

Policy and Sustainability Committee

10am, Tuesday, 20 April 2021

Anti-Social Behaviour Motion Report

Executive/routine
Wards
Council Commitments

1. Recommendations

- 1.1 Committee are asked to note the response to the motion as set out below.
- 1.2 Committee are asked to approve the revised City of Edinburgh Council Anti-Social Behaviour Procedure under Appendix 1.

Jackie Irvine

Head of Safer and Stronger Communities and Chief Social Work Officer

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Anti-Social Behaviour Motion Report

2. Executive Summary

- 2.1 The following report is in response to a motion by Councillor Doggart with regard to an upheld complaint against the Council by the SPSO (Case Reference 201906053).
- 2.2 The report provides a response to the following individual questions raised as part of that motion, including;
 - 2.2.1 Council policy regarding tenants against whom repeated allegations of Anti-Social Behaviour have been made;
 - 2.2.2 The responsibilities within the Council for delivering Anti-Social Behaviour policies;
 - 2.2.3 The reasons that contributed to a failure in this case, including the failure to keep reasonable records;
 - 2.2.4 Any changes to policy or process considered in light of this case;
 - 2.2.5 Reassurance that any consideration of the relocation of Council tenants would strongly favour the victims over the perpetrators of alleged Anti-Social behaviour.

3. Background

- 3.1 The Anti-Social Behaviour (ASB) complaint was first reported in March 2018. The service complaint was received on 2 July 2019, citing failures in service delivery over the preceding 14 months.
- 3.2 The Council's stage 2 complaint response letter was issued to the complainant on 28 August 2019. Two of the 3 complaint headers were fully upheld. The overall complaint was partially upheld.
- 3.3 The complaint was escalated to the SPSO, who concluded similar failings following its own review of the complaint but acknowledged errors had been recognised by the Council in the complaint investigation response. A further written apology was

issued to the complainant in October 2020, which reflected actions taken against 4 recommendations made by the SPSO.

- 3.4 All recommendations were completed and reported back to SPSO on 24 October 2020. The SPSO was satisfied with the action taken by the Council.
- 3.5 The investigation undertaken by the Council and subsequent SPSO review concluded the following:
 - 3.5.1 There was a failure to follow up on agreed actions by the Family and Household Support Service (FHS).
 - 3.5.2 Reported ASB Incidents were not recorded in accordance with Procedure.
 - 3.5.3 The Council Officer responsible for screening and allocation of the ASB complaint/referral failed to offer written updates or maintain reasonable contact with the complainant. No immediate action was taken to progress the enquiry i.e. stair investigation following the ASB reports made in 2018.
 - 3.5.4 The FHS service failed to undertake an ASB 'stair investigation' immediately following initial reports of ASB, which, had it taken place, may have expedited the sequence of events, such as issuing of the initial and final warnings, leading to an earlier application for Anti-Social Behaviour Order (ASBO).
 - 3.5.5 Neither the case or the capacity issues cited by the responsible officer were escalated or raised with the Team Manager.
 - 3.5.6 Once the Team Manager had been made aware of the complaint and expression of dissatisfaction, they failed to undertake sufficient enquires, or seek to intervene or review support and intervention offered by the service to that point.
- 3.6 An ASBO was granted against the Person of Interest on 11 September 2020. The perpetrator and subject of the ASBO moved from the offending property in September 2020. The case was closed to the Family and Household Support Service in October 2020. Final contact with the complainant was undertaken on 16 October 2020 as part of a planned exit agreement with the complainant and their family.

4. Main report

- 4.1 The Council's response to Anti-Social Behaviour is governed by legislation, where the standard of proof is prescribed by the court. Individual council officers are unable to influence or effect the threshold under which legal enforcement action, such as eviction and repossession proceedings or applications for ASBO's can be executed.

- 4.2 The City of Edinburgh Council's Family and Household Support Service, formed in 2017 has a remit to respond to and manage cases of residential ASB, Noise and Nuisance behaviour, it also has a wider remit for aspects of Community Safety.
- 4.3 Legal action open to Local Authorities includes, but is not limited to:
 - 4.3.1 Application to court for an ASBO.
 - 4.3.2 Application to court for an Anti-Social Behaviour Notice (ASBN)
 - 4.3.3 Eviction (schedule 2 ground Housing (Scotland) Act 2001, noting 2014 Housing (Scotland) Act changes).
- 4.4 The Family and Household Support service works closely with Council solicitors to operate within the legislative framework and where necessary and appropriate take formative action by preparing cases for court.
- 4.5 Whilst it is acknowledged the impact of anti-social and significant nuisance behaviour, including noise, can be distressing, disruptive and damaging for individuals, families and households, punitive enforcement action, such as an ASBO, can only be pursued where the legal criteria has been satisfied.
- 4.6 Crucially the party applying for the ASBO is required to persuade the court it is necessary to prevent future occurrences of relevant harm from occurring and that the conduct complained of is capable of causing alarm and distress.
- 4.7 Where there exists a sequence of reported episodes of clear and direct ASB taking place within a relatively short period of time, steps can be taken quickly to issue an initial warning, and where sufficient evidence and collaboration exist, a final written warning that can lead to legal action being pursued.
- 4.8 The use of initial and final written warnings is one approach in which to set clear expectations on individuals and households. Such warnings are in place for a predetermined period of time where behaviour is deemed unacceptable or significantly impacts on quality of life or, where it places others in fear and alarm.
- 4.9 All cases must be supported by a robust body of evidence, which can include:
 - 4.9.1 victim impact statements.
 - 4.9.2 reported incidents/events/episodes to police using 101 or 999.
 - 4.9.3 convictions (including drug related offences and domestic abuse) when utilised to demonstrate breach of tenancy agreement.
 - 4.9.4 collaboration (evidence) gathered through localised investigation and enquiry.
 - 4.9.5 use of a RIPSAs (The Regulation of Investigatory Powers (Scotland) Act 2000) application for covert surveillance and sound recording.
 - 4.9.6 significant breach of the tenancy agreement.
- 4.10 In contrast an accumulation of infrequent episodes that takes place over an extended period of time, i.e. years, may not necessarily provide sufficient grounds

to pursue enforcement action, even in cases where a recent episode of ASB or noise has been reported. In a small number of cases where a final warning has expired without incident, similar patterns of behaviour can and do re-emerge. Further delay can be experienced where ASB is taking place but is not reported at the time of the occurrence, thus affecting the effectiveness of any active enquiry or investigation against the perpetrator.

- 4.11 Such outcomes can serve to aggravate, frustrate and compound an already difficult situation, as such it is imperative, council officers charged with compiling evidence in ASB cases do so with a clear understanding of how that evidence will be used in court.
- 4.12 Ineffective case management, as was observed in this case can cause frustration for the victims, particularly if it is not clear what action is being taken.
- 4.13 Cases where there is a sole complainer, can prove significantly challenging as it means if in the event an ASBO is granted by the court, it would be unlikely there would ever be a sufficiency of evidence to prove a prosecuted breach of the ASBO due to the requirements of corroboration of evidence in criminal proceedings. This can be further compounded by the grading of Police responses to calls where other crimes are given priority, meaning that it may be the case that in practical terms police officers may not be available to respond soon enough to witness the behaviour in breach of the ASBO complained of, if at all.
- 4.14 Given the complexities described above it is essential each case is managed on its individual merits and presenting issues. The Council's approach is heavily influenced by matters associated with the time, sequence and context of events and episodes, such as the frequency and severity of the alleged ASB and noise incidents, the degree of assessed (imminent and perceived) risk, the frequency of reporting and the accumulation of reports of ASB (to police and Council).
- 4.15 Mitigating or aggravating factors such as behaviour that cause distress, alarm or fear, where not intended (where perceived to be without malice), such as behaviours that manifest as a result of mental health, addiction and trauma, require an assessment of need and risk (ANR) to support any ultimate decision to pursue enforcement action. It is the case that current legislation and court precedent require Local Authorities to have exhausted all reasonable steps to assist the person to change or modify their behaviour, to seek support to address its cause and to recognise the impact on others, before seeking to use enforcement or punitive action.
- 4.16 The FHS service operate a model of concurrent assessment, planning and intervention that recognises risk, need and vulnerability alongside the impact of behaviour. Officers investigating ASB will also consider carefully any assessed need or vulnerability of the person displaying the behaviour and will seek to support behaviour change where there is a willingness to so.
- 4.17 The option of an alternative property/tenancy will in some circumstances be explored with both parties where ASB is alleged. It is not standard practice to seek

to relocate or encourage victims of ASB to move or relinquish their tenancy, this is not a solution and does not address the cause of ASB.

