

**SHETTLESTON
HOUSING
ASSOCIATION**



Neighbour Disputes



NEW FROM DECEMBER 98



SHETTLESTON HOUSING ASSOCIATION

Introduction

Shettleston Housing Association is a community run organisation involved in the improvement of sub-standard properties and the building of new houses in the Shettleston area.

The Association aims to do as much as it can as a social landlord to ensure that:

- tenants enjoy a clean, tidy and safe environment;
- tenants are allowed 'quiet enjoyment' of their homes.

The Association attempts to achieve these aims by effectively implementing its Estate Management policy. (A copy of this can be provided on request). The objective of this leaflet is to give tenants a clear understanding of the policy and the way it is implemented.

Your responsibilities as a Tenant

When you become a tenant and sign your Tenancy Agreement you are committing yourself to certain obligations. These are clearly laid out in both your Tenancy Agreement and in the Association's Information leaflet 'Your Tenancy'. You might find it worthwhile referring to the leaflet while reading this leaflet.

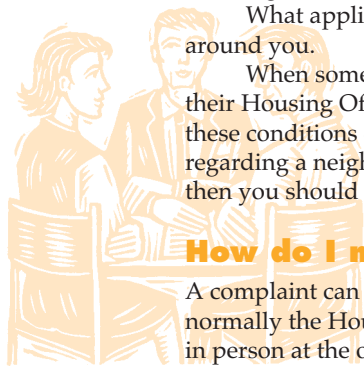
What applies to you as a tenant also applies to the tenants around you.

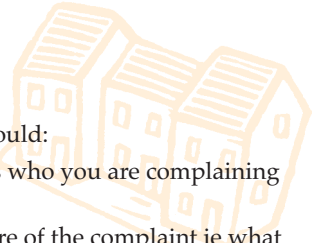
When someone signs a tenancy agreement with the Association, their Housing Officer will emphasise the importance of observing these conditions of tenancy. Basically, if you have a problem regarding a neighbour not adhering to any of their responsibilities then you should consider making a complaint to Association staff.

How do I make a complaint

A complaint can be made to a member of the Association staff, normally the Housing Officer who covers your area, either by calling in person at the office or by writing or telephoning. The only thing that is asked is that a complaint should be made where possible by the individual concerned and not by a third party.

In making a complaint you should be aware that staff will treat anything you say in the **strictest confidence**. You should try and give as much detail as possible in relation to your complaint.





For example, where possible, you should:

- name the individual or individuals who you are complaining about;
- give specific details about the nature of the complaint ie what exactly happened, on what dates, what times, who was involved etc. It is always helpful if you can put your complaint in writing. Where the Association is considering legal action this will almost certainly be essential but is not necessary at the initial stage.

When you make a complaint you will normally be told the procedure that will be followed, including how to deal with it if the issues involved do not relate directly to your or someone else's tenancy. You will also be asked if the matter could be resolved informally between yourself and whoever else is involved.

Resolving problems

If another tenant's actions are causing you a problem it is usually best to try to resolve them quickly, informally and amicably. Remember, aggression and confrontation usually cause more problems than they solve.

If this fails or isn't even possible, there are always alternatives, such as 'mediation'. This involves an Association staff member or a professional 'Mediator' acting as a neutral chair in a discussion between both parties.

But if informal approaches or mediation don't work, what then can be done?

What if the problem persists?

While the Association would hope to resolve problems amicably we recognise that this is not always possible. Where serious problems persist the Association will respond by taking more serious action against the tenants concerned.

Conduct which the Association will respond to by taking more serious action might include:

- **Excessive noise.**
- **The use of premises for illegal or immoral purposes.**
- **Persistent verbal abuse.**
- **Acts of vandalism or destruction.**
- **Harassment on the grounds of race, colour, religion, gender, sexual orientation, disability or age.**

Noise

Noise is a problem if it is excessive and/or it occurs at 'anti social' times. Noise which may be acceptable at 5pm might be unacceptable at 2am. On the other hand, some noise is so loud its unacceptable at any time.

