

# Midland Heart Policy

## Anti-Social Behaviour

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## Contents

	Page no.
1. Introduction	3
2. Scope of Policy	3
3. What is Anti-Social Behaviour?	3
4. Policy Statement	4
5. Service Provision	5 – 12
6. Related Documents	12 - 13
7. Legal Framework	13 – 14
8. Monitor and Review	14
9. Policy Document Version Control	14

## 1. Purpose

- 1.1 Section 218A of the Housing Act 1996 places a duty on social Landlords to prepare a policy and procedure to deal with anti-social behaviour. This Policy provides a framework on how Midland Heart will prevent and tackle anti-social behaviour.
- 1.2 The actions we will take are driven by our **Vision** "to be a leading housing and care business, helping people to live independently" and our **Values**:

- **People Focused**
- **Inclusive**
- **Professional**

## 2. Scope of Policy

- 2.1 For this purpose of this document, anti-social behaviour includes harassment and hate crime/ incidents.
- 2.2 This policy applies to customers of all tenures living in a home owned or managed by Midland Heart, including: general needs, supported and retirement living, market and intermediate rent, service users and licensees, leasehold and shared ownership properties. It also applies to staff and contractors where a Midland Heart customer perpetrates the anti-social behaviour, or a person(s) associated with a Midland Heart customer.

## 3. What is Anti-Social Behaviour to Midland Heart?

- 3.1 The Anti-Social Behaviour Crime and Policing Act 2014 defines anti-social behaviour as:
- a) Conduct that has caused or is likely to cause harassment, alarm or distress to any person
  - b) Conduct that is capable of causing a nuisance or annoyance to a person in relation to that person's occupation of residential premises
  - c) Conduct capable of causing housing-related nuisance or annoyance to any person.
- 3.2 "Hate Crime" is defined as 'any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic.' There are five centrally monitored strands of hate crime:
- race or ethnicity;
  - religion or beliefs;
  - sexual orientation;
  - disability; and
  - transgender identity.

*(Home Office, 2016)*

- 3.3 We recognise that some "hate" incidents that are reported may not constitute a criminal offence. Midland Heart, therefore, considers such behaviour to also constitute anti-social behaviour as it will cause or is likely to cause harassment, alarm or distress and / or a nuisance or annoyance to a Midland Heart customer, member of staff or contractor.
- 3.4 Midland Heart will apply a reasonable approach to all reports of suspected anti-social behaviour and will intervene only where it is in the best interests of Midland Heart and its customers to do

so. Consideration will be given as to how regular or persistent the anti-social behaviour is. We will intervene when the behaviour poses a risk to a person’s tenancy and/ or there is a risk of harm.

3.5 If the behaviour is not regular or persistent, nor is there a risk of harm, Midland Heart would not have the powers available to compel someone to stop the behaviour, and nor would it be reasonable to do so. We will inform all parties whether or not the issue is considered to be anti-social behaviour.

<b>Examples of ASB</b>	<b>Examples of what is not ASB</b>
Verbally abusive, threatening or intimidating behaviour	Parking disputes
Drug dealing and use	Reasonable domestic living noises e.g. doors closing, washing machines, children playing
Persistent loud shouting and arguing	Car and intruder alarms sounding
Loud music or TV that can be heard outside	Children playing ball games and youths congregating
Persistent dog barking and pets causing damage	Dogs barking at reasonable times and acceptable levels
	‘One off’ incidents such as a birthday or Christmas party

## 4. POLICY STATEMENT

### 4.1 Introduction

4.1.1 Anti-social behaviour can impact in different ways and therefore, our response to tackling and preventing anti-social behaviour will be different for every case. We are clear, however, that behaviour that meets the ASB definition in this policy, is not acceptable and should not be tolerated.

4.1.2 We recognise the detrimental effect that ASB can have on the lives of our customers and communities but it is important that complainants and victims of ASB are clear about both the circumstances in which we can intervene and the sanctions available to us. We will not raise expectations that we can take action where we cannot do so or where primary responsibility and powers lie elsewhere.