- 4.18 However, it is the case that where the personal impact of ASB on the victim, their family and/or relationships is significant and may be exacerbating an already delicate situation (victim suffers from mental health or anxiety etc) a temporary or permanent move can be an acceptable and effective solution, elevating the immediate pressure, and in some cases providing a positive outcome. It would never be the case that if/when such a transfer was mutually agreed that the Council would close the ASB case or cease activity to secure legal or enforcement action where required.
- 4.19 ASB and the associated impact, is a matter that requires close cooperation and collaboration between services and partners, crucially Police Scotland, Housing and Legal Services.

Revised ASB Procedure and current practice parameters

- 4.20 In 2019 the FHS service manager commissioned a review of the current suite of ASB procedures and associated guidance. A revised, updated and compliant suite of procedures (see Appendix 1), practice standards and service operating models were developed in readiness for launch in March 2020.
- 4.21 Launch of the new procedures was delayed due to the impact of Covid19.
- 4.22 Work began again in earnest in August 2020 and a final set of 'draft documents' were completed and subject to user testing between September 2020 and January 2021. The ASB Procedure has been further strengthened by the introduction of;
- 4.22.1 a new duty.
 - 4.22.2 screening and allocation system.
 - 4.22.3 case management and review protocols.
 - 4.22.4 operational standards associated with contact with service users and,
 - 4.22.5 case closure protocols.
- 4.23 Due to the current restrictions imposed due to CVD19 and requirements for social distancing the FHS service are currently operating under the parameters of *Phase 1: Resumption of Service*. As such all **face to face** contact with service users must be subject to a Health and Safety risk assessment and approved by a service manager, satisfying one or more of the following criteria.
- 4.24.1 Complex ASB investigation, in particular threatening behaviour with perceived risk of violence or harm.
 - 4.24.2 Duty of care and welfare cases (non ASB); where risk/vulnerability deemed critical and urgent (not child or adult protection) i.e. harassment, risk of family breakdown.
 - 4.24.3 Task oriented activity that is critical to existing support plan and cannot be achieved remotely, or where the nature of support offered is conducive to

face to face contact (service users with visual/hearing impairments, mental health, learning disabilities and those with no access to digital platform).

- 4.24.4 Case by exception, observational visit (i.e. escalation in noise, hoarding causing infestation, health concern, suicidal ideations).
- 4.24.5 Pre-Referral-Screening (diversion from Childrens Reporter).
- 4.24.6 'Safe Space' office-based appointments (Council Resilience Centres, CRCs).

5. Next Steps

- 5.1 The Committee are asked to approve the implementation of the new ASB Procedure (Appendix 1).
- 5.2 The Family and Household Support Service has undertaken a comprehensive review of all ASB, and associated procedures, protocols and operating standards and full implementation will take place incrementally between March and June 2021.
- 5.3 Revised service standards will be used as a means to measure effectiveness including case management oversight and quality of recording.
- 5.4 The revised Procedure and accompanying guidance are underpinned by the Scottish Government's National Framework for Preventing Anti-Social Behaviour - Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland. As such:
 - 5.4.1 All complaints of Anti-Social Behaviour shall be considered and screened for their suitability for mediation.
 - 5.4.2 In all cases FHS staff shall take a restorative approach to dealing with people complaining about ASB and those complained against.
 - 5.4.3 FHS staff shall place Anti-Social Behaviour, those involved and those affected by it, in the wider context of people's previous experiences and circumstances, taking a trauma-informed approach, and, taking a systemic approach, considering all relevant influential factors.
- 5.5 The revised Procedure sets out the approach that will be taken by FHS based on the principles of Prevention and Early Intervention, addressing the root causes of ASB and recognising the wider environmental and cultural context in which some ASB occurs.
- 5.6 The revised Procedure will also:
 - 5.6.1 clarify the role and responsibility of FHS staff when responding to and investigating complaints of ASB and Noise.
 - 5.6.2 offer a clear operational definition and pathway when investigating complaints of ASB and Noise.

5.6.3 provide clear standards of practice, communication and expectations when producing written records associated with the investigation of complaints of ASB and Noise.

5.7 In all cases of ASB, Family and Household Support staff shall seek to effect change for individuals, households and communities through a combination of a high level of 'support and challenge'. This may include the use of enforcement action including Warnings, Anti-Social Behaviour Orders and Evictions where it is considered such action will help to effect long term, sustained change. FHS will continue to offer support to individuals and households in such circumstances.

6. Financial impact

6.1 The Family and Household Support Service is fully funded by the City of Edinburgh Council. All work referred to above is resourced from within its service dedicated budget. As such there is no additional financial impact identified.

7. Stakeholder/Community Impact

7.1 The work of the Family and Household Support Service is closely aligned with the Edinburgh Community Safety Strategy (2020-2023), Community Justice Outcome Improvement Plan (CJOIP), Young People's Strategy and the aims and ambition as set out under the Council's Business Plan; Poverty and Prevention Programme.

8. Background reading/external references

8.1 None.

9. Appendices

9.1 Appendix 1 – Anti-Social Behaviour Procedure (Draft).

Procedures for Investigating Complaints of Anti-Social Behaviour by Family and Household Support

VERSION

VERSION1.2

IMPLEMENTATION DATE

00/00/0000

REVIEW DATE

00/00/0000

DEPARTMENT RESPONSIBLE:

Department:	Communities and Families		
Division:	Safer and Stronger Communities		
Section:	Quality, Governance and Regulation: Family and Household Support Service		
Owner:	Jon Ferrer		
DPIA :	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
	Link to DPIA:		
If appropriate, has Health and safety had oversight of this procedure	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>		
	Name of contact:	Date:	

VERSION HISTORY

VERSION	APPROVED BY	REVISION DATE	DESCRIPTION OF CHANGE	AUTHOR
1.2	Jon Ferrer	15/01/21	Final editing	Scott Watson

VERSION HISTORY

VERSION	APPROVED BY	REVISION DATE	DESCRIPTION OF CHANGE	AUTHOR

DRAFT

PURPOSE

1.1 This Procedure will:

- Clarify the role and responsibility of Family and Household Support staff when responding to and investigating, complaints of household, domestic and some community based Anti-Social Behaviour
- Explain the definition of Anti-Social Behaviour for Family and Household Support staff
- Explain the process for Family and Household staff when responding to, and investigating complaints of Anti-Social Behaviour
- Set out the standards and expectations for Family and Household Support staff in responding to, and investigating, complaints of Anti-Social Behaviour
- Support Family and Household Support staff by offering direction and guidance when responding to complaints of Anti-Social Behaviour.

1.5 This Procedure and accompanying guidance are underpinned by the Scottish Government's National Framework for Preventing Anti-Social Behaviour- Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland.

1.6 The Procedure sets out the approach that should be taken by Family and Household Support based on the principles of Prevention and Early Intervention, addressing the root causes of Anti-Social Behaviour, recognising the wider environmental and cultural context in which some Anti-Social Behaviour occurs.

