

MUIR GROUP HOUSING ASSOCIATION LIMITED

F2 STATEMENT OF PROCEDURES ON ANTI-SOCIAL BEHAVIOUR

Purpose

The purpose of this procedure is to ensure that all residents and staff are aware of the Association's role in ensuring residents enjoy a decent and peaceful environment to live in. It is our aim to ensure that every victim of nuisance receives swift and effective support leading to a resolution of the problem. Muir Group adopts a victim-centred approach to dealing with anti-social behaviour.

Background and Scope

This procedure applies to all tenancies and leases. In terms of definitions used within this document:

Anti-social behaviour will be referred to in this document as ASB. ASB is an umbrella term which encompasses all types of nuisance including, but not exclusively:

<u>Category</u>	<u>Examples</u>
• Noise nuisance	Shouting, loud late night parties, repeatedly banging doors or buzzing intercom systems, loud music or TV
• Nuisance from vehicles	Driving dangerously, abandoned or untaxed cars, parking issues, car repairs
• Illegal or dangerous use of any motor vehicle	Driving dangerously, driving under age, revving car engines
• Unkempt or misuse of gardens	Untidy gardens, unsafe structures, old junk left in gardens
• Using and selling illegal drugs	Dealing drugs, leaving needles in communal areas
• Criminal behaviour	Burglary, assault, vandalism, racial or domestic violence
• Intimidation or assault	Violent behaviour, physically, mentally or verbally abusive behaviour, eg aggressive swearing or

- hitting another resident, staring through windows for no reason
- Aggressive begging Repeatedly and persistently requesting such items as money or cigarettes
- Prostitution Sex workers, soliciting, kerb crawling
- Intimidating gatherings of people in public places Gangs of youths congregating outside local shops
- Alcohol and solvent abuse Drinking heavily or partaking in solvent abuse in public or communal areas
- Verbal abuse Shouting, arguing in the street, racist or discriminatory taunts, swearing
- Boundary disputes Hedges, parking, landscaping, fencing
- Racial harassment Racist graffiti, verbal racist abuse, nuisance targeted at a resident simply because of their race, colour, nationality, ethnic or national origin
- Domestic violence and abuse A person physically assaulting their partner for whatever reason, mental abuse of the same
- Damage to property (including graffiti and vandalism) Spraying paint on a wall, kicking and breaking a fence panel, damaging or stealing plants or flowers in a garden
- Nuisance from business use Resident repairing cars for a living from their property
- Pets and animals Dogs barking repeatedly, fouling of public areas, general nuisance caused by pets
- Rubbish and misuse of communal areas Placing refuse in communal areas, storing bikes and other objects in communal areas
- Intimidation and harassment Persistent nuisance targeted at an individual or group, , sexual harassment, homophobic or

transphobic violence or abuse, false allegations

Muir Group Housing Association may be referred to as 'the Association' or 'Muir Group'.

Community Housing Managers will be referred to as CHMs.

Regional Managers will be referred to as RMs.

Procedures and Implementation

The effective management of ASB and nuisance is embedded within the work of the Housing Services Department and the organisation as whole. As such, consideration of the effects of ASB and nuisance on individuals and communities is given from the first point of contact with a potential tenant to the day that tenant's involvement with the Association ceases.

Preventing ASB

Applications and Allocations

Muir Group is committed to preventing ASB occurring on its housing schemes and in the communities in which it operates. By using an allocations procedure that has been specifically written and designed to do just that, Muir Group aims to eradicate ASB from its housing stock and neighbourhoods and tackle ASB at the first point of contact with prospective tenants, ie applicants.

Consideration must be given to the expectations of housing associations when assessing housing applications as set out by Housing Corporation Regulatory Circular 07/04: Tenancy Management: Eligibility And Evictions. Muir Group's allocations procedure seeks to prevent ASB by:-

- Reserving the right of the Regional Manager to exclude applicants from the waiting list who have a recent record of anti-social behaviour. This includes people who have had legal action taken against them for nuisance, harassment and violence or threats of violence. *'Ineligibility for housing on the grounds of the applicant's antisocial behaviour should be based on evidence of that behaviour. Previous tenancy enforcement action for ASB should not be taken into account if it occurred more than two years prior to the date of application and the tenant's household has conducted a tenancy satisfactorily in the intervening period.'* Housing Corporation Regulatory Circular 07/04. Cases which are excluded on these grounds are reported retrospectively to the Regional Committee, and applicants are informed of their right to appeal via the Complaints Procedure.

- Cancelling applications where Muir Group, another housing association, local authority or private landlord has previously evicted or sought to evict the applicant or member of the applicant's household for a breach of tenancy.
- Returning any application forms that have incomplete data. This is particularly important when there are no references to or history of where an applicant has lived in the last 3 years

In addition and in line with existing practice at Muir Group: -

- All applicants will receive a home visit to ensure that the information submitted on the application is correct.
- The Community Housing Manager (CHM) will ensure that the housing application form has been completed correctly and that references have been received from present or previous landlords. The CHM must be as satisfied as they can be before allocating a property that the applicant is unlikely to cause ASB.

The Association's allocations procedure also allows the Regional Manager to sensitively re-let a property or properties where there has been a particular problem with ASB. The Regional Manager has the authority to vary the allocations policy on that property or area to minimise the risk of ASB occurring again. Such variations must be reported to the Regional Committees and the Director Of Housing Services.

False information on the application form

If, at any time following commencement of a tenancy, the Association is made aware that the tenant has given false information on the housing application form, the Association will seek legal advice and consider taking appropriate action against that tenant. Account will be taken of the current conduct of the tenancy in relation to ASB, previous history of ASB and previous tenancy references.

Sign-up

Before a new tenant signs a tenancy agreement or a deed of assignment (used when tenants mutually exchange) for a Muir Group property, the CHM will ensure that the following is made clear to the tenant: -

- The terms of the tenancy agreement are explained including the points relating to community responsibility (inc. ASB, nuisance, harassment on any ground) – see Appendix 1.
- That action will be taken if the terms of the tenancy agreement are breached. Such action may result in the tenant losing their home if possession is the route chosen by the Association.

Muir Group's current tenancy agreement has the Crystal Mark, which means that the Plain English Campaign has approved it. This should ensure that the clauses within the tenancy agreement, including those relevant to the management of ASB, are easy to understand.

