

Anti-Social Behaviour & Neighbour Disputes

A guide for
tenants & residents
in South Ayrshire





INTRODUCTION

The phrase '*Anti Social Behaviour*' covers a wide range of issues, from neighbours not taking their wheelie bins out or playing music too loudly, to more serious incidents such as harassment or threatening behaviour.

South Ayrshire Council, working in partnership with the Police and other agencies, is fully committed to tackling these problems and we believe that everyone has the right to the peaceful enjoyment of their home.

We will try and help tenants and their neighbours to resolve disputes *informally* wherever possible.

However in more serious cases, where a tenant or visitor is responsible for persistent nuisance, annoyance or harassment, we will take action under their tenancy agreement or the other legal measures available, which may result in the eviction of the anti social tenants from their home.

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

Finally, in some situations the Police or Environmental Health Department will want to take action to prevent the nuisance and may ask us to help.

In this booklet we suggest how *you* can try to tackle some neighbour problems and we also explain what action we *can* and *cannot* take.

What Housing Services can and cannot do if you have a problem with a neighbour :

WE CAN :

- Provide you with help to resolve the problem through our Mediation Service.
- Take the situation seriously and investigate the complaint thoroughly.
- Provide you with a high standard of customer service.
- Keep you informed.
- Implement effective procedures and comprehensive strategies to manage neighbour nuisance.
- Work with other agencies & departments such as, the Police, Environmental Health and Social Work to resolve the situation.

WE CANNOT :

- Stop someone from doing something that is not illegal or is not a breach of their tenancy agreement.
- Provide a 'quick fix' to the problem.
- Pursue any legal action without **proper evidence** to support allegations of anti-social behaviour.
- Evict people from their homes unless the Sheriff deems it '**reasonable**' following a full court hearing.

What to do I do if I have a problem with my neighbour ?

TALK TO YOUR NEIGHBOUR

In many cases it may be possible to solve the problem with your neighbour by discussing the matter with them. Even if it is obvious to you, your neighbour may *not realise* how their actions are affecting you.

Often a friendly word from you will be enough to sort things out. However, think about what you want to say to your neighbour before you approach them.

Think about how it affects you and what results you want to get from any discussions with your neighbour. It may even help to talk the problem over beforehand with someone else who isn't involved. Also, bear in mind that you may be being unreasonable in what you expect from your neighbours. **You should always be prepared to compromise.**

If your neighbour is being unreasonable, just walk away. **If your neighbour threatens you or you think you are in danger, contact the police.** If things don't improve or if it is not appropriate to approach your neighbour, contact your area housing office.

What happens if I have already spoken to my neighbour or I don't feel comfortable about talking to them ?

Contact your Housing Assistant who will arrange to talk to you in confidence, about the situation. Put your evidence *in writing*, including any notes you may have made on a piece of paper at the time of any incident. If you can't write down the complaint, the Housing Assistant will take a statement and ask you to sign it.

Please give the Housing Assistant as much information as possible about the problem including incidents, dates, times, witnesses and names of those involved.

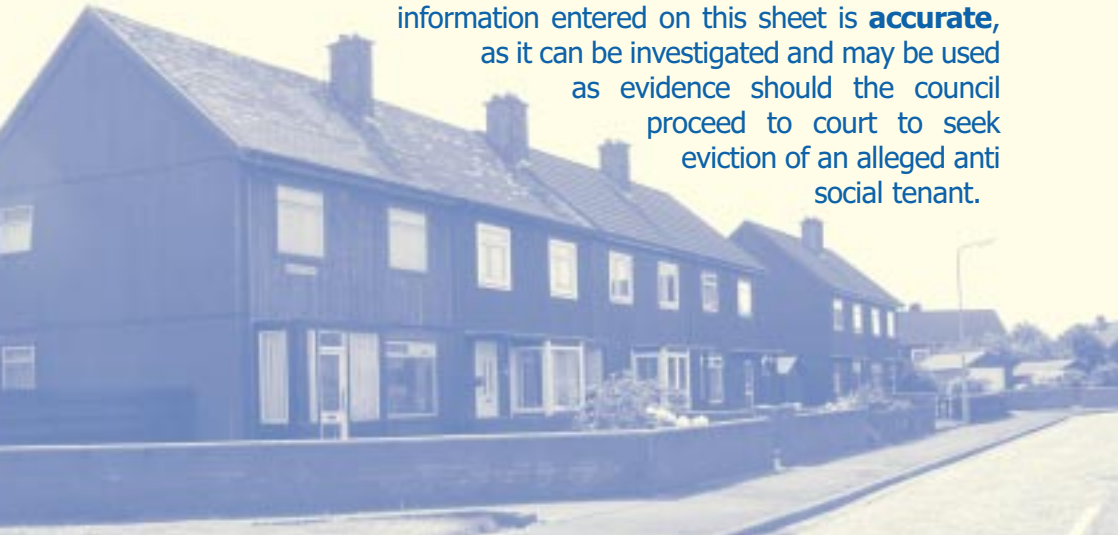
We will treat your complaint confidentially. We will not reveal your identity to your neighbour or to anyone else at this stage, unless you wish us to do so.