1.7 Family and Household Support staff shall approach complaints of Anti-Social Behaviour within the framework of Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland, along with Family and Household Support's Three Pillars of Practice: Mediation, Restorative Practice, and Systemic Approach. As such:

- All complaints of Anti-Social Behaviour shall be considered and screened for suitability for Mediation
- In all cases Family and Household Support staff shall take a restorative approach to dealing with people complaining about Anti-Social Behaviour and those complained against
- FHS staff shall place Anti-Social Behaviour, those involved and those affected by it, in the wider context of people's previous experiences and circumstances, taking a trauma-informed approach, and, taking a systemic approach, considering all relevant influential factors.

1.8 In all cases of Anti-Social Behaviour, Family and Household Support staff shall seek to effect change for individuals, households and communities through a combination of a high level of 'support and challenge'. This may include the use of enforcement action including Warnings, Anti-Social Behaviour Orders and Evictions where it is considered such action will help to effect long term, sustained change. FHS will continue to offer support to individuals, households and communities in such circumstances.

1.9 FHS staff shall use the Civica Authority Public Protection (APP) system as the primary recording system for complaints, enquiries about, and investigations into, Anti-Social Behaviour.

SCOPE

1. This Procedure applies to all Family and Household Support staff who are involved in:
 - The management and oversight of Anti-Social Behaviour complaints, enquires and investigations
 - Making further enquiries into, and investigating complaints about, Anti-Social Behaviour.
2. This Procedure shall be followed by Family and Household Support staff investigating Anti-Social Behaviour in the following tenancy types:
 - Council tenancy
 - Sheltered Housing tenancy, when this is a Council tenancy
 - Private rented accommodation
 - Owner occupier
 - Private, Short-Term Lets including 'Party Flats' and 'Airbnb' type accommodation
 - Where Anti-Social Behaviour occurs within the boundaries of the City of Edinburgh Council.

This may include Anti-Social Behaviour conducted by a person or group of people who visit the City of Edinburgh Council but are not resident in the City of Edinburgh Council area.

3. This Procedure shall be followed, in conjunction with any accompanying guidance on specific tenant tenures, by Family and Household Support staff investigating household and community based Anti-Social Behaviour, where the person, or group, being complained about is a:
 - Council tenant
 - Sheltered Housing Council tenant
 - Tenant of private rented accommodation
 - An owner occupier
 - Private Short Term Lets
 - Where it has been agreed with a Registered Social Landlord that the Local Authority in its strategic capacity is best placed to do so.
4. This procedure shall be followed when Family and Household Support staff are working in partnership with Police in relation to criminal activity which also has elements of Anti-Social Behaviour. This may include situations of seeking Anti-Social Behaviour Orders to ban an individual from entering certain geographical areas of the City of Edinburgh.

TERM	DEFINITION
Private, Short Term Let	<p>A short term let is a property which is let out to visitors on a commercial basis for short periods of time. Often the whole property is let as holiday accommodation. In other cases, the host will continue to live in the property and let out a room or rooms to visitors. Airbnb is a platform for owners who want to advertise their property or room to others. There are other platforms in addition to Airbnb. Some owners advertise using social media or other forums such as Gumtree.</p> <p>http://www.edinburgh.gov.uk/info/20058/private_housing/1210/report_a_problem_with_a_short_term_let_or_party_flat</p> <p>'Airbnb Inc.' is an online marketplace for arranging or offering lodging, primarily homestays, or tourism experiences. The company does not own any of the accommodation, nor does it host events; it acts as a broker, receiving commissions from each booking.</p> <p>Some people use the term 'Airbnb' as a catch-all for Short-Term Lets, also known as 'Part Flats'</p> <p>A party flat is a property (often a 'short term let') that is rented by a group of people often with the purpose of having a 'party' or entertainment (such as stag or hen groups) without the consideration of the impact on neighbours or the local community. This usually results in some form of Anti-Social Behaviour resulting in complaints about noise. 'Party flats' are often unregistered, short term lets and as well as complaining to FHS about Anti-Social Behaviour, the public may complain to licensing and planning.</p> <p>http://www.edinburgh.gov.uk/info/20058/private_housing/1210/report_a_problem_with_a_short_term_let_or_party_flat</p>
APP (Civica APP)	<p>Civica APP is...recording system Family and Household Support will use to record and store information, actions and decision taken.</p>

Corroboration	<p>The importance of corroboration is unique to Scots criminal law. The requirement for corroborating evidence means at least two different and independent sources of evidence are required in support of each crucial fact before an accused can be convicted of a crime. This means, for example, that an admission of guilt by the accused is insufficient evidence to convict in Scotland, because that evidence needs to be corroborated by another source.</p> <p>The requirement of two separate sources of evidence was introduced to ASB investigations to prevent involvement in 'tit-for-tat' neighbour disputes where no one else is involved or affected and also as a 'safety net' to avoid progressing fraudulent or malicious complaints based upon one malicious complainer or source, or of a colluding household, particularly where there is previous malicious/false complaining.</p> <p>It is good practice to establish corroboration before deciding to take enforcement action. While it is not legally required in terms of an ASB investigation (FHS are not undertaking criminal investigations) it is good practice to identify a second source of evidence corroborating a complainer coming from an impartial professional source such as an FHS Investigating Officer, Community Safety Night Team, Environmental/Enforcement Officers, Housing Officer, or Police Officer, or from a separate household or individual.</p>
FHS	The City of Edinburgh Council's Family and Household Support Service
Investigating Officer	Any Family and Household Support staff member who has been allocated to undertake an Anti-Social Behaviour investigation or enquiry
Person of Interest (POI)	Term used to describe a person who is being complained about regarding Anti-Social Behaviour or resident/neighbour disputes. POI is used for purposes of APP. It is more customer focused and person/relationship centred to distinguish customers as: 'the person who is making a complaint about ASB' and, 'the person who is being complained about', and not 'the complainer' and 'perpetrator'. However, the term POI is used throughout this procedure.

<p>Private Sector Leasing (PSL)</p>	<p>The City of Edinburgh Council leases properties in Edinburgh from private landlords for three to ten years and these properties are in turn sublet to people who are in housing need. A PSL property is a temporary tenancy and tenants are subject to a Scottish Short Secure Tenancy (SSST). The PSL scheme is a registered Scottish Letting Agent.</p> <p>Link Housing have been awarded the contract from the City of Edinburgh Council to manage the PSL scheme and are the point of contact for anyone wanting to report Anti-Social Behaviour from a PSL tenant. Link Housing are also the contact for the owners of the tenancy.</p> <p>https://linkhousing.org.uk/what-we-do/our-services/private-sector-leasing/</p>
<p>Anti-Social Behaviour Order (ASBO)</p>	<p>Antisocial Behaviour Orders are preventative orders intended to protect people in the community affected by antisocial behaviour from further acts or conduct that would cause them fear, alarm or distress. An ASBO is a court order which prohibits, either indefinitely or for a specified period, a person from doing anything described in the order. Breach of an order is a criminal offence. The orders are not criminal penalties and are not intended to punish the offender. (Guidance on Antisocial Behaviour Orders, 2004).</p>
<p>Referral</p>	<p>The term used in FHS to refer to,</p> <ul style="list-style-type: none"> • A 'first time' request for a service • Making a complaint • Making an enquiry • Seeking information relevant to the service • Assessment request or 'other' referral route i.e. PRS, Stronger Edinburgh, GIRFE etc <p>regardless if FHS is the right, correct, or appropriate service.</p> <p>FHS accept referrals from the public and professionals. Professionals should be encouraged to submit a referral using the FHS referral form.</p>

