

Neighbour disputes and Antisocial Behaviour



Neighbour disputes and antisocial behaviour

People can have disputes with their neighbours over a range of issues from too much noise to problems with parking, rubbish, pets and so on. This leaflet gives you practical advice for dealing with these problems and explains options that may be available regarding problems with your neighbours.

Sometimes issues can be more serious and everyone has their own opinion about what counts as antisocial behaviour. However, The Antisocial Behaviour etc (Scotland) Act 2004 defines antisocial behaviour as *'Behaviour which causes, or is likely to cause, alarm or distress to one or more persons, not of the same household, or where a course of conduct has been pursued which caused, or was likely to cause, alarm or distress'*. A *'course of conduct'* involves behaviour on at least two occasions.

We can only take action if a complaint is about an ANCHO tenant. If you have a complaint about a homeowner or a tenant of a private landlord, you can contact the Antisocial Behaviour Investigation Team. If you have a complaint about a Council tenant, you should contact the appropriate Area Housing Office.
(Contact details are at the end of this leaflet)

Wherever possible we will try to help you and your neighbours to settle your dispute informally. However, in more serious cases, where a tenant or their visitor is responsible for persistent nuisance or harassment, we will take action under their tenancy agreement or other legal action.

In some situations, we won't be able to take any action. For example, if a tenant's behaviour is not unreasonable or they are not breaking their tenancy agreement.

What you can do if you have a problem with a neighbour

If possible, you should try to solve the problem yourself. Your neighbour may not realise how their actions are affecting you and you may be able to solve the problem by talking to them about it. Telling someone that their behaviour is upsetting their neighbours can often be enough.

When you speak to your neighbour, try to explain why their behaviour is causing you a problem. Follow the tips below.

- » Try to deal with the neighbour yourself. If your complaint is passed on by someone else or is overheard, it could be misunderstood and may make matters worse.
- » Plan a sensible time and a private place to talk to your neighbour. This should be when you can be calm about the situation, but let a family member or friend know where you are.
- » Let the neighbour know you are glad to have the chance to deal with the situation.
- » Think carefully beforehand about what you want to say. It is best to be clear about what the problem is. Stay calm and don't get involved in an argument.
- » Don't accuse, insult or blame anyone, no matter how upset or angry you feel. It will not help and could make things worse.
- » Don't assume you know why someone behaved as they did. You may be wrong about the reasons for their behaviour.
- » Give the other person a chance to have their say. It is important to let them know you are listening to them, even if you don't agree with what they say.
- » Be prepared to talk about all aspects of the problem, and spend time talking about how it can be sorted out.
- » Work on the problem with everyone who is involved, trying to make sure there is a solution.
- » If your neighbour is unreasonable, walk away.

If the situation does not improve or you think it is too serious for you to deal with, contact your Tenancy Officer. He/she will investigate your complaint and deal with it in confidence.

What we can do if you have a problem with a neighbour

We can:

- » take the situation seriously and thoroughly investigate your complaint;
- » give you a high standard of customer service and keep you informed during of investigation;
- » work with other departments and outside agencies (for example, social services, environmental health and the police);
- » offer you help to solve the problem through mediation; and
- » tell you what action you can take and who you should contact if your neighbour is not an ANCHO tenant.

We cannot:

- » take action against someone who is not an ANCHO tenant (but we will refer you to the appropriate agency);
- » stop someone from doing something that is not illegal or does not break their tenancy agreement;
- » take action without any evidence to support your complaint; or
- » evict people from their homes unless the Sheriff thinks it is 'reasonable' after a court hearing.

Our policy on neighbour problems

We are committed to tackling neighbour problems. We will investigate all neighbour disputes and antisocial behaviour reported to us. We will give advice or take action where necessary. However, we cannot get involved if the problem is simply about the different lifestyles of tenants. You must be prepared to put up with normal levels of noise from neighbours.

If possible we will stress the need for you to make the peace with your neighbour and avoid confrontation. But in serious cases, we will take action straight away. We will show that we will not put up with antisocial behaviour.

We will do whatever is necessary (including entering into an acceptable behaviour contract or issuing an antisocial behaviour order), to deal with the problem.

What will happen when you contact us?

We will keep your complaint confidential. At this stage, we will not tell your neighbour (or anyone else) that you have complained unless you want us to do so. We will then make a record of your complaint and categorise it as follows.