The Complaints Process

It makes no difference whether the person making a complaint is a Muir Group resident or not. If the cause of the problem is a resident or leaseholder of the Association, or any person living with or visiting them, the complaint will be investigated and dealt with in accordance with the procedures laid out within this document. When a resident of the Association makes a complaint against a non-resident, we will advise and support our resident in contacting the correct agencies and assist them in resolving the problem.

It is extremely important to remember that every new tenant is made aware of their obligations and the tenancy conditions concerning ASB and nuisance before they sign a tenancy agreement or deed of assignment. It is therefore assumed that if a tenant has behaved antisocially, they have done so being fully aware of the Association's stance on the matter and the potential consequences of such action. Each tenant has an obligation to pass on this information to family, visitors and friends. Ignorance is no defence for breach of tenancy conditions.

Making And Receiving A Complaint

Muir Group will ensure that there are numerous ways in which complaints of ASB can be made. The most common methods of receiving complaints of ASB are as follows:

- Email to info@muir.org.uk
- Telephoning the Area Offices
- Writing or sending a fax to the Area Offices
- In person at our Area Offices
- Via estate meetings or focus group meetings.
- Reporting details of ASB to any members of Muir Group staff whilst they are 'on site'. This includes Muir Group's Estate Managers and cleaners.

Contact details for all of Muir Group's Area Offices can be found in Appendix 2.

A complaint of ASB can come from an individual suffering from ASB or on their behalf from another individual or agency.

On initially receiving a complaint of ASB, by whatever means, the recipient must record the details of the complaint on the 'Anti-Social Behaviour Register Form' (see Appendix 3). The member of staff receiving the complaint must ensure that as much information as possible is taken and logged appropriately

on the register form. Once completed, the complainant must be informed that the details will be forwarded to a named officer (usually the CHM) who will contact them at the earliest opportunity to discuss the incident/case in more detail.

The register form must be forwarded to the relevant officer (usually the CHM) immediately upon completion. The form should be sent by email and be copied in to the Regional Manager (RM). If the complaint concerns a racist incident or racial harassment, the Racial Harassment Procedure must be followed. If the complaint concerns a homophobic or transphobic incident or harassment, the Homophobic and Transphobic Harassment Procedure must be followed. If the complaint relates to domestic violence, the Domestic Violence Procedure must be followed).

On receipt of the register form the CHM or other designated officer must make a preliminary assessment of the complaint based on background information held about the complainant (where known) and the alleged perpetrator(s) including any previous complaints received. When assessing the seriousness of a complaint the following issues should be considered: -

- Is the complaint reasonable?
- Is the complainant able to sort the matter out him/herself?
- Is Muir Group able to make changes to the property or surrounding area which may alleviate the problem?
- Is Muir Group the most appropriate organisation to deal with the complaint or should it be referred to another agency?
- Could there be underlying reasons for the complaint?
- Are there any cultural issues that may have an influence on the action to be taken?
- Are there any other issues that may have an influence on the action to be taken, eg the mental health of the perpetrator or indeed the complainant?

If the assessment reveals that the complaint is of a minor nature and Muir Group can take no effective action, the complainant will be notified in writing and a note of the decision will be recorded with the initial register form on the tenancy file.

Where the assessment reveals that other agencies may be in a better position to assist the complainant, the CHM or other designated officer must provide the complainant with the appropriate contact details such as the Police or local authority. If the assessment reveals that the complaint is essentially a neighbour dispute, with both parties at fault, rather than ASB, it may not be appropriate to take any action, other than to make a possible referral for mediation. Such situations should continue to be monitored however in case the issue develops into one of ASB.

If it is felt that the complaint is serious enough to warrant further investigation, the CHM or other designated officer will notify the RM, proceed with a full

investigation and set up a separate ASB Case File. This will contain all the information regarding the complaint. On the basis of this assessment, the CHM or designated officer may feel that it is appropriate to send the complainant an ASB pack containing an incident diary booklet, a copy of the Association's ASB fact sheet (*to be produced in 2006*), copy of the Policy and Procedures Summary Document and contact details of any other agencies relevant to the particular type of ASB case. A trawl of the tenancy files of all individuals involved in the complaint should take place at this time and only relevant information should be placed on the case file. A note should then be placed on the front of the tenancy file informing staff that there is a case file in existence. All case files for each perpetrator will be stored separately from the tenancy files in a designated area in each office. Data Protection and Confidentiality guidelines must be adhered to at all times.

The RM must create an appropriate hazard warning diary note on the Context database at this point alerting all staff to the fact that an ASB case file exists and is linked to a particular tenancy.

Anonymous complaints

Anonymous complaints should not be ignored and even if no action is taken, the complaint should be recorded on the relevant tenancy file in case there are more complaints in the future. These complaints should also be recorded on the resident's diary notes on the computer system.

If the CHM is able to verify an anonymous complaint (e.g. witness car repairs or resident damage) then they must do so. The perpetrator can then be advised that the incident has been witnessed the nuisance first hand and can be cautioned as to their behaviour.

Responsibility for the ASB case

As stated previously the register form should be forwarded to a named CHM or officer. This will normally be the CHM who manages the scheme or property where the ASB is alleged to be emanating from. The CHM who receives the register form will 'adopt' this ASB case and will be responsible for it through until the matter is concluded. This ensures a consistent approach and ensures that the complainant is fully aware of who the point of contact at Muir Group is.

Interviewing the complainant

All cases deemed to be low-level nuisance/ASB will be responded to within 5 working days of receiving the initial report. An interview to discuss the complaint further will be conducted within 10 working days where practicably possible. Examples of low-level nuisance could include children playing ball games in a communal car park or an intercom being buzzed repeatedly.