<p>Registered Social Landlord (RSL):</p>	<p>A 'registered social landlord' (RSL) is a landlord register with the Scottish Housing Regulator. The Scottish Housing Regulator was established on 1 April 2011 under the Housing (Scotland) Act 2010. Its objective is to safeguard and promote the interests of tenants and others who use local authority and RSL housing services.</p> <p>The Council is a registered social landlord, as are Housing Associations.</p> <p>In the FHS procedures, when we refer to RSL's we are referring to RSL's other than the Council.</p>
<p>Sheltered Housing</p>	<p>Sheltered Housing provides support mainly to older people, some with disabilities and/or mental health needs, to sustain independent lives in a supported environment. All tenants are assessed for any additional support and provided according to needs.</p> <p>The Edinburgh Health and Social Care Partnership has 31 sheltered housing complexes across the city consisting of between 20 and 60 self-contained homes which may be flats, bungalows or apartments. Most properties have one bedroom, although two-bedroom properties are available on selected schemes. Many sheltered housing complexes have a visiting Support Officer, and all currently have an emergency alarm service.</p>
<p>Single Screening and Duty Process</p>	<p>The Single Screening and Duty System (also referred to as 'Duty') is the means by which all new referrals, enquires and service requests to Family and Household Support are processed so that a professional screening decision can be made about the need for a service from Family and Household Support.</p>
<p>Tenancy Type or Tenure</p>	<p>A tenure is the conditions under which land or buildings are held or occupied. In the context of a 'tenancy tenure', what is meant is 'the tenancy type', that is, what is the tenancy agreement between landlord and tenant. There are several tenancy types. Most council tenants will have a 'Scottish Secure Tenancy'. Tenants of Housing Associations will have an 'Assured Tenancy' (as opposed to the council's 'secure' tenancy). More details and clarification can be found at Shelter Scotland:</p> <p>https://scotland.shelter.org.uk/get_advice/guides/renting_privately/all_about_tenancy_agreements</p>

PROCEDURE

1. Definition of Anti-Social Behaviour

1.1 The Antisocial Behaviour etc. (Scotland) Act 2004 sets out the interpretation of Anti-Social Behaviour in relation to the Act. This provides that a person engages in antisocial behaviour if they:

- act 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

1.2 The act further clarifies that:

- “conduct” includes speech;
- “a course of conduct” must involve conduct on at least two occasions;
- “likely to cause” means that someone other than a victim of the antisocial behaviour can give evidence of its occurrence. This is intended to enable the use of professionals as witnesses where those targeted by antisocial behaviour feel unable to come forward, for example, for fear of reprisals or intimidation.

1.3 Anti-Social Behaviour covers a wide range of behaviour from noise nuisance to serious harassment. Factors such as tolerance levels, client expectation and varying standards of behaviour between communities and groups within them may influence a person’s understanding of antisocial behaviour. FHS staff shall manage these variations on a case-by-case basis.

1.4 It is the effect or likely effect of the behaviour on others that determines whether the behaviour is antisocial. An authority does not have to prove that the defendant intended to cause alarm or distress. However, it may not be appropriate to invoke powers in the Act where an individual cannot understand the consequences of their actions i.e. where a disability, medical or developmental condition is present.

1.5 For reasons mentioned in 2.3 and 2.4 the definition of antisocial behaviour is left deliberately flexible and local agencies in consultation with residents should decide on appropriate action to be taken according to the nature of the problem(s).

1.6 The following behaviours are excluded:

- Domestic violence (and Domestic abuse)
- Clashes of lifestyle caused by behaviour which is different but does not unreasonably interfere with another’s rights or impinge on their homes.

3. Tenancy Tenures/Types: Exceptions

3.1 Registered Social Landlords (RSL) and Housing Associations tenants

3.1.1 Anti-Social Behaviour is investigated by the appropriate RSL and Housing Association. Where there is a referral or enquiry regarding an RSL tenancy to Family and Household Support:

- In the first instance the person making the complaint shall be re-directed to their own registered social landlord. If the customer is dissatisfied with the response from the RSL, they shall be advised to make use of the RSL complaints process.
- In the exceptional circumstance where an RSL customer, or someone on the customers behalf, seeks an intervention from the local authority in its strategic capacity, and where the matter relates to Anti-Social Behaviour, the RSL customer will be expected to have used the RSL's complaints process. When the Duty Team Leader has established the customer has exhausted all avenues with the RSL the FHS Duty Team Leader shall screen the request following the Single Duty screening procedure. The Duty Team Leader should make the FHS Manager aware of the request for local authority intervention and the FHS Manager shall make a final decision on the role of Family and Household Support.

3.2 Private Sector Leasing (PSL) tenants

3.2.1 PSL tenancies are managed on behalf of the City of Edinburgh Council by Link Housing. Link Housing have a responsibility for investigating Anti-Social Behaviour of their tenants.

3.2.2 Where contact is made regarding a PSL, the person making the enquiry should be directed to Link Housing.

3.3 Sheltered Housing tenants:

3.3.1 Where the Sheltered Housing tenant is a Council tenant, complaints should be investigated by Family and Household Support and this Procedure shall be followed as with any other Council tenant.

3.3.2 The referral may come directly from the tenant or any other professional. The Single Screening and Duty process shall be followed.

3.3.3 Where the tenant has a support plan with Sheltered Housing, the allocated Family and Household Support worker should inform the Sheltered Housing Visiting Support Officer (SHVSO) of their involvement, and up-date the SHSW throughout their investigation.

3.3.4 Where the Sheltered Housing is an RSL, Owner Occupier, or Private Rented tenancy, the process for each tenancy type shall be applied.

3.4 Temporary Accommodation residents:

3.4.1 Complaints against this temporary accommodation tenants are initially investigated by the Temporary Accommodation Service (TAS).

3.4.2 TAS may refer to Family and Household Support at any point in their own process of investigating a complaint of ASB against one of their tenants.

3.4.3 TAS shall make a referral to Family and Household Support using the FHS referral form. The referral will be received and screened by the FHS Duty Team Leader following the Single Screening and Duty Process and Procedure

3.4.4 The screening will include a consideration of mediation to resolve the matter. If an ASB investigation is required, the allocated Family and Household Support worker shall follow these Procedures for investigating ASB complaints.

3.4.5 At the start of the ASB investigation the Family and Household Support worker and TAS Housing Officer shall, agree:

- Frequency of update on investigation to TAS Housing Officer
- Requirement of TAS Housing Officer involvement (such as introduction to the TAS tenant, availability for joint visits to TAS tenant or person complaining about TAS tenant)

3.4.6 At the end of the investigation the Family and Household Support worker shall:

- Inform the TAS Housing Officer of the outcome of their investigation
- Inform the TAS Housing Officer of any enforcement action to be taken, what that will be and what involvement is required of the TAS Housing Officer
- If the outcome is non-enforcement action, inform the TAS Housing Officer of the reasons
- Inform the TAS Housing Officer of any further action or recommendations being taken
- Inform the TAS Housing Officer when the case is closed.

4.0 Case Allocation: Beginning and Progressing a case, including APP requirements

4.1 All staff shall follow the APP processes and recording requirements:

<G:\SSC\Family & Household Support\General\Training and Induction\Process Map - ASB Complaint on APP.pdf>

<G:\SSC\Family & Household Support\General\Training and Induction\APP Training Manual Mar 19.pdf>

4.2 A Team Leader shall allocate a case on APP to the named FHS worker as the investigating officer following the procedure for case allocation.

4.3 As part of good case management, the investigating officer shall ensure their details are recorded accurately as the allocated/investigating officer for the case.

4.4 The FHS worker shall anticipate that any case could potentially result in enforcement action including legal action, resulting in Council records being used as evidence in court, and the FHS worker, being called to give evidence in court. As such, all actions, communications, and decisions shall be recorded on APP, following the processes and guidance on APP use.