We will then log your complaint on the council's '**Anti Social Database**' and categorise it as follows :-

Category	Target Timescale	Some Examples of Types of Complaint
A	10 Working days	Minor breaches of tenancy, Common areas, Problems with pets, Neglect of garden, Noise, Access disputes, Litter, Car repairs/parking, Running a business without permission.
B	7 Working days	Harassment, breaches of tenancy, Category 'A' complaints which have escalated further.
C	24 Hours	Violence or threatening behaviour, racism, criminal behaviour, drug dealing, child neglect.

Please note that it may take longer than indicated above, to deal with your complaint depending on the individual circumstances of the case.

We will write to you confirming we have received your complaint and enclose a '**Personal Record of Incidents Sheet**'. You can use this sheet to record any further incidents. It is important that any information entered on this sheet is **accurate**, as it can be investigated and may be used as evidence should the council proceed to court to seek eviction of an alleged anti social tenant.



CONTACT THE POLICE

In situations where you feel threatened or are being disturbed by excessive noise, you should contact the Police for advice and assistance. The Police will visit your neighbour and the call will be officially logged.

You may be given an incident number, which you should note and record on your 'Personal Record of Incidents Sheet'. The Police will not disclose your name to your neighbour. **You can ask the police not to call at your door after they have visited your neighbour, if you wish to remain anonymous.**

IMPORTANT

You should advise your Housing Assistant, EACH TIME the Police are called. If the Police attend at night, please advise your Housing Assistant the following morning.

I've reported my complaint, what action CAN the council take?

After the Housing Assistant has investigated your complaint, and found that it is **justified**. We will tell your neighbour that they must stop causing a nuisance or annoyance to their neighbours.

If your neighbour continues to cause a problem, please inform your Housing Assistant, who will investigate the matter further.

If your neighbour ignores our warnings, we may start legal action against them. **However, in many cases legal action will not be appropriate and we will make every effort to resolve a dispute without going to court.**

In some case we may be unable to take any further action, if for example, there is no evidence to support your complaint or the behaviour is not a breach of the tenancy agreement.

How can a dispute be resolved *without* going to court?

Only a small percentage of neighbour disputes end up in court. Most can be solved by other means such as '**mediation**'. Both South and East Ayrshire Councils have identified the need for an alternative and specialist service to assist council tenants who are in dispute to resolve their problems through mediation. In 2002, the **East & South Ayrshire Joint Mediation Service** was launched.

THE MEDIATION SERVICE

The aim of the service is to assist householders who are in dispute to reach an amicable agreement, which will enable them to continue to live in relative peace and quiet with their neighbours.

Our trained mediators are impartial and do not take sides, nor do they **tell you how** to solve your difficulties.

The mediation service is totally confidential and will be offered to neighbours in dispute when **at least one** of the parties involved is a tenant of South (or East) Ayrshire Council.

MEDIATION MAY BE SUITABLE IF :-

- You and your neighbour want to resolve the dispute.
- The dispute is fairly recent
- The issues in dispute are within you and your neighbour's control
- No formal criminal charges have been made
- No legal action is being taken in relation to the dispute



What are the benefits of mediation ?

- You have the power to resolve a dispute before it escalates
- You can reach an agreement with your neighbour whereby you both benefit
- By reaching an agreement you and your neighbour can continue to live in peace and quiet
- The agreement you reach, is decided by you and your neighbour, the mediators just help you to reach it
- You have nothing to lose by agreeing to mediation

If you are a council tenant, in dispute with a neighbour you may wish to consider mediation (Your neighbour does not have to be a council tenant, but at least one of the parties in dispute must be a council tenant). Contact your Housing Assistant at your local housing office.