All cases deemed to be high-level nuisance/ASB will be responded to within 2 working days of receiving the initial report. An interview to discuss the complaint further will be conducted within 5 working days where practicably possible. Examples of high-level nuisance could include assault or threatening behaviour. In line with the Racial Harassment Policy all reports of racist incidents must be fully investigated within 24 hours (see Racial Harassment Policy). In line with the Homophobic and Transphobic Harassment Policy all reports of homophobic or transphobic incidents must be fully investigated within 24 hours (See Homophobic and Transphobic Policy)

It is important to establish as much relevant information as possible at the first interview to include: -

- The nature and seriousness of the reported ASB
- Names and addresses of alleged perpetrators
- Whether there are any underlying causes e.g. longstanding disputes
- Identity of any witnesses
- Names of any other agencies which have been involved
- Permission to contact the alleged perpetrators
- An indication of what action the complainant would like Muir Group to take and their preferred outcome
- Referral to the police if a crime has been committed
- A review of any evidence collated by the complainant, eg diary.

Consideration at the first interview should also be given to the following 5 key questions:

- What/who is causing the problem?
- Who is affected?
- Where does it happen?
- When does it happen?
- Why does it happen?

The CHM should give a clear explanation of the process, options and possible outcomes at the interview and agree a provisional action plan and timescales to deal with the issues raised on the original register form and at the interview. The CHM should also inform the complainant how Muir Group will support them throughout and beyond the process. It is essential that regular contact with the complainant is maintained and that they are kept aware of all actions taken and progress made in relation to the complaint. The CHM will confirm all the acceptable/preferred means of contact, eg telephone, letter, email, combination of methods, etc, with the complainant. The frequency of contact should also be agreed at this interview and documented on the action plan. Complainants should be advised that their complaint will be kept confidential

but that in certain cases it may be impossible to take any action without the perpetrator identifying them.

The importance of reporting further incidents to other agencies i.e. the Police, Environmental Health, etc, should be stressed, as these agencies can be called upon to give evidence at a later date. Any reports to such agencies must be noted by the complainant and logged on the case file with relevant details, i.e. Police Officer's name and collar number, incident/crime number or name of Environmental Health Officer. The complainant should also be advised of the importance of completing the sheets in the incident diary booklet at this stage, as they will form the basis of any future legal action. The CHM must explain the layout of the incident diary booklet and ensure that the complainant is aware of how to complete the incident diaries correctly. Diary sheets may be relied upon in future legal action so they must be completed accurately.

Each "Incident Diary Sheet" should detail:

- When the incident happened, including time, date and duration
- Where the incident happened, such as a house number or street
- Who did it or who was involved, including names and addresses
- What happened, based on fact and not opinions
- If there were there are any witnesses, including names and addresses where known
- Whether the incident has been reported to the Police, CHM, etc
- How the incident has affected the complainant
- Signature and date.

A dated and signed incident diary that is completed at the time of the incident or very shortly after is contemporaneous. This means that it can be used by a witness as a memory aid when giving evidence in court.

The Association has a number of compact tape recorders (Dictaphones) in each of its Area Offices available for people to verbally record details of incidents if they feel more comfortable doing so this way. Such recordings need to be transcribed by the Association and the transcript signed by the resident.

Contact details of any other relevant agencies should be handed to the complainant at the interview, if not sent by post previously. Such agencies may include Environmental Health Department, Victim Support etc.

Finally, the complainant should be made aware of the Association's Complaints Procedure should they be dissatisfied with the way the Association deals with the ASB complaint.

A detailed record of the interview and a typed action plan must be produced by the CHM and placed on the case file. The Complainant must sign the filed Action Plan, and retain copies of it and the record of the interview.

Following the interview the CHM should be in a position to categorise the ASB case as urgent/serious or minor. If the CHM requires some clarification on this matter they should discuss the case with the RM.

In very serious cases where there has been a physical attack, or threatened violence, it may be necessary to move to legal action immediately. It is vital that these cases are brought to the attention of the RM immediately, who may seek legal advice.

Other witnesses

If the complainant supplies the names and addresses of witnesses to the ASB or nuisance during the interview, letters should be sent to those individuals requesting an interview to discuss the matter. The incident diary booklet contains separate witness report sheets and the complainant should be encouraged to ask witnesses to complete these to support their completed incident diary sheets.

If the witness supports the complainant, the CHM should complete an ASB register form and proceed as previously outlined.

If the individual states that they do not have a problem, the CHM should find out why they think a complaint may have been made by the original complainant. Their response should be recorded in the case file.

Interviewing the perpetrator

If the CHM believes there is a case to answer and that the complainant's expectations are not unreasonable, then further action should be taken. Without exception, the permission of the complainant must be obtained before the alleged perpetrator is interviewed.

A letter should be sent to the alleged perpetrator suggesting a time for an appointment so that the CHM and another member of staff can conduct an interview. This letter should refer to the allegations of ASB that have been made, and explain that this is only an investigative interview.

Depending on the nature of the complaints/incidents, the CHM should inform the RM of the intended appointment so that a risk assessment can be made as to whether the interview should be held in the office or at the perpetrator's home. It may also be appropriate for the interview to be held in locations specific to the type of nuisance, for example if it has occurred concentrated in a specific area. To ensure personal safety, two officers should be present at all times during the interview, regardless of the location. The interview can be recorded if all parties present agree.

Each of the allegations should be discussed with the perpetrator in a non-judgmental manner and their responses recorded in writing. Muir Group's approach to ASB should also be clearly explained. A detailed written record should be completed immediately after the interview.

The interview will come to one of three conclusions:

1. The allegations are denied or the alleged perpetrator refuses to accept that their behaviour is anti-social and/or makes counter claims against neighbours, possibly to cloud the issue and make it difficult to discover the truth.
2. That the allegations are true and have been admitted by the alleged perpetrator.
3. The allegations are untrue.

If the CHM is satisfied at this stage that the allegations are not fabricated or exaggerated, then the perpetrator should be advised that they have breached their tenancy agreement. They should be given a formal caution and informed that if their behaviour does not improve, and further complaints are received, then the Association will take further action, which may lead to them losing their home. The caution and the consequences of continued ASB should be confirmed in writing and any agreements by the perpetrator to amend their behaviour detailed.

Failure to Attend

If the perpetrator fails to keep to the appointment they should be written to and requested to be available at a further appointment time. If they fail to keep this appointment a formal caution should be issued in writing. Lack of cooperation by the perpetrator should not prevent the ASB procedure from progressing.

Further Action

If, following a formal caution, the perpetrator does not amend their behaviour, the CHM, in consultation with the RM, must consider further action. Each Area Office must keep an up to date register of the contact names and addresses for agencies that may be able to assist complainants and the Association in tackling ASB. It is important that this is regularly updated and reviewed.