Category 1: Neighbour Nuisance

This means behaviour which may be of a relatively minor nature but which unreasonably interferes with other people's right to the use and enjoyment of their home and community and involves a breach of the tenancy agreement. Examples include occasional noise or disturbance; not controlling dogs or other pets; unruly behaviour of children which is causing a nuisance; garden upkeep; litter and refuse control; parking or carrying out work to vehicles in a way that causes a nuisance.

Category 2: Antisocial Behaviour

As per Part 13 of the Antisocial Behaviour (Scotland) Act 2004 this is defined as 'A person who acts in a manner that causes or is likely to cause alarm or distress or pursue a course of conduct that causes or is likely to cause alarm or distress, to at least one person who is not of the same household'.

Examples include more excessive or wilful noise nuisance; vandalism or damage to ANCHO's or another resident's property; rubbish dumping. Behaviour which is first categorised as Category 1 may be re-categorised as Category 2 if the nuisance persists even after we have intervened.

Category 3: Serious Antisocial Behaviour

Examples include threatening or abusive behaviour towards neighbours or members of our staff, agent or contractors; violence, unprovoked assault or drug dealing; dangerous driving on ANCHO housing developments.

Category 4: Harassment

This behaviour is deliberately intended to intimidate, dominate or harm an individual or any incident which is perceived to derive from prejudice or hatred of the victim. This includes age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex or sexual orientation.

Category 5: Non-Tenancy Complaints

These are complaints which are not primarily about housing matters, for example, complaints about child protection or abuse or public services (e.g. refuse collection; road sweeping) where ANCHO is not directly responsible for taking action but has an interest and/or duty to intervene in some way. Although we will not investigate these complaints, we will either refer you to the appropriate agency or pass on your concerns.

What will happen next?

We will write to you to confirm that we have received your complaint. We will then investigate the complaint and, where necessary, a Tenancy Officer will interview you. This interview can be at our offices or at your home, whichever is more convenient for you. You can talk about the problem with the Tenancy Officer and hopefully agree on a plan of action. This will include things that you can do and what we can do to try and help.

For example, the plan could be for:

- » you to approach your neighbour to talk about the matter;
- » the Tenancy Officer to interview or write to your neighbour;
- » you and us to collect more evidence (from diaries, photographs, other neighbours, the police and so on); or
- » legal action to be taken if it is reasonable to do so.

We aim to do this within 5 working days of receiving the complaint.

We will investigate complaints on a fair and non-discriminatory basis and encourage both sides to work at settling the dispute together by promoting mediation where appropriate.

If appropriate we will work with other relevant agencies to make sure a multi-agency approach is taken to the investigation and resolution of complaints. Where young people are offenders of antisocial behaviour, we will work closely with relevant local authority departments, Children's Reporter, and schools to deal effectively with these issues.

When will we take action?

We will not take action until we have checked that your complaint is justified and got proof that the tenant has broken their tenancy agreement. The action that we take will reflect the category we place your complaint in.

We will tell your neighbour to stop causing the nuisance and **we aim to contact them within 10 working days of receiving the complaint**. If this does not solve the problem, and your neighbour ignores our warnings, we will take more action against them. This may include legal action.

In some cases, we may not be able to take any further action (for example, if there is no evidence to support your complaint or the tenant has not broken their tenancy agreement).

We will try to resolve cases within 28 days from the date the complaint is received. Where no further complaints are received the case will be closed and the relevant parties notified.

What do we mean by proof

Success in dealing with antisocial behaviour depends crucially on evidence from residents and/or corroborative evidence from the Police or other agencies.

We will take steps to encourage residents to come forward with evidence of antisocial behaviour and crime in their area. You can help us by telling us of any other witnesses you know of.

What do we mean by resolved:

We would consider a case to be resolved where we have taken appropriate measures, as set out in our policies and procedures, to address the cause of the antisocial behaviour complaint and have advised you of the outcome; or

Where we do not have the authority or powers to resolve a complaint and have given you a full explanation of our position (for example where the police have charged someone and we are awaiting the outcome of the court).

Legal action

In most cases, we will not need to take legal action, and we will do everything possible to solve the problem without going to court. However, in some cases we can and will apply to the court for:

- » an interdict;
- » an antisocial behaviour order (ASBO); or
- » a decree to evict the problem tenant and those who live with them.

These remedies, which are explained on the following pages, are granted by the Sheriff. This means that we must give the court satisfactory evidence of the problem. To be successful, court action might involve other agencies (such as environmental health, the police etc.) investigating the matter and/or you and your neighbours being willing to give witness testimony.

Interdicts

An interdict is an order to prevent a person or certain people from repeating certain nuisances (for example, acts of violence or harassment). Interdicts can only be used to stop a person from doing something, they cannot be used to make a person do something (for example, to make them clean the stairs or keep their garden tidy).

