

To produce written information that provides victims and other service users with advice concerning actions to address forms of harassment

To ensure all relevant Council, voluntary services and other agencies are involved to support vulnerable complainers and witnesses.

To ensure that those subjected to threats of external violence are provided with support to enable them to feel safe in their own homes.

To use eviction as a last resort and ensure any person who has been evicted due to harassment is advised of any statutory obligations the Council has towards them in terms of homelessness.

To monitor performance against the Antisocial Behaviour and Equalities Service Standards.

To regularly carry out performance monitoring on the economy, efficiency and equity of the Policy.

To provide staff with regular training to ensure that the policy is implemented effectively and quality services are delivered consistently.

To ensure complainers and witnesses receive fair and equal treatment in line with the Corporate Equal Opportunity Policy. For example ensure same sex interviews are available and translation or interpretation services are offered.

To ensure that owner-occupiers are aware of their responsibilities to their neighbours and, where appropriate, take action to correct the offending behaviour.

To encourage those affected by harassment to report incidents and be confident their complaint will be treated seriously and investigated properly.

To process personal information in line with data protection principles and statutory requirements

To ensure every effort is made to prevent the necessity of legal action with the emphasis being on early intervention and prevention.

To consider the merits of mediation on an individual case basis.
To ensure that, where appropriate, transfer applications and right to buy applications are cancelled or suspended.

To ensure that no sanctions are imposed or enforcement action taken against any individuals prior to investigating and substantiating any complaint.

To take account of and monitor the Service Level Agreements with partner agencies.

To make early personal contact with complainers via home visits and telephone calls.

Where possible introduce and implement positive action programmes to address forms of harassment

To ensure that the principles of customer care are fully adopted in dealing with complaints of harassment.

Section 4: Management approach and legal framework

This section describes (a) our general management approach to resolving incidents of harassment and (b) legal remedies to address harassment. This section does not deal exclusively with the local authority's powers to act. In some cases the individual will be able to pursue their own legal action independently of the local authority.

4.1 Management approach

Our general approach to addressing forms of harassment derives from the corporate organisational Anti-social Behaviour Strategy.

In line with this Strategy – itself based on principles of good practice – we will, in the majority of cases, implement a range of management remedies before considering the use of legal remedies. Legal remedies are covered in section 4.2.

The main management actions that we consider are:

- acceptable behaviour contracts;
- Home Security Project;
- investigations;
- mediation;
- multi agency case conferences;
- re-housing victims or perpetrators in other housing;
- suspension of offer of housing;
- suspension of right to buy;
- unacceptable behaviour notices; and
- warnings

4.1.1 Acceptable Behaviour Contract (ABC)

This is a management approach that involves agencies working together to provide support to the offender to prevent unacceptable behaviour. This involves the signing of an ABC by the agencies involved and the offender.

4.1.2 Home Security Project

This project addresses the security needs of those affected by antisocial behaviour, harassment, threats of external violence or domestic abuse. The intention is to make the client group feel safe and secure in their own homes and to prevent homelessness.

4.1.3 Investigations

All allegations of harassment are investigated and appropriate warnings are given if we can obtain evidence of alleged harassment.

4.1.4 Mediation

Mediation may be suitable in certain cases, for example, if the perpetrator of harassment is unaware that his actions are harassing others. Mediation helps open up communication between both parties in a dispute. Trained mediators provide a safe environment for those involved to reach their own agreement to avoid future conflict.

4.1.5 Multi-Agency Case Conference

Serious and persistent complaints of antisocial behaviour or harassment will be dealt with by a partnership approach. Agencies with an interest in a particular case will be asked to attend and the partners will carefully consider, and agree, how best to resolve the problem using the powers and resources available to all the partners.

4.1.6 Re-housing victims or perpetrators in other housing

We also consider re-housing victims of harassment in other areas if this is the most appropriate method of resolving a particular case.

The appropriate circumstances where this may be considered are detailed in our allocation policy and procedures.

We may also request the perpetrators of harassment move to other accommodation voluntarily. For example, we might do this in the case

of existing council tenants. If this approach is ineffective, we may raise court action to transfer a tenant to other suitable accommodation. Further information on this procedure is given below.

4.1.7 Suspension of offer of housing

We are currently establishing a suspension policy under which applicants for housing may not receive offers of housing due to their conduct. This might include acts of harassment that represent a breach of tenancy conditions.

It is noted that applications remain on the housing list but are suspended from consideration of offers.

4.1.8 Suspension of right to buy

We can suspend a tenant's right to buy if she/he acts in an anti-social manner (including harassment) and recovery of possession is being considered. In order to do so, we must first serve a notice of proceedings that specifies the ground on which recovery of possession is to be raised. Although also a legal remedy, this is noted here as it is a general preventative measure that covers a range of breaches as well as harassment.