If we decide your case is suitable for mediation, we will pass it to two trained impartial mediators, who will take over the from the housing office and go through the following stages with you :-

HOME VISIT

The mediators will visit you and your neighbour *separately* at home or other suitable place. During the visit the mediators will listen to you to hear what your issues are with your neighbour and how you feel about them. They will also explain how the mediation service works and answer any questions you may have.

COMMUNICATING WITH YOUR NEIGHBOUR

If you, your neighbour and the mediators agree, a 'face-to-face' mediation session with your neighbour will be arranged, which will be held in a venue neutral to both of you. The venue will usually be local to both of you and easy to get to.

Sometimes one mediation session will be enough to resolve your issues, however if more sessions are required this will be arranged, if the mediators agree.

If you don't want to meet 'face-to-face' with your neighbour you will be offered '*shuttle mediation*', which follows a similar process. However, you and your neighbour will be in separate rooms and the mediators communicate between you.

REMEMBER

At the end of the mediation process, we don't expect you and your neighbour to suddenly become best friends, just good neighbours !

Court/Legal Action

In most cases legal action will *not* be appropriate and we will make every effort to resolve a dispute *without* going to court.

However, in some cases we can and will apply to the court for one or more of the following remedies:-

- **An Interdict**
- **An Anti Social Behaviour Order (ASBO)**
- **A Decree for the Eviction of the problem tenant**

However, all these remedies are granted at the *discretion* of the Sheriff. In other words the council must provide enough supporting evidence to the court, so that the Sheriff considers it reasonable to grant them.

To be successful, court action might also involve further investigation by other council departments (such as Environmental Health) or other agencies (such as the Police).



INTERDICTS

An interdict is an order from the Sheriff Court to prevent a named person or persons repeating certain nuisances (e.g. Acts of violence or harassment).

Interdicts can only be used to **stop** a person from doing something, it cannot be used to make a person **do** something, such as make them clean the stairs or keep their garden tidy.

As well as the council, any individual person can also apply for an interdict. In certain serious and urgent circumstances the Sheriff may, grant an 'Interim Interdict' until he/she decides whether or not to grant a full interdict.

The council can apply for an interdict as an alternative to, or in addition to, seeking an order for eviction.

If your neighbour continues to carry on with the activity, they are classed as being 'in breach of interdict'. This is considered as contempt of court and your neighbour could be liable to a fine, or possibly imprisonment. However, the council will have to go back to court again, to prove its' case to the Sheriff.

ANTI-SOCIAL BEHAVIOUR ORDERS (ASBO's)

Anti- Social behaviour orders (ASBO's) can be used to tackle serious anti-social behaviour, such as drug dealing, unprovoked assault, severe harassment, persistent vandalism, serious damage to property, racial harassment etc.



Like interdict's these orders try to prevent a person from doing something specific, which is causing alarm or distress in the community.

ASBO's can be taken against anyone over the age of 16, living in the South Ayrshire Council area, who commits serious anti social behaviour, such as those mentioned above, on ***at least two separate occasions***.

NOTE

We will only consider making an application for an ASBO, when all other means of trying to resolve the problem, short of eviction, have failed.

We can go to court to seek an anti-social behaviour order not only against tenants, but against home owners, and those renting from a private landlord. However, we must provide enough evidence to convince the Sheriff to grant an ASBO.

If someone, who has been served with an ASBO, breaches the order, the police may arrest them and they may be liable to a fine or term of imprisonment.

IMPORTANT

- **The council cannot apply to the court for an ASBO against someone whose behaviour is simply *different* or eccentric, or is a result of a mental health disorder.**
- **ASBO's cannot be used, to address disputes between neighbours over boundaries and/or access rights.**



When the court grants an ASBO, it will spell out exactly what the offender is not allowed to do in very clear terms. The council will then review the need for the ASBO on a regular basis.

If the person continues to act in the manner that led to the order being issued, you should contact Strathclyde Police (Ayr Office) on 01292 664 000, who will advise what to do next.

DECREE FOR EVICTION

If all other attempts of resolving the problem with your neighbour have failed, the council can apply to the court for a decree to evict the tenant, who is causing the problem or nuisance.

The process of seeking 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. Therefore, we need strong supporting evidence from neighbour(s) and also from other agencies and council departments, such as the police and environmental health.