Any individual person, as well as us, can also apply for an interdict. In certain serious and urgent circumstances, the Sheriff can grant an 'interim interdict' until he or she decides whether to grant a full interdict. ANCHO can apply for an interdict instead of, or as well as, applying for an order for eviction.

If your neighbour continues to be a nuisance, they are classed as being 'in breach of interdict'. This could lead to your neighbour having to pay a fine or possibly going to prison. However, we will have to go back to court to prove our case to the Sheriff.

Antisocial behaviour orders (ASBOs)

Antisocial behaviour orders (ASBOs) can be used to tackle serious antisocial behaviour like drug dealing, unprovoked assault, severe harassment, persistent vandalism, serious damage to property, racial harassment and so on.

Like interdicts, these orders try to prevent a person from doing something which is causing alarm or distress in the community. ASBOs can be taken out against anyone over the age of 12 who is guilty of serious antisocial behaviour on at least two separate occasions.

If someone does not keep to an ASBO against them, the police may arrest them and they may have to pay a fine or go to prison.

Decree for eviction

If all other attempts to solve a problem have failed, we can apply to the court for a decree to evict the tenant who is causing the problem. The process of getting a decree for eviction can take some time and usually involves people giving evidence in court. In all cases, the Sheriff decides whether to grant a decree for eviction. Under the Housing (Scotland) Act 2001, we must show the Sheriff that it is 'reasonable' to evict the tenant. So we need strong supporting evidence from neighbours and also from other agencies and council departments, like the police and environmental health.

If the Sheriff grants a decree for eviction for antisocial behaviour, we will not offer the problem tenant another Scottish Secure Tenancy with us within three years of the date of the decree. However, we may offer a Short Scottish Secure Tenancy which gives them fewer rights.

Noise complaints

Excessive noise can make life a misery; noisy neighbours, barking dogs or music are just some of the problems that can be experienced. Many noise problems, particularly those involving neighbours, can be resolved informally by explaining to your neighbours the upset they are causing. However, when this approach fails there is other help available.

Examples of domestic noise include:

- » amplified music
- » DIY or car repairs
- » domestic appliances (eg TV, washing machine etc)
- » musical instruments
- » domestic alarms
- » barking dogs (see comments below on annoying creatures)
- » banging doors
- » raised voices

North Ayrshire Council, Environmental Health can give advice and help, as well as be able to issue notices and fines. They can be contacted on 01294 324339 (Monday to Thursday - 9am to 4:45pm, Fridays - 9am to 4:30pm).

Outwith office hours you Police Scotland can be contacted on 101. The Police can also give advice and help, as well as be able to issue warnings and the power to seize noise-making equipment.

Remember to report the incident to us so that we can speak to other neighbours and try to gather witness statements and request reports from Environmental Health and/or Police. This will help us when investigating your complaint.

Drug dealing/production of drugs

Drug dealing or the production of drugs can be difficult to resolve quickly and legal action can be complicated and can take a considerable amount of time. Where an allegation of drug dealing is received we need a conviction before we can start action to end a tenancy. The fact someone has been charged by the Police is not normally enough evidence to allow to us to evict a tenant.

If you witness or are aware of drug dealing you should contact Police Scotland or Crimestoppers.

Service Complaints

We are committed to providing a quality service and you can complain if you are unhappy with the quality of service you have received from us. All complaints about the quality of service are dealt with in line with our Complaint's Policy and Procedures. A separate leaflet is available from our office explaining this process.

Useful telephone numbers

ANCHO	01294 313121
Crimestoppers	0800 555 111
North Ayrshire Antisocial Behaviour Investigation Team (Complaints regarding owner occupiers or private tenants)	01294 314640
North Ayrshire Council (Area Housing Offices) (Complaints regarding Council tenants)	
Dalry/Beith Housing Office	01294 835355
Irvine Housing Office	01294 310150
Kilbirnie Housing Office	01505 685177
Kilwinning Housing Office	01294 552261
Largs Housing Office	01475 687590
The Town Hall (Ardrossan, Saltcoats, Stevenston)	01294 310005
North Ayrshire Council (Environmental Health)	01294 324339
North Ayrshire Women's Aid	01294 602424
Police Scotland	to report a crime call 101 in an emergency call 999
Victim Support North Ayrshire	01294 277040

Questions

We're happy to help if you're unsure about what to do. Just call our Freephone number **03030 300 999**



Telephone: 01294 313121



Email: mail@ancho.co.uk



Web: www.ancho.co.uk

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