4.1.9 Unacceptable Behaviour Notice

This is a formal warning that may, but not always, be issued in partnership with the police. It indicates the offending behaviour and the consequences should the behaviour continue.

4.1.10 Warnings

If appropriate we would issue warnings against perpetrators of harassment and advise them of subsequent actions that might be applied if harassment continues. If the harassment is of a very serious nature, we may proceed directly to more severe action against the perpetrator. We work closely with victims of harassment

and keep them advised of actions taken, in line with the published service standards.

4.2 Legal remedies

This section summarises specific legal remedies that we consider to eliminate or alleviate harassment. These remedies are:

- anti-social behaviour orders;
- Short Scottish Secure Tenancies;
- evictions;
- compulsory transfers;
- interdict; and
- other statutory powers

4.2.1 Anti-social behaviour orders (ASBOs)

This is a **civil** court order that seeks to stop someone from carrying out a course of conduct that is causing alarm or distress to other people. This might include behaviour that constitutes harassment.

The relevant law covering ASBOs is the **Antisocial Behaviour etc; (Scotland) Act 2004**.

4.2.2 Short Scottish Secure Tenancy

We may grant a Short Scottish Secure Tenancy to tenants where we have obtained an eviction decree against them on grounds of anti-social behaviour within the previous three years.

Although of limited security, we normally provide the tenant or joint tenant with support with a view to granting a Scottish Secure Tenancy if the person's conduct improves.

We may also convert an existing Scottish Secure Tenancy to a Short Scottish Secure Tenancy by service of notice. This may happen if the

tenant (or other people staying with the tenant) is subject to an Anti-Social Behaviour Order.

4.2.3 Eviction

We may consider raising court action to obtain an eviction order against tenants who breach their terms of let due to harassment.

We would do this through powers contained in the Housing (Scotland) Act 2001.

We will do this only if we can persuade a Sheriff that (a) the ground of anti-social behaviour can be established and (b) it is reasonable to evict the tenant for this behaviour. Normally this is after all other appropriate options have been exhausted.

We would also advise tenants to seek their own legal representation in the event of such action being taken.

4.2.4 Compulsory transfer

We may seek to transfer a tenant compulsorily to alternative suitable accommodation to resolve particular management issues, for example, anti-social behaviour; and harassment might constitute anti-social behaviour.

We would do this through powers contained in the Housing (Scotland) Act 2001.

Before a court will grant an order for eviction, we must provide alternative suitable accommodation by the date the eviction order takes effect.

4.2.5 Interdict

Interdict is a **civil** court order that aims to stop someone from doing something that should not be done. The complainer can pursue an interdict on their own behalf but, in some very limited circumstances,

the local authority may have title to pursue the interdict on behalf of the complainer

Breach of interdict is a **criminal** offence and the offender may be fined and/or imprisoned.

4.2.6 Other statutory powers

Other statutory provisions exist to address a variety of forms of harassment, including harassment on the grounds covered in this policy, namely:

- age;
- beliefs and opinions;
- disability;
- race;
- sex; and
- sexual orientation.

This section outlines the key statutory legal powers that exist to address harassment.

It is emphasised that these individual legal remedies may be combined in certain cases.

(a) Protection from Abuse (Scotland) Act 2001

This Act allows for a power of arrest to be attached to interdicts that have been granted to protect individuals from abuse. Abuse can include harassment.

A person in breach of an interdict can be arrested if the police consider that this involves risk of further abuse.

Breach of an interdict is a criminal offence. The Individual would normally pursue this particular remedy but, in some very limited circumstances, the local authority may have the right and title to apply on their behalf.

(b) Protection of Harassment Act 1997

If someone is harassed by another person, she/he can raise a civil action known as an action of harassment.

The sheriff court may:

- award damages, including damages for anxiety caused by the harassment;
- grant an interdict or interim interdict; or
- grant a “non-harassment order” requiring the person to refrain from carrying out any further harassment

Breach of a non-harassment order is a criminal offence. A person who breaches the order can be fined and/or imprisoned. Again, the individual would normally pursue this particular remedy but, in some very limited circumstances, the local authority may have the right and title to apply on their behalf.

(c) Equality provisions to address harassment

Equality law provides for a number of specific remedies. These are separate from remedies available under the Acts described above. The following illustrates examples only of possible remedies using equality laws and is not intended to be a precise statement of law or to provide a full list of possible remedies.