If the Sheriff grants a decree for eviction for anti-social behaviour, we will not offer the problem tenant another Secure Tenancy with South Ayrshire Council, within a three year period of the date of the decree.

We may however offer a Short Scottish Secure Tenancy, which gives them fewer rights and less security of tenure.



Legal Powers of other Council Departments and Outside Agencies

THE POLICE

The police can take action in a number of situations including; harassment, involvement in illegal drugs, noise nuisance, public nuisance, and dangerous dogs.

HARASSMENT

Action may be possible under the law relating to assault, threatening behaviour and breach of the peace and it may be possible to proceed with a prosecution. If there is sufficient evidence a report could be submitted to the procurator fiscal which may lead to prosecution.

DRUGS & DRUG DEALERS

If you suspect a neighbour is involved in drugs or drug dealing, you should contact the police and your area housing office.

NOISE NUISANCE

If a neighbour is disturbing you by playing music at excessive volume, contact the police immediately. Even if the police do not arrive until after the music has been turned off, a call from the police may be enough to deter your neighbour from doing it again. **If you do not want your neighbour to know you have called the police, ask the police not to call at your door after they have visited your neighbour.**



PUBLIC NUISANCE

The police can take action if someone's actions are likely to cause annoyance e.g. cars being repaired, cars causing obstructions or abandoned cars on a public road.

DANGEROUS DOGS

If someone allows their dog to cause danger, an injury to another person in a public place, you should contact the police. There are restrictions on the ownership of certain dangerous dogs and powers to control them.

ENVIRONMENTAL HEALTH DEPARTMENT

The Environmental Protection Act 1990 gives powers to council Environmental Health Officers to deal with certain issues like noise, excessive build up of rubbish and animal control.

NOISE

Unreasonable domestic noise such as washing machines, intruder alarms, regular noise from car repairs and televisions / stereos.

RUBBISH

Where excessive build up of rubbish is causing a danger to health and safety.

ANIMAL CONTROL

Where dogs are causing a nuisance by straying or posing a threat to the public. Problems with dog fouling in public places such as foot paths and children's play areas.

AREA OFFICES :

Ayr North
Riverside House
21 River Terrace
Ayr
KA8 0BJ
Tel : 01292 616 002 or 616 004
Fax : 01292 287 890
E-mail : AyrNorthHousing@south-
ayrshire.gov.uk

Ayr South
80/88 Kyle Street
Ayr
KA7 1RZ
Tel : 01292 611 600
Fax : 01292 611 674
E-mail : AyrSouthHousing@south-
ayrshire.gov.uk

Prestwick
2/6 The Cross
Prestwick
KA9 1AN
Tel : 01292 671 666
Fax : 01292 671 670
E-mail : PrestwickHousing@south-
ayrshire.gov.uk

Troon
Municipal Buildings
South Beach
Troon
KA10 6EF
Tel : 01292 313 555
Fax : 01292 318 009
E-mail : TroonHousing@south-
ayrshire.gov.uk

Maybole
64 High Street
Maybole
KA19 7BZ
Tel : 01655 882 124
Fax : 01655 889 621
E-mail : MayboleHousing@south-
ayrshire.gov.uk

Girvan
17-19 Knockcushan Street
Girvan
KA26 9AG
Tel : 01465 712 299
Fax : 01465
E-mail : GirvanHousing@south-
ayrshire.gov.uk

USEFUL ADDRESSES & PHONE NUMBERS:

● Police	01292 664 000
● Special Uplift	0845 769 7520
● Environmental Health	01292 618 222
● Dog Warden	01292 618 222
● Victim Support	01292 266 441
● Ayr Housing Aid Centre	01292 288 111

PERSONAL RECORD

It is important that information entered on this sheet is accurate as
Services proceed to Court to seek

Name: **Address:**

Date	Time	What Happened?

Should further sheets be required please contact your local Housing As

RD OF INCIDENTS

it can be investigated, and may be used as evidence should Housing
eviction of an alleged perpetrator.

S:

	Police Contacted? Yes or No	Any Witnesses? (Give Details)

ssistant.

This booklet is available in other languages and formats on request.

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اور اشکال میں دستیاب ہے۔ ق

本手冊備有其它語言和格
式的版本以供索取。

It is also available on our website at:
www.south-ayrshire.gov.uk

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