Multiple Perpetrators

If there are a number of individuals causing nuisance, eg gangs of youths causing annoyance, it is important to take enforcement action against all those responsible for the nuisance. This ensures consistency in the application of the procedure and will have more impact than if just one individual is targeted.

Where not all the perpetrators are residents of the Association, a partnership approach should be adopted with all landlords/agencies involved.

A case file for each perpetrator should be started in these circumstances.

Support For Complainants

Muir Group Housing Association understands the important role the complainant plays in the detection, prevention and action against ASB and crime. As such, Muir Group will keep complainants informed of all developments in each case of ASB and inform all parties in writing when a case has been closed. Muir Group will itself support complainants and witnesses as much as possible and where it cannot will involve other specialist external support agencies. Such support may include:

- Assessing the security of a complainant's home
- Assessing the means of communication a complainant may have or not have. Muir Group will consider providing a pay as you go mobile phone to complainants where deemed appropriate
- Arrange access to specialist support agencies such as victim support and counselling etc
- Utilising the flexibility of the allocations policy to effect management transfers
- Consider rehousing complainants temporarily
- Provide access to Language Line interpretation services
- Employ the 'Intensive Housing Management Package' by diverting Muir Group's Operational Support Officer to a particular ASB case
- Escorting the complainant to Court in the event of legal action being taken
- Maintaining effective communication with complainants
- Ongoing support beyond any court proceedings.

If the CHM concludes that the allegations of ASB are true and substantiated following the interview with the complainant and perpetrator, the matter should be discussed with the RM to determine an appropriate course of action. Whilst the various options may have been discussed with the complainant at the initial interview, it is not until the alleged perpetrator is interviewed, or not depending on attendance, that the Association can take a view on whether the allegations are founded and what action is appropriate. The Association has a number of legal and non-legal remedies available to tackle ASB. Each ASB case is different and therefore each case will be considered separately. Muir Group will not adopt a 'one size fits all' approach to dealing with ASB.

Dependant on the nature of the particular case, non-legal options should be considered first.

The non-legal options for dealing with ASB are:

Any action taken must be reasonable and proportionate to the ASB being caused:

No further action

It may be that after the complainant and perpetrator have been interviewed it is felt that no further action is required on the part of Muir Group. In some cases there may be action which the complainant can take themselves and these options will be explained to the complainant with appropriate support and guidance offered.

If no further action is required a letter should be sent to the complainant and perpetrator clarifying the Association's stance on the matter. This option may be appropriate where the perpetrator has accepted that he/she has behaved in an unacceptable manner and agreed to amend their behaviour.

Written and verbal warnings/cautions

The power of verbal and written warnings or cautions to perpetrators of ASB should not be underestimated. The number of cautions issued will depend on the severity of the case, ie the CHM may issue more cautions to someone who repeatedly slams the front door than to someone who has physically assaulted another resident. In the latter example, it may be the case that no cautions are issued and the Association commences legal or non-legal action immediately.

It is therefore left to the Community Housing Manager and Regional Manager to decide how many cautions, if any, are issued.

Letter from Muir Group's solicitor

It may 'add more weight' or be appropriate in some cases for the Association's legal advisors/solicitors to write to perpetrators of ASB on the Association's behalf. In some cases a warning letter from an agency other than Muir Group, such as a solicitor, may have the desired effect and add weight to the Association's approach to dealing with a particular perpetrator of ASB.

Mediation

Mediation can facilitate the reaching of an agreement between parties involved in a dispute.

Mediation concentrates on practical solutions for the future, but is only a possible solution if both parties agree to undertake mediation. The Independent Mediation Service (TIMS) mediators work in pairs and visit the parties involved in a dispute. They listen to each party's explanation of the

problem and help find options and formulate an agreement to resolve the problem if possible.

The Independent Mediation Service will consider accepting a wide variety of cases for mediation. Extreme cases that involve severe mental health problems or severe dependency on alcohol or drugs may not be suitable for referral. Details of the nearest mediation service can be found in the directory of support agencies available in each office.

In some cases, CHMs may attempt initial mediation without using TIMS.

Transfer Of Accommodation

A person subjected to ASB may feel that the only solution is to transfer to an alternative property in a different location. Incidents of ASB may appear isolated or not serious enough to merit a move but often fear of a further attack or an escalation of incidents can have a devastating effect on the victim, leaving them unable to feel safe outside or even inside their own home. Transfer requests from victims of ASB should therefore always be given a high priority. In such situations the CHM and RM should liaise with other housing providers in order to facilitate a move. A reciprocal letting may be appropriate if Muir Group cannot assist directly. It may be the case that due to a fear of reprisals against the complainant the Association has to delay action against the perpetrator until the complainant is relocated.

Referral to appropriate support services or other agencies

Muir Group has long standing working relationships with a number of professional support agencies across the country. Employing such support services may be appropriate in tackling certain ASB cases. As stated previously, a directory of relevant support agencies should be kept in each Area Office and be referred to if appropriate. Muir Group Housing Association also employs a team of Floating Support Workers around the country and referrals to this team should also be considered if appropriate, and if current caseload allows.

It may be more appropriate to refer specific cases to other agencies such as the Environmental Health Department who may be better qualified to tackle the issue.

Acceptable Behaviour Contracts

An acceptable behaviour contract (ABC) is simply another tool that can be used to tackle ASB. Whilst not legally binding, it quite clearly defines the nuisance being caused by an individual or individuals and requires them to cease such behaviour from the date the contract is signed by both parties.

The ABC illustrates that Muir Group have been 'reasonable' in dealing with the case and that alternatives to possession have been considered. If the

ABC is breached and possession action is taken, for example, it may strengthen the application for possession. This principle would apply in all instances where further legal action is pursued.

The ABC should only be used when the CHM is satisfied that the complaints of nuisance are genuine.

Other agencies may also be party to the ABC, eg the Police or local authority.

The legal options for dealing with ASB (non-possession) are as follows:

Any action taken must be reasonable and proportionate to the ASB being caused. The key to any legal action is the presentation of good quality evidence, which clearly shows that ASB is being caused.