### 4.2 Policy Objectives

4.2.1 Our policy aims to ensure that we:

- Investigate complaints of anti-social behaviour as efficiently as possible, and in an impartial and professional manner;
- Work with customers (complainants and perpetrators) and partner agencies, where possible, to change behaviour that is having a negative impact and/ or causing a risk of harm;
- Provide support where possible to sustain tenancies i.e. if the perpetrator is vulnerable;
- Prevent incidents and reoccurrence of anti-social behaviour by using effective and appropriate interventions;
- Protect staff and contractors from harm caused by anti-social behaviour;
- Ensure reasonable and proportionate action is taken to mitigate the risk of harm;
- Improve satisfaction levels in relation to our management of anti-social behaviour.

4.2.2 Success will be measured by:

- An increase in the percentage of customers who are satisfied with the handling and outcome of their case;
- A reduction in the number of complainants who are repeat victims of anti-social behaviour particularly where a high level of vulnerability has previously been indicated;
- A reduction in recurring problems of anti-social behaviour about the same subject (person or location);
- An increase in the proportion of tenancies sustained through successful resolution of ASB cases;
- A reduction in avoidable contact from customers with open anti-social behaviour cases.

### 4.3 Reporting Anti-Social Behaviour

4.3.1 Customers are encouraged to make initial reports of anti-social behaviour to our Customer Hub but if for any reason this is not appropriate reports can be made to any member of Midland Heart staff. When a customer reports anti-social behaviour, we will listen and take the report seriously. We will ask questions in order to gather information about the problem that will

enable us to decide on the most appropriate course of action.

#### 4.4 How Will We Respond?

- 4.4.1 An initial risk assessment will be undertaken by the Customer Hub or the officer allocated to manage the case, to determine its priority. Appropriate advice and assistance will be given at this point. The case will continue to be reviewed as appropriate for the duration of the case.
- 4.4.2 The risk of harm will be assessed and prioritised on the following:
1. Personal (highest level of priority): anti-social behaviour is perceived to be targeted at an individual or group rather than the community at large;
  2. Nuisance (medium level of priority): anti-social behaviour is causing trouble, annoyance or suffering to the local community at large rather than to an individual.
  3. Environmental (lower level of priority): The anti-social behaviour incident is not aimed at an individual or group but targets the wider environment, e.g. public spaces/ buildings.
- 4.4.3 The initial response to reports of anti-social behaviour will aim to be completed within the timescales published in our Customer Service Standards.
- 4.4.4 Midland Heart's first response will be to provide advice and assistance to customers to help them find a solution and resolve the anti-social behaviour without our direct intervention. We will encourage customers to speak with their neighbours, where appropriate and safe to do so, which can often resolve matters more efficiently and effectively.
- 4.4.5 How each case is dealt with will depend upon the nature of the report, the individual circumstances of the complainant and the subject of the complaint. During the investigation, officers may use a wide variety of methods to tackle the anti-social behaviour, which, in most circumstances, will involve speaking to the subject of the complaint. The investigation will involve evidence gathering by Midland Heart and the complainant in order to ensure that appropriate action is taken.
- 4.4.6 We record all cases of anti-social behaviour and we will agree clear actions with the customer on how we are going to tackle the case, and agree the frequency and method in which we will keep the customer updated.

#### 4.5 Our Approach

- 4.5.1 We will take a problem solving approach to reports of anti-social behaviour by:
- Encouraging and supporting customers to be involved in remedying anti-social behaviour;
  - Taking a reasonable and proportionate approach when using legal and non-legal interventions;
  - Supporting, directing and encouraging perpetrators to address behaviour that is putting their tenancy, themselves and others at risk;

- Working, where possible, in partnership with customers and partner agencies to facilitate the resolution of anti-social behaviour.

4.5.2 Our approach centres around four key activities:

- A. Prevention
- B. Early intervention
- C. Enforcement
- D. Support

## 4.6 A. Prevention

4.6.1 With our commitment to inclusion, we believe that it is better to develop and support activities that contribute to preventing anti-social behaviour, rather than just responding once there is a problem.