4.6 The allocated FHS worker should, from the time of allocation and throughout the life of the case, ensure the following information is recorded and kept up to date:

- 4 Full name, address and contact details of the person complaining and any changes during the life of the case
- 5 Full name and address of the person complained about (i.e. Person of Interest, if known) and any changes during the life of the case
- 6 DOB/Ages of parties (if this is needed for SG stats then leave out 'if known' - staff will need to ask people for this information at some point)
- 7 Gender of parties
- 8 Ethnicity of parties
- 9 Accommodation tenure of both parties
- 10 Background information, confirm system checks, historical context, previous complaints accommodation history, other professionals involved, other services involved
- 11 Action notes describing communication with the person making the complaint and person being complained about (POI)
- 12 Action notes recording all missed appointments and failed communications with the person complaining and person being complained about
- 13 Before a Person of Interest is spoken to, an Action note that clearly states whether the person complaining has agreed to be identified as the source of the complaint, or stipulated they want to remain anonymous
- 14 Target and Review dates for Person of Interest contacts
- 15 Incident Information and Supportive Evidence

4.6 The Team Leader shall ensure the following reviews are undertaken and record an Action case note for each review.

- 16 5 working day review
- 17 20 working day review
- 18 Case closure agreement action note

5.0 Role of the FHS Investigating Officer (IO)

5.1 The role of the Investigating Officer is:

- 19 To undertake a full and thorough investigation into the circumstances of the complaint of Anti-Social Behaviour
- 20 To make an assessment about their findings
- 21 Based on this assessment, make a recommendation to the Team Leader about any further intervention and action, including, but not restricted to:
 - No further action (non-enforcement)

- Non-enforcement intervention including support
- Enforcement Action (which may also include support).

5.2 The FHS Investigating Officer must up-date APP with each action relevant to the case. This is to:

- 22 Give a clear audit trail of work undertaken by the allocated worker/investigating officer
- 23 Evidence, set-by-step, progress in the case
- 24 Provide evidence of intervention and actions in any court action
- 25 Provide continuity in a case if the case is transferred to a different worker
- 26 Provide the customer with evidence of the work undertaken by the investigating officer in the event of the customer asking to view their records and to provide evidence of impact and outcomes
- 27 To support service governance, oversight, auditing and planning.

5.3 All actions, decisions and interventions must be logged on APP. Examples of actions logged on APP during an investigation or intervention include, but are not restricted to:

- 28 Summary of contact, including date and time, with person making the complaint, Person of Interest (POI), neighbours, and other professionals
- 29 Information from interviews including incident dates and times
- 30 A description of local/localised investigations conducted and the findings
- 31 Names, addresses and contact details of additional witnesses
- 32 All contacts made with other agencies including Police Incident Ref numbers
- 33 Whether the POI has been informed of the complaint and outcome
- 34 Date, time and outcomes of any case management meetings including professional meetings, GIRFE meetings, Escalation Meetings, Short Scottish Secure Tenancy (SSST) reviews and Anti-Social Behaviour Order (ASBO) reviews
- 35 Warning meetings and letters
- 36 Note of case discussion with Team Leader/Manager when it involves a decision around the direction of a case
- 37 Meetings and contact with Council solicitor
- 38 Whether a Family and Household Support Assessment of Need and Risk is required, has been started or has been completed
- 39 Referral to Mediation
- 40 When a referral has been made to another service, agency or organisation
- 41 Case closure outcome and case closure summary (Investigating officer)
- 42 Case closure outcome and case closure authorisation (Team Leader)

6.0 Contacting the customer and starting the ASB Investigation

6.1 The allocated FHS worker shall contact the person making the complaint **within 2 Working Days**.

6.2 Prior to contacting and meeting the person making the complaint, the FHS Investigating Officer shall:

- Check that there is a Screening Action Note giving basic guidance on the reason for allocation of the case, including any initial tasks to be undertaken

- Check the Allocation Note for identified hazards or specific guidance regarding safety and lone working protocol
- If the person making the complaint, or POI, is a council tenant, alert the Housing Officer and seek any relevant information, including any known Hazards
- Request information from Police in respect of any known Hazards including risk of violence, drug use, requirement for a joint visit, single sex visit
- Refer to guidance on conducting interviews [conducting interviews](#)

6.3 Prior to any meeting or home visit to the person making a complaint, Family and Household Support workers should always follow the Council's policy on Lone Working and Health and Safety at Work, and FHS's own Lone Working policy.

6.4 If the FHS Investigating Officer identifies any risks or potential risks, the Investigating Officer should:

- Inform the Team Leader
- In consultation with the Team Leader, complete the FHS Risk Assessment form
- Agree a safety plan with the Team Leader
- Record actions and decisions on APP, and,
- The Team Leader shall up-date any other systems as appropriate.

6.5 The FHS Investigating Officer shall contact and arrange a discussion with the person making the complaint about Anti-Social Behaviour to hear their complaint and start to assess the nature of the complaint. A face-to-face meeting is always preferable and is the expectation in all investigations into complaints of Anti-Social Behaviour where requested or appropriate.

6.6 Once allocated to a case, the Investigating Officer shall contact the complainer within **2 Working Days**. In the first instance this shall be by phone, where this information is available. Only when it has not been possible to make contact by phone should the FHS Investigating Officer make contact by e-mail, undertake a planned/unannounced home visit, or by letter. To remain GDPR compliant, non-secure emails must not contain any personal or third party information.

6.7 The purpose of this initial contact includes:

- For the Investigating Officer to introduce themselves to the person making the complaint
- To get an update of any further ASB activity since the initial referral
- For the Investigating Officer to share their contact details and availability with the person for future contact or reporting of complaints during the period of the investigation
- To give initial advice and guidance
- To arrange a suitable time to meet with the person making the complaint, **no later than 5 working days from the date of allocation.**

6.7 If it has not been possible to contact the person making the complaint, or where the person is not responding to phone calls or e-mail, the Investigating Officer shall consider an announced or unannounced visit to the home of the person making the complaint (in line with Lone Working policy). The Investigating Officer shall have a letter prepared to hand-deliver at the home address of the person making the complaint

in case the person is not at home or does not respond. This letter shall have the Investigating Officers contact details including direct land-line phone number, e-mail address, and full postal address.

6.8 Following the initial contact, the FHS Investigating Officer shall arrange to meet with the person making the complaint within **5 Working Days** of when the case was allocated to the Investigating Officer.

6.9 The FHS Investigating Officer shall record all contacts, attempted contacts, and arrangements made with the person making the complaint about Anti-Social Behaviour.

6.10 All reasonable steps must be taken to contact, and wait for a response from, the person making the complaint about ASB before closing a case due to non-response from that person. All reasonable steps include, but are not restricted to:

- Making several phone calls including leaving a voicemail with the Investigating Officers' various contact details (officers direct phone number, and e-mail address)
- e-mailing on more than two occasions
- Making an unannounced visit to the home address of the person making the complaint and leaving a letter with the Investigating Officers contact details as above.
- Sending a letter via the post.

6.11 A reasonable length of time for waiting for a response will require judgement by the Investigating Officer, and ultimately their Team Leader at point of closure authorisation. FHS Investigating Officers must be mindful of the potential difficulties some people may have in responding. Reasons for a non-response could include:

- The person making the complaint is on holiday and not contactable
- An English language difficulty
- There is a comprehension and capacity difficulty
- The person is fearful of reprisals
- The person making the complaint has changed their mind and this is their way of withdrawing their complaint.

6.12 In cases where there has been no response from the person making the complaint, the Investigating Officer shall make a recommendation to their Team Leader if the case should be closed or, due to the nature of the complaint, further investigation should be undertaken.

6.13 In cases where there has been no response from the person making the complaint, the Team Leader, as part of their decision regarding the future direction of the case, shall consider if a police welfare visit to the home should be requested, and/or a referral to Social Care Direct should be made.

6.14 Where the person making the complaint has responded, the FHS Investigating Officer shall meet with them face-to-face. This will likely be in the persons home or a Council office. Alternatively, the Investigating Officer may meet the person in another location, such as the person's workplace, if this is more convenient for the person. In all scenarios, the Investigating Officer must assess the potential risk based on the information they have gathered and follow the appropriate Lone Working policies.