Injunction

An injunction is an order made by a court requiring a person to do or refrain from doing a particular act, i.e. governing their future behaviour. Generally Muir Group will consider an injunction in cases where:

- Nuisance needs to be stopped immediately.
- The complainant needs to be safeguarded while possession proceedings are taking place.
- The breach of tenancy is not severe enough to warrant possession proceedings.
- The nuisance is being caused by persons not residing in or visiting a Muir Group property.

The Association may deem it appropriate, following legal advice, to apply for a power of arrest to be attached to an injunction.

Anti-social behaviour order (ASBOs)

ASBOs can be used against anyone over the age of 10 years old. Part 4, Chapter 2, of The Police Reform Act 2002, amends Section 1 of the Crime and Disorder Act 1998 (c.37) relating to the authorities who are entitled to apply for ASBOs. The changes mean that, in addition to the Police and Local Authorities, registered social landlords (RSLs) can now apply for an ASBO against any individual over 10 years old if they believe that “the individual is acting in a manner causing or likely to cause harassment, alarm and distress to one or more persons not of the same household as himself and that such an order is necessary to protect other persons in any place in England and Wales from further antisocial acts by him.”

Muir Group may apply for an ASBO against anyone residing in or likely to be on premises provided or managed by us or against someone in the vicinity or likely to be in the vicinity of such premises.

Where an ASBO is considered to be the appropriate course of action to deal with a particular case of ASB, the CHM must refer the matter to the RM. The RM will arrange, where appropriate, a case conference with relevant members of staff within Muir Group, the local authority, Police and other relevant agencies to agree a course of action.

Demoting an Assured or Secure Tenancy

Where appropriate, the Association will consider applying to the courts for a tenancy demotion order.

If granted by the courts, this order reduces the resident's security of tenure and effectively demotes a secure or assured tenancy to an assured shorthold tenancy for twelve months. . An assured shorthold tenancy is subject to a mandatory possession ground and is therefore much easier to bring to an end by the landlord should the anti-social behaviour pattern continue. By demoting a tenancy, the Association also removes a number of rights that that tenant has or may have under a full secure or assured tenancy such as the Right to Buy or Right to Acquire, etc. However, should the tenant change their behaviour, they would regain a higher level of security following the twelve-month demotion period. The demotion order can therefore also act as an incentive. It should be noted, however, that any tenant who held a secure tenancy prior to demotion would become an assured tenant upon successful completion of the demotion period.

The Association will continue to consider new options made available by legislation to tackle ASB. The Association will also support other agencies when exercising their legal powers to tackle ASB.

Possession Action

In most cases the Association will consider all other legal and non-legal options before commencing possession proceedings.

However, in some cases it may be appropriate to commence possession proceedings immediately.

In pursuing an application for possession of a property, the Association must prove to the Court that the perpetrator has been given every opportunity to alter their behaviour or to take steps to control the behaviour of residents or visitors to the property. The Association needs to demonstrate that it has been reasonable in the management of the ASB case and that it has been made clear to the resident that they may lose their home if the nuisance persists.

When considering possession action, the CHM must check the computer diary notes and discuss the matter with the Legal Services Manager to ascertain if the Association is currently taking possession action for rent arrears. If this is

the case, the CHM should seek legal advice regarding the effect this may have on any further possession action on grounds of ASB/nuisance.

Once the decision has been made to commence possession proceedings, the CHM/RM will liaise with the Association's solicitors regarding the preparation of a Notice of Seeking Possession (NSP). Once the NSP has expired and if the nuisance is continuing, the CHM will request that the Association's solicitors commence possession proceedings. The notice period for the NSP should be discussed with the RM and solicitor if required. The nature of the case will determine the length, if any, of the notice period. An NSP being served on grounds of ASB/nuisance should usually be served personally on the tenant by the CHM, where possible. The CHM must make arrangements to be accompanied by another member of staff and must also inform the RM where they are going, who they are going with and what time they are likely to be returning.

In the event that the risk assessment highlights potential safety issues with a perpetrator a process server should be employed to serve the relevant documents.

Suitable referral arrangements are in place to pass all case information to the Association's solicitor. This is where the benefits of creating a case file are realised, as effectively all the CHM needs to do is to send a copy of the case file to the solicitor.

It is essential that evidence continues to be gathered once legal proceedings have commenced, as the Association may need to prove that the nuisance is ongoing at the time the case is heard. Any additional information and/or evidence which is obtained by the Association following referral should be forwarded to the solicitor immediately.

It is essential that the solicitor speaks to the main complainants/witnesses in every ASB case to explain the legal process and to answer any questions that the complainants/witnesses may have. It must be made clear to the complainants and witnesses that they can contact the solicitor or the Association at any point if they have any questions or concerns.

Closing a Case

A clear conclusion to each case is essential for both the complainant and the perpetrator. Cases can be deemed closed in the following circumstances:

- The complainant advises the Association that the nuisance has ceased or reduced to a level where the Association's involvement will no longer have an impact.
- The complainant confirms that they no longer want the Association to tackle the issues of ASB and the Association is happy with this.

- No further reports are received from the complainant for a period of 3 months. In these circumstances, the CHM must make attempts to contact the complainant in order to ascertain if the problem is on going.
- The complainant fails to cooperate in any legal action, eg by failing or refusing to supply statements to solicitors, etc, without good reason thereby jeopardising the outcome of the course of action. In these circumstances, the CHM must make attempts to contact the complainant in order to encourage them to cooperate in the case.
- A case has been resolved by The Independent Mediation Service.
- The perpetrator has been evicted, has abandoned the property or has terminated their tenancy.

The CHM must notify all interested parties of the Association's intention to close a case. This will normally be done a month before the case file is actually closed to allow any interested party to request that the file stays open. The CHM should also finally confirm in writing to all interested parties when a file has been closed. The case files for all closed cases must be transferred to the respective tenancy file.

Additional Information

External agencies and how they can assist

Local Authorities

Local authorities have responsibilities under various pieces of legislation to tackle ASB. Generally, Muir Group adopts a multi-agency approach to tackling ASB and where appropriate should involve other agencies such as local authorities.

Many of our local authority partners are able to supply video or audio recording equipment to record acts of ASB, which may be used in further actions through the court. Many ASB cases will also require the assistance or involvement of the local authority's Environmental Health Department.