Beliefs and opinions

Equality Act 2006

Disability

Disability Discrimination Act 1995

Race

Race Relations Act 1976

Sex

Sex Discrimination Act 1975

Sexual orientation

Equality Act 2006

Note

There are no specific Regulations concerning harassment in respect of issues concerning age (excluding employment). If harassment on grounds of age occurs, then specific remedies would be considered, for example, using the remedies available in the Protection from Harassment Act 1997.

Section 5: Implementation

The Council will pursue complaints of harassment in line with its statutory powers, duties and harassment procedures. These procedures are underpinned by the following two key principles.

The first principle is that we assess each case on an individual basis to evaluate the issues comprehensively. This ensures that each case is assessed reasonably by taking account of the victim's individual circumstances.

The second principle that we adopt is to discuss possible options for resolving the harassment with the victim. For example, we will discuss how management approaches may address the harassment, or legal remedies that might be appropriate; this includes legal options available to the individual and the local authority.

Staff procedures involve the following stages:

- recording harassment complaints;
- carrying out investigations;
- deciding appropriate actions; and
- implementing action

5.1 Recording harassment complaints

We record all complaints of harassment using standard documentation. This is essential to establish clear consistent records that will be required in the event of legal action.

5.2 Carrying out investigations

Complaints of harassment are viewed as being forms of serious anti-social behaviour and/or criminal behaviour.

We arrange to meet the complainant, as soon as possible, and in line with published service standards, to discuss matters, including appropriate remedies.

We will appoint an interpreter, as required, and meet the costs of providing this service. For example, an interpreter may be required if the complainant is a hearing impaired person, or whose main language is not English.

Investigations are recorded on a central file relating to each case. This will include details of all relevant matters, including meetings with residents, tenants and other agencies such as the police and social work.

We carry out investigations in line with the timescales in our published service standards.

5.3 Deciding appropriate actions

After inquiries have been carried out, we will decide what actions, if any, are appropriate to address the complaint of harassment. We will decide this in consultation with the complainant. This will include considering appropriate management and legal remedies outlined in section 4.

In cases that involve harassment by private sector landlords, for example, we will work closely with the landlord to ensure that they meet their obligations as a landlord and that appropriate action is taken to resolve the complaint.

If appropriate we will advise the complainants to contact other agencies that can provide comprehensive legal advice. We will also discuss with the complainer the role of other agencies and their powers to act.

5.4 Implementing actions

The action or actions that we implement depend on an assessment of each case.

The factors that will influence actions taken include:

- nature and level of the harassment;
- evidence available to substantiate the complaint of harassment;
- and
- actions that can be taken by other agencies, for instance, the police.

6: Responsibility

The overall responsibility for this policy lies with the Head of Housing and the effective implementation of the policy lies with the senior management team.

Section 7: Monitoring performance

Monitoring the implementation of the harassment policy is an important part of quality assurance.

It is also essential to ensure that our practices in addressing harassment are subject to continuous improvement.

We monitor a broad number of issues directly concerned with this policy.

We also monitor the provision of information to ensure that we provide quality services.

Reports on incidents involving harassment are presented to the Multi Agency Diversity Incident Monitoring (MADIM) Group, Head of Housing, Principal Officer of Antisocial Behaviour and Community Safety and the chair of the Equalities Working Group.

Section 8: Training

We are establishing a training policy that summarises our commitments to the provision of training for all staff.

We provide a diverse range of training that covers:

- equality legal training, including legal remedies available to address harassment;
- training on the Codes of Practice that provide guidance on good practice methods to adopt to address harassment;
- our harassment policy and procedures; and

- specialist training as appropriate such as recognising institutionalised forms of harassment and how to address harassment effectively.

Section 9: Complaints

Complaints are different from appeals; and we have an established corporate procedure for dealing with complaints.

Complaints can be lodged if we fail to:

- apply the harassment policy properly; or
- provide services in line with organisational service standards, for instance, failing to respond to complaints of harassment in line with time scales

We provide tenants with a copy of our corporate complaints procedure when signing their tenancy agreement. We also advise all service users of this procedure should they wish to make a complaint. Details of the complaint procedure are freely available in leaflet format from all Area Housing Offices

We also provide information about the Scottish Public Services Ombudsman who deals with complaints involving maladministration. Service Users must generally use our internal complaints system before contacting the Ombudsman.

Section 10: Consultation and review

Consultation has taken place with tenants, service users, local organisations and representative bodies when developing this harassment policy.

This includes consultation with, for example:

- tenants' groups;
- North Ayrshire Womens Aid;
- other council departments such as social services; and

- other agencies such as The Disabled Persons Housing Service, Victim Support, Procurator Fiscal's Office and Strathclyde Police

We review the harassment policy every three years, or as required. For instance, review of the harassment policy may be necessary to take account of legal changes or new good practice publications. Any proposed changes to the policy will require to be approved by the North Ayrshire Council Executive.