If you are being disturbed by noise from a neighbour's house after midnight and you have been unable to resolve the problem informally, you are entitled to contact the Police.

Problems of persistent noise after midnight should also be reported to the Association.

If however, you regard the noise as excessive at any hour you should consider contacting the City Council Environmental Services Department. They have the authority under law to investigate noise nuisance and the fact that you are not a council tenant is irrelevant.

You can contact them via:

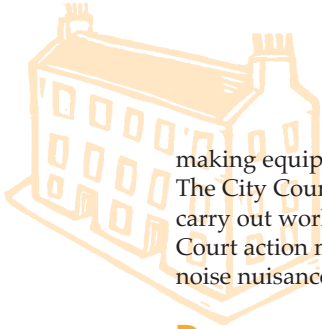
- **telephone** 0141 287 2000 between 8.30 am and 5.00 pm Monday-Friday
- **letter** Environmental Services Protection Manager,
Environmental Services Department,
Glasgow City Council, 23 Montrose Street
Glasgow G1 1RN
- **in person** call into the Department between 8.30 am
and 5.00 pm Monday-Friday



Environmental Services have a noise policy which is available on request. This details how noise nuisance complaints will be investigated. In any event, at least three visits should be made by an Environmental Health Officer at a time when the alleged noise is likely to be occurring. On completion of an investigation one of the following decisions will be taken by the City Council:

- **no further action will be taken as the noise does not constitute a 'nuisance';**
- **initiate formal statutory action;**
- **refer the matter to another agency.**

Formal statutory action can include the issuing of what is known as a Noise Abatement Order, ordering someone to stop the noise nuisance taking place. Failure to comply with such an abatement notice can be dealt with by the criminal courts. Environmental Services also has the authority to remove noise



making equipment from residents who are causing a noise nuisance. The City Council may also require the Association as landlord to carry out works to improve sound proofing in affected properties. Court action may also be instigated directly against those causing a noise nuisance.

Drugs

Offences involving misuse of drugs are essentially criminal matters and, as such, should be dealt with by the Police.

You should immediately report such matters to the police who will respect the confidentiality of such reports. The relevant numbers are:

London Road Police Station 0141 532 4600

Shettleston Police Station 0141 532 4800

Because using a property for illegal purposes such as drug dealing is a breach of tenancy conditions the Association has developed a specific policy for how it will deal with breach of tenancy conditions in relation to drug dealing or drug misuse.

The Association can only take action where someone is convicted under the Misuse of Drugs Act 1971. We have developed an excellent working relationship with the local police and will take action whenever we can but even the Police would acknowledge that obtaining convictions can be difficult.

The Association would acknowledge that this is an area where tenants can be extremely fearful and wary of passing on information for fear of reprisal. In view of this the we will forward evidence provided in confidence by tenants to the appropriate police officers.

Proving a nuisance

Before **any** court action can be taken the Association will need to be confident that the evidence it has will 'stand up' in court. Under normal circumstances this will mean that any complaint will need supporting evidence or 'corroboration'. The word of one person on its own will not normally be sufficient.

This corroboration need not always take the form of another witness but this is usually the simplest method.

In looking for corroboration the Association will make attempts to collect as much evidence as possible about the nuisance. In practise, this means the Housing Officer must keep careful records of

all visits, interviews, telephone calls and letters about the case. It may also involve visiting neighbours and, where appropriate, seeking confirmation of reported incidents by the Police or Environmental Health Department.

The collection of evidence might include diaries being kept by yourself. The purpose of a diary is to log the frequency and exact dates of incidents. This might confirm the evidence of others or simply document the level of the problem.

Obviously, the Housing Officer will be happy to receive such corroboration provided directly from neighbours. Normally this will involve written statements being submitted directly to the Association.