In cases where a mental health problem is suspected or nuisance is occurring in a property where children reside, contact should be made with the Social Service Department. Regular contact should be maintained during ongoing cases.

In cases of suspected neglect or abuse, a referral should be made immediately upon receipt of the report. It is important to maintain regular contact with Social Services and other involved agencies once such a referral has been made, to ensure that action is being taken.

In cases of children not attending school or who are frequently absent from school, a referral should be made to the Educational Welfare Department.

Local authorities may also be able to assist through the use of Problem Solving Groups.

The Police

If allegations of criminal activity are made or are suspected from the available evidence, this information should be provided to the Police.

Requests for information regarding anti-social behaviour may be requested from the Police via the Housing Liaison Officer. The Association has signed a number of Information Sharing Protocols across the country that allows the exchange of information between the Police and the Association. Police Officers can also be called as witnesses in future court actions.

The Police also have obligations under various pieces of legislation.

Professional Witnesses

In some cases it may be very difficult to gather evidence of ASB due to fear of reprisals or the location of a property being such that it is not easily viewed.

In these cases the Association may consider the appointment of Professional Witnesses to gather evidence on our behalf. This option will only be considered in extreme cases and where alternative options have been discounted.

Agreement of the Director of Housing Services must be sought in these cases.

Using technology to tackle ASB

Dictaphones

All Area Offices have a number of compact tape recorders (Dictaphones) that residents can use to record the details of ASB incidents as they occur. Ideally the Association should be encouraging complainants to complete the incident diary sheets but if this is proving to be a problem for whatever reason the Dictaphones do offer an alternative. The Dictaphone should be issued with the following guidelines:

- The Dictaphones are not to be used to record levels of noise nuisance, as this would be inadmissible as evidence. Local authority Environmental Health Departments have the equipment to do this.
- The Dictaphones should be used by complainants to verbally record the details of incidents. Complainants should be asked to document the details in line with the questions asked on the incident diary sheets. CHM's should go through the incident booklet with the complainant prior to issuing a Dictaphone. An incident booklet can be issued with a Dictaphone as guidance.

- All Dictaphones and tapes should be logged out and an appropriate disclaimer completed by the complainant.
- Once a number of incidents have been recorded the tapes can be submitted to the CHM. The CHM should then type out the details of the incidents in statement form and ask the complainant to sign them.
- The Dictaphones and the tapes should be stored securely.

Mobile covert CCTV

The Association has purchased a number of mobile covert CCTV kits, which can be used to record incidents of ASB from a secure location. The RM is responsible for determining the location and use of each kit depending on the demands within each region.

CCTV

The Association has installed fixed CCTV systems on a number of its housing schemes to combat ASB. The Association has a separate policy and procedure on the use of images captured by CCTV cameras.

Publicity

The Association reserves the right to publicise its successes in tackling ASB. This may be done in local newspapers, website, residents' newsletters or in other forms of media as deemed appropriate.

Monitoring of the Procedures

The RM will monitor each ASB/nuisance case file on a monthly basis and will agree actions to be taken by the CHM. Each case file will be discussed at monthly one-to-one meetings between the CHM and RM.

Cases where an NSP has been served and the resident is still in breach of their tenancy agreement will be reported on a quarterly basis to the Regional Committees. Where appropriate, the Director Of Housing Services will provide the Board with a summary report of any serious ASB cases or issues.

The decision to submit a case to court rests with the CHM although the matter should be discussed with the RM prior to referral and must be based on the details of the case, legal advice and likely outcome.

Once a decision is made to enter a case into court, all relevant documents and a referral form must be sent to the Association's solicitor instructing action to be taken.

During 2006 the Association will be implementing a central database of all ASB and racist incident cases to allow effective monitoring and reporting. The responsibility for the upkeep of this database will be allocated to a member of staff within the Housing Services Department. The Association will also be

introducing a series of service standards of which one section will relate to how the Association deal with ASB and nuisance cases. The central database and the service standards will allow the Association to set performance targets, report performance against those targets and allow managers and committees to effectively monitor the Association's performance. The Association will also be able to evaluate the effectiveness of specific ASB initiatives.

Variations to the Procedures

Every case of ASB is different. Muir Group does not operate a 'one size fits all' approach to ASB. As such the RM may vary the policy accordingly. The RM should report all policy variations to the Regional Committees.

Review of procedure statement

This procedure statement will be reviewed internally on an annual basis, with a fundamental review carried out every three years. The procedure will be reviewed internally in 2006 with the fundamental review occurring in 2007.

MUIR GROUP HOUSING ASSOCIATION LIMITED

**STATEMENT OF PROCEDURES ON ANTI-SOCIAL
BEHAVIOUR**

APPENDIX 1

**TENANTS OBLIGATIONS UNDER TERMS OF ASSURED
TENANCY AGREEMENT**

another person's home or belongings.

- ii You will not damage or put graffiti on any property in the local area or threaten to do so. We may charge you for any costs we have to pay to repair this damage.
- iii You must not dump rubbish or allow others to dump rubbish in any shared areas. This includes bottles, condoms, needles, dirty nappies, sanitary products and so on. You must treat your local area with care.
- iv You must not interfere with any security or safety equipment in the area, or allow others to interfere with them. This includes any shared doors which must not be jammed open.
- v You must not interfere with any installations for supplying any services to the property or to any properties within the local area. You must not allow others to interfere with them. This includes supplies for gas, electricity, water and phones.
- vi You must not be violent towards others. You must not make threats or behave in an abusive way towards others, or allow others to behave like this. You must not act in any way which causes or is likely to cause any person distress or alarm, or which causes them to fear for their safety.
- vii You must not allow any weapons to be kept at the property, whether legal or not. This includes all weapons that are classified as offensive weapons, firearms, knives and machetes, but may also include other weapons or any items which appear to be weapons of this type. You must not allow people to use these weapons at the property or in the local area. This includes using them in any threatening or aggressive way. You should not use any item that would not usually be considered to be a weapon in any way that makes it a weapon.

- viii You must not rev car engines or sound any horns outside acceptable hours. You must not bang car doors.
- ix You must not drink alcohol in any shared areas.

Your local area includes any place where people living locally share facilities for things such as shopping, schools and leisure.

We may take action to evict you if you behave antisocially or if you are convicted of a crime committed at the property or in the local area.