6.15 The purpose of the initial meeting includes, although not restricted to:

- Clarifying the details of the complaint
- Explaining the investigation process which may include taking formal statements from witnesses
- Agreeing frequency of contact with the person making the complaint. Contact shall be a **minimum of every 10 Working Days**. Where contact is more frequent, or the customer wishes less contact, this must be recorded on APP Action notes
- Ensuring the person has the FHS Investigating Officer's full contact details including the Investigating Officer's direct phone number, e-mail address and FHS Locality phone number
- An explanation of enforcement options without raising unrealistic expectations, including what this requires of the person making the complaint
- Explaining the need for co-operation from the person making the complaint to assist with gathering evidence, such as the completion of incident diaries
- Asking about the impact of the Anti-Social Behaviour on the person making the complaint
- Asking for the POI form to be signed, if appropriate
(Aide memoire ; conducting interviews; Person of Interest form)

6.16 If a face-to-face meeting is not possible, suitable, (for whatever reason, including Covid-19 restrictions), or the person making the complaint specifically requests not to meet, or timescales have gone beyond reasonable expectations, the initial contact can take place as a phone call or another approved digital platform (Microsoft TEAMS, Skype). The reason for doing this should be clearly recorded in APP Action records.

6.17 The FHS Investigating Officer shall agree with the person making the complaint a frequency of contact. This shall be a **minimum of every 10 Working Days**. The purpose of the contact includes, but not restricted to:

- To ask if there have been any further incidents of Anti-Social Behaviour which have not been reported to the FHS Investigating Officer
- To give an update to the person making the complaint, where appropriate and within the realms of confidentiality, on what intervention and action has been taken
- To offer support, guidance and advice.

6.18 The FHS Investigating Officer shall keep in regular contact with other professionals involved, receiving and requesting updates. This shall be compliant with the appropriate guidance on confidentiality, data protection and Information Sharing Protocols.

7.0 Progressing an Investigation: Person of Interest and other witnesses

7.1 Person of interest form

7.1.1 The FHS Investigating Officer shall take a prepared POI form out on a first visit to the person making the complaint about ASB.

7.1.2 The FHS Investigating Officer shall request a signature for the POI from. It may be appropriate to leave the POI form with the with the person to consider.

7.1.3 In most circumstances it is preferable to be able to approach the POI seeking a restorative approach, and to resolve the issue and effect change.

7.1.4 If the person making the complaint does not want to be identified, and does not want to sign the POI, explain it may be difficult to resolve the issue, with FHS being limited in what can be done.

7.1.5 Record on APP that the person making the complaint does not want to sign the POI form, that is, not agreeing for FHS Investigating Officer to approach the POI.

7.1.6 The FHS Investigating Officer shall assess whether the ASB Investigation can continue through other means which may include, but is not restricted to:

- A local/localised enquiry/investigation
- Letter-drop
- Speaking with other witnesses or potential witnesses
- Further information and evidence gathering.

7.1.7 The decision to investigate complaints and matters of alleged ASB is the responsibility of the FHS Team Leader and FHS Manager. The decision to undertake and continue with an ASB investigation where the person who has made the complaint does not want to be identified and has not signed the POI, lies with the FHS Team Leader and FHS Manager. All decisions, planned actions and actions undertaken, shall be recorded on APP along with reasons given for the decisions made.

7.1.8 If the ASB Investigation is not able to progress, with or without approaching the POI, the FHS Investigating Officer shall record their recommendation and reasons on APP and discuss other potential options with the Team Leader, including closing the case. Other options may include, but are not restricted to:

- Offering the person support
- Referral to other services

The decision from the discussion between the Team Leader and the FHS Investigating Officer shall be recorded on APP. If the case is to be closed, the Investigating Officer and Team Leader shall follow the closure process

7.1.9 The FHS Investigating Officer shall explain the decision to the person making the complaint and follow the case closure process.

7.1.10 Where the referral has come via a professional, the FHS Investigating Officer shall inform the professional who made the referral of the outcome of the investigation.

7.1.11 Where the FHS Investigating Officer considers it is inappropriate to approach the POI, such as safety issues, or potential for escalation of conflict, the FHS Investigating Officer shall discuss the options with the

Team Leader including, continuing with the ASB investigation without initially approaching the POI. A record of this discussion and plan for the case shall be recorded on APP.

7.1.12 Where the POI form has not been signed but the ASB is continuing, the FHS Investigating Officer shall record on APP:

- The reason it is not appropriate for the POI form to be signed
- The reason for continuing the ASB investigation/enquiry

7.1.13 A decision to disclose to a POI the identity of a complaint source, even where the person making a complaint about ASB agrees to be identified and signs the POI form, requires professional judgement and assessment. The FHS Investigating Officer shall discuss this matter with their Team Leader and agree the best course of action before proceeding with the disclosure.

7.1.14 Factors that the FHS Investigating Officer shall consider before informing the POI of a person's identity include, but are not restricted to:

- Whether disclosing the identity of the person making the complaint is likely to lead to an escalation of conflict
- Whether meeting with the POI may allow the FHS Investigating Officer to identify any supports for the POI
- Whether meeting with the POI and disclosing a person's identity may lead to a further discussion about the potential for Mediation.

7.1.15 The FHS Investigating Officer shall record their decision and reason for disclosing the identity of the person making the complaint about ASB, even when the person agrees to this. Additional factors such as any perceived risk as a result of a disclosure to the POI should be considered/stated.

7.2 Approaching a Person Of Interest

7.2.1 Before approaching a POI the FHS Investigating Officer shall gather as much information as possible to enable a risk assessment:

- Check Screening Action note,
- Check Allocation Action note
- Ensure available systems have been checked
- Check the tenancy tenure and if Council tenancy, communicate with the Housing Officer regarding any risks or hazards, any known background or historical information regarding the POI which may assist in your assessment of the situation
- Follow council Health & Safety and Lone working procedure, and the FHS Lone Working protocols and procedure.

7.2.2 In the first instance, contact should be by phone, where this information is available. Only when it has not been possible, or deemed appropriate, shall the FHS Investigating Officer make contact by other means,

such as an unannounced visit, or letter. Email communication must be GDPR compliant and non-secure emails should not contain any personal, third party or legally privileged information.

7.2.3 The FHS Investing Officer shall contact the POI as soon as possible after meeting with the person making the complaint.

7.2.4 The purpose of contacting the POI is:

- For the Investigating Officer to introduce themselves to the POI
- To make the POI aware that allegations of Anti-Social Behaviour have been made against them, but not to enter into a full discussion
- To arrange to meet with the POI.

7.2.5 The FHS Investigating Officer shall attempt to meet the POI face-to-face.

7.2.6 Prior to contacting and meeting the POI, the FHS Investigating Officer shall:

- Check the Allocation Action Note for identified hazards or specific guidance regarding safety
- If the person making the complaint, or POI, is a council tenant, alert the Housing Officer and seek any relevant information, including any known Hazards
- Request information from Police in respect of any known Hazards including risk of violence, drug use, requirement for a joint visit, single sex visit
- Refer to guidance on conducting interviews conducting interviews

7.3 Interviewing a Person of Interest

See conducting interviews

7.3.1 The purpose of meeting with the POI is:

- To make the POI aware of, and explain, the allegations against them
- Give the POI an opportunity to respond to the allegations
- Explore potential solutions
- For the FHS Investigating Officer to share their contact details if the POI wants to make contact during the investigation

7.3.2 Solutions may include, but are not restricted to:

- Facilitating a resolution between both parties (using a mediation approach)
- Reviewing if formal Mediation might be appropriate
- Considering if the Person Of Interest requires or is seeking support

7.3.3 Where the FHS Investigating Officer discuss the complaint with a POI they should be clear that any complaints are, at that stage, allegations and not corroborated or established events. The objective is to try

to ascertain whether the allegations are valid or unfounded and to take appropriate steps depending on conclusions reached.

7.3.4 The FHS Investigating Officer shall take the opportunity to consider whether the POI might benefit from support and explore this with the Person of Interest.