Warnings

Where there is sufficient proof to suggest that an Association tenant has breached their tenancy agreement then the Association will normally issue the tenant with a warning about their future conduct. This may be a verbal or written warning, depending on the nature and seriousness of the conduct concerned.

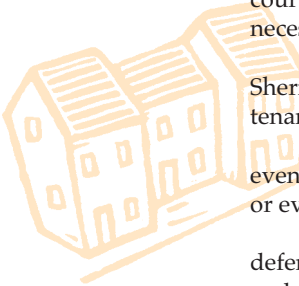
Court action for eviction

Only a small number of cases involving neighbour disputes go to court. However, the Association **will** take court action where necessary and where the evidence supports the case.

Court action would normally mean an action being raised in the Sheriff Court for Recovery of Possession. In other words evicting the tenant who has caused the problem.

It should be remembered at this point that eviction can occur even if the problem was caused by another member of the household or even visitors of the tenant.

Court action is neither painless nor quick. If the action is defended, in other words the other tenant disputes the accusations and appears in court to defend themselves, it will normally go to 'proof' which involves witnesses being called and the case being argued in front of the Sheriff. These witnesses might include Association staff, the Police and Environmental Health Officers. It is almost certain to also include yourself as the person making the principal complaint. The Association recognises that in some cases this can be intimidating because of an understandable fear of reprisal and the Association will go out of its way to support tenants in these circumstances.



It can take six months or more to actually get a case into court and if successful a further month or two can go by between a decree and the actual eviction.

In cases such as this the Sheriff will make a decision on the basis of 'reasonableness'. In other words, the Sheriff must decide on both whether the case has been proven and whether eviction is a reasonable 'punishment'. 'Reasonable' is difficult to define but it may well include an assessment of the offending tenants circumstances eg are there children in the house, as well as the case itself. The frequency and seriousness of the offending behaviour will also come into it.

Other court action

Court action for eviction is not the only legal remedy open to the Association. On occasion we have made use of 'interdicts'. An 'interdict' is an instruction to a person by the court which specifies that the person is prohibited from doing or saying something or going near someone. While this can be effective it needs to be remembered that it neither solves the problem nor does it take the problem away. In addition, the courts can only fine someone if the interdict is breached.

An 'interim interdict' is the same, only it is a temporary measure to prevent problems getting out of hand.

While the Association will always look at the merits of different forms of court action we will generally take the view that, if a dispute or problem is so significant that court action is warranted, an action for eviction will be the preferred route.

Crime and Disorder Act 1998

The Crime and Disorder Act 1998 contains a number of new provisions relating to anti-social behaviour. Specifically it has introduced the 'Anti Social Behaviour Order'.

This is a court order which can deal with anti social behaviour in the neighbourhood or vicinity of a house and not just directly in it. It applies to all householders, including owner occupiers as well as council and housing association tenants. The order must be applied for by the local authority. A landlord or householder must first demonstrate to the local authority that a problem exists.

The Act takes effect from April 1999 and like any new legislation, there is a period of time before its real impact can be assessed.

Conclusion

Neighbour disputes and anti-social behaviour are difficult issues to deal with. People frequently put up with problems for too long, take the law into their own hands, or are simply frightened by the possible consequences of complaining.

No-one, including the Association, can give any guarantees about the outcome of action, even if all the right steps are taken.

But that doesn't mean that you should do nothing, since doing nothing will usually make the problem worse.

The Association will do all it can to resolve disputes and problems at the earliest possible stage. Court action may always be a possibility but equally, will always be a last resort. Where we do go down this road we will try to be both thorough in our procedures and honest with you in our assessment of success or failure.

Further information

If you wish to discuss any aspect of the leaflet please don't hesitate to contact a member of staff at the Association:

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65 Pettigrew Street
Glasgow G32 7XR
Tel: 0141 763 0511



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Scottish Federation of
Housing Associations