If you make a complaint about nuisance or antisocial behaviour, you must be willing to give evidence if needed. If you cannot or will not do this, we may not be able to take any action.

You must not make false or malicious complaints about the behaviour of any other person.

You must not unreasonably withhold information from the police about any burglary or damage caused by a criminal act in the property.

b Harassment

You, or anybody living with you or visiting you, must not harass (or threaten to harass), interfere with the peace and comfort of, or cause offence to anybody else in the local area, including:

- your neighbours, members of their households or visitors, or anybody else in the locality;
- any other of our tenants or leaseholders;
- any of our employees; or
- any contractor or agent working for us;

because of:

- their race, colour, nationality, ethnic or national origin;
- their religion or beliefs;
- their age or sex, or because they are gay or lesbian;
- any disability they may have;
- their appearance;

- them being married or single;
- any caring responsibilities they may have;
- them being in or out of work; or
- any other reason.

Some examples of harassing behaviour are:

- racist behaviour, language or graffiti;
- acts or threats of discrimination, harassment, nuisance or annoyance;
- harassing, threatening or using emotional abuse to make anyone who lives with you leave your home;
- writing or displaying graffiti or literature, pictures or objects which are threatening, abusive, racist or insulting on your property, or on any property in the local area, including property not owned by us; and
- sending literature which is threatening, abusive, racist or insulting to any other person.

c	Racial harassment	You agree that we may evict you if you carry out racial harassment, or allow others to carry out racial harassment, or are convicted of an offence involving or relating to racial harassment.
d	Threats to our staff or contractors	You must make sure that you, and anybody living with you or visiting you, including children, co-operate with our staff, representatives, contractors or other agents. You must never physically or verbally abuse them, threaten them or harass them at any time whether during work or not. You must not allow others to do this.

This includes:

- physical abuse, including actual or threatened assault, attack, violent act or aggression;
- verbal abuse or threats, including any act that is unreasonable or unlawful, or which is intended or likely to alarm, distress, intimidate or harass anyone, including using foul language;
- written abuse or threats, including any act that is unreasonable or unlawful, or which

is intended or likely to alarm, distress, intimidate or harass anyone, including using foul language;

- harassment, including racist or sexist behaviour or language, or foul language; and
- attempts at blackmail, corruption or bribery.

e Domestic violence You must not allow or commit acts of domestic violence at your property. This includes forcing, or threatening to force, another person who had the right to live in your home to leave, or refusing them access. You must not harass or use mental, sexual, emotional or other abuse, or undue pressure, to make anyone who lives with you leave your home. You or any other individual must give up this tenancy or leave the property if a court order has been made against you or them as a result of violence.

f Illegal activity You must not use your home or any part of the local area for any criminal or illegal activity, including storing and handling stolen goods, or prostitution. You must not allow others to use your home or any part of the local area for any criminal or illegal activity.

g Drugs and illegal substances You must not use or allow the illegal use of drugs at your property or in the locality in relation to controlled drugs or other substances covered by the Misuse of Drugs Act 1971 (or any other relevant Act or regulations). In particular, you must not do the following, or allow others to do the following, at your property or in the local area.

- Grow or prepare (or both) any of these drugs.
- Supply any of these drugs to another person.
- Offer to supply any of these drugs to another person.
- Possess any of these drugs with the plan of supplying them to another person.
- Alter your home so it can be used for supplying drugs to other people.
- Allow your home to be used by others to use these drugs.

If, after investigating the facts, we decide that you have broken this condition of your tenancy, we will consider applying to the county court for your eviction.

h Using the property

You must have our permission in writing to use the property for any business purpose, as a workshop or for the purpose of trade.

We will not give permission if the business use would cause a nuisance or damage the property. We will give our reasons for any refusal in writing.

If, after we have given permission, the business causes a nuisance, we will give you notice that we have withdrawn our permission.

i Dangerous uses

You must not use the property for any purpose which may cause a danger to any person. You must not allow others to use the property for any purpose which may cause a danger to any other person.

You must not store any articles, liquid or gas at the property which, in our opinion, greatly increases the chance of fire or explosion at the property or any nearby garage.

You must not use or store any paraffin, liquid propane gas (for example, Calor gas) or any other mobile gas heaters at the property.

You must not store any vehicle which is powered by petrol, diesel or paraffin in the property or in any shared areas such as hallways. You must only store these vehicles in a garage or parking area.

You must not store any equipment which is powered by petrol, diesel or paraffin in the property, except lawnmowers and strimmers. You must only store these vehicles in a garage or parking area.

You must not empty or fill the tanks of any vehicle or equipment which is powered by petrol, diesel or paraffin in the property or in any shared areas such as hallways.

You must not light any fires at the property, in any garden area or in any shared area.

j

Pets and other animals

If you live in a property without a private garden, you are not allowed to keep any pet other than small caged birds, fish, hamsters, mice or similar small mammals in the property. You are only allowed to keep these as long as you keep them safely and they do not cause a nuisance.

If you have a private garden, you must have our permission in writing if you want to keep more than one dog or cat (or both). This does not apply to guide dogs. You do not need our permission to keep small caged birds, fish, hamsters, mice, guinea pigs, rabbits or similar small mammals in the property as long as you keep them safely and they do not cause a nuisance. You must get our permission in writing first before keeping any other creature.

You are not allowed to keep any livestock at the property including horses, donkeys, goats, pigs, cattle, chickens, ducks and geese.

You must not commercially breed any animals or birds at the property. You need our permission in writing if you want to keep pigeons. Any permission we give will be on the condition that the pigeons will not cause a nuisance to people in the area around the property. We might withdraw our permission if they cause a nuisance.

You must not keep any animal, bird, reptile or insect in the premises if action has previously been taken against you under any legislation governing cruelty to animals or nuisance to surrounding occupiers.

You are not allowed to keep any pets that are banned under the Dangerous Dogs Act 1991 or any other law.

If you keep a dog, you must make sure that it does not stray. You must keep it on the lead at all times when it is not in the property or a fenced-in garden area.

You must not allow pets to foul shared areas. You are responsible for cleaning any mess up

immediately and getting rid of it safely and hygienically. You must also make sure that you clean up any waste from your garden area and get rid of it appropriately.