7.3.5 The location of the meeting with POI can be in the persons home or office or where appropriate and mutually agreed through a digital platform. The decision will be dependent on a number of considerations, including:

- Any known risks or hazards identified
- The stage of the ASB investigation and whether the FHS Investigating Officer is meeting the POI as part of their ASB investigation, or to issue any enforcement action such as a Warning
- On the availability of the POI
- Consideration of any accessibility/mobility needs of the POI

7.3.6 Wherever the meeting takes place, the FHS Investigating Officer shall follow the Council Health and Safety procedures, FHS Lone Working protocols, any local health and safety procedures as appropriate.

7.3.7 The meeting and discussions, along with any decisions made and actions identified, shall be recorded by the FHS Investigating Officer on APP.

7.3.8 In some circumstances it may be appropriate and possible to visit the POI immediately after meeting with the person who is making the complaint. This shall depend upon, and involve:

- A POI form being completed by the person making the complaint
- The FHS Investigating Officer having undertaken a risk assessment, including of the POI, prior to having made the visit to the person making the complaint, and being aware of any potential risks or hazards in relation to the POI
- The FHS Investigating Officer undertaking a dynamic risk assessment, following the FHS Lone Working policy including considering contacting the Team Leader or Duty Team Leader to up-date their whereabouts and requesting a 'call-in-call out' phone call

7.3.9 In such circumstances of approaching a Person Of Interest, the FHS Investigating Officer shall:

- Introduce themselves to the POI
- Explain the reason for their visit
- Make the POI aware that allegations of Anti-Social Behaviour have been made against them
- Give the POI an opportunity to respond to the allegations
- Explore potential solutions
- Share their contact details if the POI wants to make contact in the future

8.0 ASB Investigation Conclusion

8.1 The FHS Investigating Officer shall seek to conclude their initial investigation and record their recommendation(s) with regard further action (enforcement or non-enforcement action) no later than **20 Working Days** from date of case allocation.

8.2 Non-Enforcement Action

8.2.1 Non-Enforcement action may include, but is not restricted to:

- Closing the case with No-Further Action (NFA)
- Case closure with one or more parties being offered on-going support
- One or more parties being sign posted to another service or agency
- Case considered for ongoing support from FHS Volunteer

8.2.2 Closing the case with No-Further Action

The FHS Investigating Officer shall follow the procedure for case closures, including:

- Complete all APP action notes for the case
- Record on APP using the appropriate code, 'Non-Enforcement' and in Action Note write a summary of case involvement and conclusion of ASB Investigation
- Pass case to the Team Leader to authorise closure of the case, and,
- FHS Team Leader shall close the case with an Action note authorising the closure of the case.

8.2.3 Closure of investigation but continuing intervention with support

8.2.4 Where one of the parties is being transferred for support within Family and Household Support, the FHS Investigation Officer shall continue to work with that party as the allocated support worker. Exceptions to this must be discussed agreed with an FHS Team Leader, and the reasons for this must be clearly recorded.

8.2.5 The Team Leader shall continue the allocation of the case to the relevant FHS worker by following the guidance for transferring an APP case to Northgate.

8.2.6 Where more than one of the parties involved is being offered on-going support, the FHS Team Leader shall decide which case is most appropriate for the FHS Investigation Officer to continue to be allocated to.

8.2.7 Where there are no longer grounds to manage the case under APP, but on-going support is required or requested, the case shall be transferred to Northgate by the Team Leader.

8.2.8 Where the party being offered support is not an open case on APP, the FHS Investigating Officer shall consider the case as a new referral, and make an internal referral using the FHS referral form for Family and Household Support, following the Single Screening and Duty Process.

8.3.9 Cases that have been identified for, and where the customer has agreed to, a referral for FHS support shall be treated as a priority for allocation by the FHS Team Leader.

8.3.10 Where it is not appropriate for the FHS Investigating Officer to continue involvement in the case by offering support to the person making the complaint, or the POI, the Team Leader shall:

- Record their decision and reason not to continue with the allocation of that worker, on APP (keeping service and staffing confidentiality)
- Stating there is a 'conflict of interest' is not enough, the 'conflict of interest' should be explained
- Present the case and explain their decision at the next local allocation discussion, and,
- Submit a referral to FHS following the Single Screening and Duty process, and Allocation procedure and guidance.

8.4 Closure of investigation and sign posting customers to another service or agency

Where one or more of the parties are being sign-posted or referred to another service or agency at the end of an investigation, the FHS Investigating Officer shall record the details in the Action notes.

The FHS Investigating Officer shall then:

- Complete all APP action notes for the case
- Record on APP 'Non-Enforcement' using the appropriate APP codes, and write a summary of case involvement and conclusion of ASB Investigation
- Pass the case to the Team Leader to authorise closure of the case
- FHS Team Leader shall close the case with an Action note authorising the closure of the case

9.0 Enforcement Action

9.1.1 The Enforcement Action that can be taken will depend on the tenancy type.

9.1.2 Enforcement action that may be taken, depending on the tenancy type, includes, but is not restricted to:

- Use of an Anti-Social Behaviour Contract with a Young Person
- Issuing written Warnings
- Application to court for an Anti-Social Behaviour Order (ASBO)
- Application to court for right to evict
- Application to court for an Anti-Social Behaviour Notice (ASBN)

9.1.3 Warnings

9.1.4 The Council, in its capacity as a landlord, may issue Warnings to council tenants only. Warnings and warning letters should not be issued to:

- Owner occupiers

- Tenants of private landlords.

9.1.5 Only written Warnings shall be issued. No verbal Warnings shall be issued to tenants.

9.1.6 Where a complaint of Anti-Social Behaviour has been corroborated and a decision has been made to issue a Warning letter:

- A formal appointment letter shall be sent to the tenant of the property where the Anti-Social Behaviour is taking place inviting them to attend a meeting with the FHS Investigating Officer. This applies even if the tenant is not the person responsible for the Anti-Social Behaviour. The tenant is responsible for the behaviour of visitors.
- Interviews shall take place in a Council building and not in the persons home
- Where this is not possible, due to health issues or mobility issues for example, the FHS Investigating Officer shall follow the Lone Working protocol, and undertake a risk assessment including requesting relevant information from Police Scotland and considering Police attendance, before agreeing to the home visit
- Where the person does not attend the office appointment, and it is deemed inappropriate to undertake a home visit, this shall be agreed with the Team Leader, and the reasons/risks recorded on APP. The Warning letter shall be hand-delivered to the property in the company of a witness. A risk assessment shall be undertaken. It may be appropriate to ask Police to attend the letter delivery.
- Where it is not possible to hold an office appointment or home visit, the FHS Officer should make all reasonable attempts to speak to the tenant by telephone, on-line digital platform or communicate via e-mail, making every attempt to explain the reasons for the Warning and giving an opportunity for the tenant to give their views.

9.1.7 The purpose of the meeting is:

1. If this is a first meeting with the person being complained about:
 - Explain the allegations of Anti-Social Behaviour
 - Make the person aware of the investigation and conclusion
 - Allow the person an opportunity to explain the situation from their perspective
 - Make a final decision about issuing the Warning if new information emerges.
2. To explain the reasons for the Warning (without divulging the source of the complaint if this has not been disclosed)
3. To ensure the potential consequences of further Anti-Social Behaviour are explained
4. To explore options for support to the person being issued the Warning. This may relate directly to the reasons for the cause of the Anti-Social Behaviour or relate to other concerns the person may raise.

9.1.8 The Warning letter shall detail:

- The reason for the written Warning
- Any action agreed at the meeting

- Consequences of any future Anti-Social Behaviour.

9.1.9 Within **2 Working days** of the meeting to issue the Warning, the Investigating Officer shall record the outcome of the meeting and Warning on APP, along with starting the case closure.

9.1.10 There shall be no monitoring period following the issuing of the Warning. If there is no further intervention or enforcement action, the Investigating Officer shall proceed to case closure.