You must not allow any pet to annoy or frighten other people.

You must permanently remove any animal, bird, reptile or insect from your home that, in our opinion, annoys, frightens or causes harm to other people, or causes damage to the property or in the local area.

You should not feed any vermin, including pigeons and squirrels, outside the property.

k Parking vehicles

You must not park any vehicle or trailer, or allow others to park them, within the boundaries of the property unless there is a garage or proper hardstanding that we have given our permission for, together with a dropped kerb.

You must not park any vehicle that weighs over 3.5 tonnes, or any caravan, motor home or boat, within the boundaries of the property, or allow others to park them, without our permission in writing.

You must not drive any vehicle over or park it on any shared area, footpath, verge or playground in the local area.

You may only park a vehicle in a shared car-parking space provided for tenants to use if it weighs less than 3.5 tonnes. You may not park any caravan, motor home or boat in a shared parking space.

You must not park any vehicle, or allow others to park any vehicle, in such a way that it causes an inconvenience to others, such as by blocking driveways or garages, or by double parking, or which causes an obstruction to the emergency services or other drivers.

You must not park any vehicle that is illegal or unroadworthy at or near the property, or in the local area.

You must not park or leave, or allow others to park, any vehicle that appears to be abandoned, is untaxed or has an invalid road-tax licence.

You must not park, or allow anyone to park, in any spaces that are for disabled people to use, unless you or they are registered disabled or are displaying the appropriate permit (or both).

You must not sell, rent, swap or give away a parking space or garage that we provide for you without our permission in writing.

You must not allow anyone other than your family, visitors and friends to park at the property or in any shared car-parking space.

I Vehicle repairs

You must not carry out, or allow others to carry out, any major vehicle repairs at your property or in any shared parking area, or any repairs that cause a nuisance or obstruction to any other people in any part of the local area.

In particular, you should not:

- rev any vehicle engine;
- use noisy machinery or tools;
- carry out any welding;
- allow the vehicle to produce poisonous fumes from the exhaust;
- use spray paint other than for minor repairs;
- allow any vehicle to drip oil, petrol and so on at the property, in any garden or in any part of the local area;
- leave car parts, including car engines, exhausts, wheels and tyres, at the property, in any garden or in any part of the local area; or
- carry out minor repairs in such a way as to block the road, emergency access or pathways.

You must not receive payment for repairing any vehicles at the property or in the local area. If we suspect that you are being paid for repairing a vehicle or vehicles, we may ask you to prove that you own the vehicle.

- m Shared areas You must keep prams, bicycles and so on inside your property. You must not leave them in entrances, halls, stairways or landings, or on shared pathways where they may cause an obstruction to other people.
- If there are shared areas that have a separate electricity supply, you must not steal electricity from that supply for your own use.
- You must not hang washing anywhere except in your own property or in any special drying areas.
- You should not let strangers into any shared areas if you do not know who they are.
- You must co-operate with us and your neighbours to keep any shared areas clean, tidy and free from rubbish.
- You must not urinate or spit in any shared areas.
- n Other structures You must not put up any shed, garage, pigeon loft or other structure anywhere on the property or in any shared area without our permission in writing. We will not unreasonably withhold permission.

MUIR GROUP HOUSING ASSOCIATION LIMITED

STATEMENT OF PROCEDURE ON ANTI-SOCIAL BEHAVIOUR

APPENDIX 2

**CONTACT ADDRESSES FOR MUIR GROUP HOUSING
ASSOCIATION AREA OFFICES**

**CONTACT DETAILS FOR MUIR GROUP HOUSING
ASSOCIATIONS AREA OFFICES**

BLACKPOOL

3 CHATBURN CLOSE, BLACKPOOL, FY3 7FD
TEL: 01253 390449 FAX: 01244 404020

BURNLEY

16 KEIRBY WALK, BURNLEY, BB11 2DE
TEL: 01282 446500 FAX: 01244 404021

HELSEBY

OAKMERE HOUSE, MERE'S EDGE, CHESTER ROAD, HELSEBY,
WA6 ODJ
TEL: 01928 728000 FAX: 01244 404026

HEREFORD

PO BOX 258, HEREFORD, HR2 9ZA
TEL: 01981 251351 FAX: 01244 404024

HUNTINGDON

STABLE COURT, FERRARS ROAD, HUNTINGDON, CAMBS, PE29 3DH
TEL: 01480 453234 FAX: 01244 404025

GLEBE GREEN, WINSFORD

28 VAUXHALL WAY, GLEBE GREEN, WINSFORD, CW7 1NG
TEL: 01606 554026 Fax: 01244 404023

HEAD OFFICE

OLD GOVERNMENT HOUSE, DEE HILLS PARK, CHESTER, CH3 5AR
TEL: 01244 313613 Fax: 01244 404030

E-MAIL ADDRESS info@muir.org.uk

WEBSITE www.muir.org.uk

MUIR GROUP HOUSING ASSOCIATION LIMITED

**STATEMENT OF PROCEDURES ON ANTI-SOCIAL
BEHAVIOUR**

APPENDIX 3

ANTI-SOCIAL BEHAVIOUR REGISTER FORM

ASB REGISTER FORM – THIS FORM MUST BE PASSED TO THE RELEVANT CHM AND RM IMMEDIATELY

When did the incident happen?
Date of incident (if overnight, write both dates - e.g. 10/11th January 2006)
Date..... Month Year
Time of incident (cross out am or pm) Start am/pm Finish am/pm

Where did it happen?
Put the address where the incident happened -
House/flat number Road Outside/inside?

Who did it, or who was involved?
Write the name and address of the person or people the complainant feels are responsible.
.....

What happened?
Write down exactly what the complainant has told you. Put all the words in full, including swear words.

.....
.....
.....
.....

continue on the next sheet if you need to

Any witnesses?
Did anyone else see or hear the incident. Put their name(s) and address(es).

.....

Have they reported it?
Haven other organisations like the Police, Local Authority, Social Services been told. If so write down who the complainant spoke to and, where and when they made the report. (If they have reported it to the Police, put the officer's number and crime number if there is one).

.....
.....

How has it affected them?
Write down the way the incident has made them feel. For instance has it stopped them sleeping, frightened their children etc.. Are they more affected because of age or ill health?

.....
.....
.....

.....