9.1.11 Where there is a view that a period of monitoring should be in place, this shall be considered as exceptional. The Team Leader shall record an Action note stating:

- The reason for the monitoring period
- The length of time of the monitoring period
- A date to review the case, no later than **20 Working Days**

9.1.12 When the Warning has been issued and APP updated, the FHS Investigating Officer shall close the case, following the closure process which includes:

- Writing a summary of involvement and conclusion of the case, including a recommendation the case be closed
- Ensuring all case/action notes are up to date
- Ensuring the correct APP codes are used
- Pass the case to the Team Leader for closure
- The Team Leader shall follow the case closure process.

9.1.13 Where a decision has been made to continue to work on the case, the Team Leader shall record an Action note on APP:

- The reason for continued involvement
- The planned intervention
- An anticipatory exit or end date to allow progression to case closure
- It is not enough for an Action note to state that a case is open for 'monitoring' of the case

When an owner/occupier

Warning letters for breach of tenancy agreement due to Anti-Social Behaviour shall not be issued to owner occupiers. As an owner occupier, the owner does not have a tenancy agreement with the council.

However, a '**Letter of Cooperation**' shall be issued to an owner occupier where this is appropriate.

Where a 'Letter of Cooperation' is to be issued to a private owner, the FHS Investigating Officer shall issue a formal letter inviting the owner and any other residents as appropriate, to attend a meeting.

Where it is not possible to hold an office appointment or home visit, the FHS Officer should make all reasonable attempts to speak to the tenant by telephone, on-line digital platform or communicate via e-mail, making every attempt to explain the reasons for the Warning and giving an opportunity for the tenant to give their views.

A letter of co-operation should state:

- The nature of the complaint of Anti-Social Behaviour
- The conclusion of the investigation (evidence of the ASB)
- The nature of the request for co-operation
- Potential consequences if further reports of ASB are received

Further Enforcement Action:

Antisocial Behaviour Order

The local authority has the power to apply to the Sheriff court for an AntiSocial Behaviour Order on any citizen, regardless of tenancy tenure. Registered Social Landlords (RSL's) also have the power to apply for the orders. In general, RSL's are responsible for investigating their own complaints of Anti-Social Behaviour and as such make decisions regarding enforcement action they may wish take, including applying to sheriff court for the granting of an antisocial behaviour order As an Antisocial Behaviour Order is not restricted to any tenancy tenure, ASBO's can also be used where a person is of no fixed abode or lives outside of the local authority area but has behaved in an antisocial way within the boundaries of the City of Edinburgh council.

Antisocial Behaviour Orders are not criminal penalties and are not intended to punish the person responsible for the antisocial behaviour. The use of Antisocial Behaviour Orders should be considered as a preventative step that acts to protect people in the community affected by antisocial behaviour from further acts of antisocial behaviour.

Family and Household Support officers can and should consider the use of Antisocial Behaviour Orders as a useful and appropriate court order that can be used in the attempt to bring about change in an individual's behaviour and act to prevent further alarm and distress caused by acts of Anti-Social Behaviour. In some circumstances the change required may be environmental and the exclusion of an individual or group if individuals to an area, may bring about the appropriate change required.

Where an FHS Investigating Officer assesses the use of an Antisocial Behaviour Order as an appropriate action, they must discuss this with an FHS Team Leader in the first instance.

Where the FHS Team Leader is of the view that consideration of an application for an Antisocial Behaviour Order is appropriate, the FHS Team Leader shall request an internal case discussion with the FHS Manager. This case discussion should include the overseeing FHS Team Leader, FHS Investigating Officer and FHS Manager.

The purpose of the case discussion is:

- To provide the FHS Manager an opportunity to review the case
- For the Team Leader and FHS Investigating Officer to provide a summary of the background of the case
- For the FHS Team Leader and Investigating Officer to provide a summary of the actions taken to date
- To ensure other options have been considered/explored/exhausted
- To provide a plan detailing the next step, including consideration of a formal referral to the council solicitor with the recommendation of applying for an Anti-Social behaviour Order.

Where it is agreed that a formal referral to the council solicitor shall be made, Family and Household Support staff shall follow the 'Guidance for Preparation for Legal Action including Anti-Social Behaviour Orders and Decree's for Eviction'.

Evictions:

The local authority, in its role as a landlord, can make an application to court for a decree for eviction. Family and Household Support do not have delegated responsibility as landlord for council tenancies. This sits with the Housing and Regulatory service under the Locality Housing Operations Manager.

Where an FHS Investigating Officer assesses the use of an eviction as the most appropriate action, the FHS Investigating Officer must discuss this with an FHS Team Leader in the first instance.

Where the FHS Team Leader is of the view that consideration of an application for a decree for eviction is appropriate, the FHS Team Leader shall request an internal case discussion with the FHS Manager. This case discussion should include the overseeing FHS Team Leader, FHS Investigating Officer and FHS Manager.

The purpose of the case discussion is:

- To provide the FHS Manager an opportunity to review the case
- For the Team Leader and FHS Investigating Officer to provide a summary of the background of the case
- For the FHS Team Leader and Investigating Officer to provide a summary of the actions taken to date
- To ensure other options have been considered/explored/exhausted
- To provide a plan detailing the next step, including consideration of a formal referral to the council solicitor with the recommendation of applying for a decree for eviction.

Where it is agreed that a formal referral to the council solicitor shall be made, Family and Household Support staff shall follow the 'Guidance for Preparation for Legal Action including Anti-Social Behaviour Orders and Decree's for Eviction'

Where Family and Household Support are recommending that a decree for eviction is sought, the FHS Manager shall inform the Housing Operation Manager in writing of the intention of Family and Household

Support to make the referral to the council solicitor with the view to instructing an application for a decree for eviction.

Where Family and Household Support are recommending that a decree for eviction is sought, the FHS Manager shall inform and seek advice and guidance from the locality Housing Manager prior to the application to court being made. The purpose of the contact with the Locality Housing Manager is:

- To inform of the Housing Operation Managers intention of Family and Household Support to instruct the council solicitor on an application of decree for eviction
- To discuss if there are any other options available to the Housing Operations Manager other than considering eviction
- To agree roles and responsibilities leading up to, and after the granting of the decree for eviction.

Enforcement Action with on-going support

There may be occasions where the FHS Investing Officer concludes that both Enforcement Action and support is required in a case.

The FHS Investing Officer shall proceed with the appropriate Enforcement Action. The FHS Investigating Officer shall offer support to the POI while taking enforcement action.

The FHS Team Leader shall decide on a case-by-case basis if the FHS Investigating Officer can continue as the allocated support worker for the case.

The Team Leader shall record their decision and reason on APP. Stating a 'conflict of interest' as a reason for the FHS Investigating Officer not continuing in the case, is not an adequate record without explaining why the situation creates a conflict of interest.

Where the Enforcement Action leads to a closure of the APP case, the Team Leader shall follow the process for transferring a case from APP to Northgate.

Where the Team Leader decides the support should be passed to another worker and not the Investigating Officer, the Team Leader shall:

- Record their decision and reason not to continue with the allocation on APP (keeping service and staffing confidentiality)
- Stating that there is a 'conflict of interest' is not enough, the 'conflict of interest' must be stated and explained
- Present the case at the next local allocation discussion
- Justify and explain their decision at the local weekly allocation discussion, and
- Submit a referral to FHS in-line the Single Screening and Duty process, and Allocation procedure and guidance.

Such cases shall be considered as a priority for allocation by the FHS Team Leaders.

RESPONSIBILITIES

KNOWN RISKS

RETENTION PERIOD

RECORD	LOCATION	RESPONSIBLE OFFICER	RETENTION PERIOD

ASSOCIATED DOCUMENTS

DOCUMENT	TYPE
Title of document, where possible hyperlink to location.	(e.g. legislation, process, forms)
Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland (<i>link</i>).	Scottish Government Guidance
Developing a Community Safety Narrative for Scotland	Guidance document
Antisocial Behaviour etc. (Scotland) Act 2004	Legislation
Housing Tenancy Agreement	Case specific
Family and Household Support Referral Criteria 2018 (Professionals)	Guidance document
Family and Household Support Referral form	Document

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