4.6.2 We use the following prevention methods:

- Consideration of anti-social behaviour through our Allocations process and acceptance criteria e.g. customers who have previously been evicted for anti-social behaviour or who have been subject to equivalent civil proceedings may be ineligible for housing;
- Terms within our tenancy and licence agreements and, for our shared ownership leaseholders, terms within the lease agreement, and detailed discussions about acceptable behaviour at interview and sign up;
- Use of starter tenancies and tenancy audits;
- Training, education and awareness raising (e.g. pre-tenancy, website, estate walkabouts and other customer involvement initiatives);
- Multi-agency partnerships;
- Floating/ tenancy support schemes;
- Safety and security considerations when developing new housing;
- Carrying out estate environmental improvements or asset replacement programmes to achieve improved levels of safety or security;
- Good Neighbour Agreements;
- Local lettings plans;
- Offering supported housing to those not yet ready for independent living;
- Carrying out thorough risk assessments and support planning for Supported Living customers.

## 4.7 B. Early Intervention

### 4.7.1 Self help

Midland Heart recognises that the most important thing for customers who report anti-social behaviour is for the issue to be resolved swiftly and for the problems to stop in the long term. Midland Heart will initially offer advice and support to customers on self-help options.

#### 4.7.2 Other Early Intervention Actions

- Interviews with subjects of the complaint;
- Advisory letters;
- Formal warnings/ letters/ notices;
- Acceptable Behaviour and or/ Parenting Contracts or Agreements;
- Referrals to other agencies who can provide additional support for victims and subjects of complaints;
- Immediate legal intervention (*where appropriate*);
- Mediation services provided by Midland Heart or in conjunction with another Agency;
- Restorative Justice practices;
- Reviewing and amending risk management in supported or retirement living services;
- Reviewing if customer would be better placed in alternative/ supported accommodation;
- Targeted Family Support;
- Starter tenancy extensions.

#### 4.8 C. Enforcement

4.8.1 Occasionally, early intervention actions will not be successful or be appropriate in the circumstances. In these cases, Midland Heart may take enforcement action against a customer to compel them to change their behaviour.

#### *Examples of Legal Remedies:*

##### 4.8.2 Injunctions

4.8.2.1 Midland Heart will use injunctions as a quick and effective way of stopping anti-social behaviour. We have the power to apply for an injunction against anyone over the age of 10. However, we will only apply for an injunction against a 10-17-year-old where there are no possible actions against the parents or guardians of the minor. The necessary consultation will be carried out with the local Youth Offending Team (YOT) when seeking an injunction against a minor.

4.8.2. Midland Heart recognises that some individuals will find it difficult to stop causing anti-social behaviour without receiving support. In these circumstances, Midland Heart will consider whether to request positive requirements within an injunction for the subject of the anti-social behaviour to engage with appropriate support, where this support is available and appropriate.

##### 4.8.3 Community Protection Notices

Local Authorities have the power to issue Community Protection Notices (CPNs). CPNs can be used to address anti-social behaviour issues that are affecting a community such as noise nuisance and environmental anti-social behaviour e.g. fly tipping. Failure to comply with a CPN can result in a fixed penalty notice, legal action and fines. Where it is appropriate, a Local Authority may, with or without the request of Midland Heart, issue a CPN. Midland Heart may also request that the Local Authority delegate us powers to enable us to issue CPNs to tackle anti-social behaviour in a particular area.



#### 4.8.4 Closure Powers

Local Authorities and the Police have the powers to quickly close premises which are being used, or likely to be used to commit nuisance or disorder. A closure notice will be issued out of court in the first instance and this will close a premises for up to 48 hours but it cannot stop the owner or those who habitually live there accessing the premises. Within 48 hours the notice can go to the Magistrates' Court if a closure order is required and for a period of up to 3 months. At this stage the order can close the premises to all if granted. A Magistrates' Court can extend the order for up to a further 3 months. A breach of a closure notice or order is a criminal offence. Midland Heart will work in partnership with statutory agencies in taking this action, and this may lead to further enforcement action being taken by Midland Heart against a customer's tenancy.

#### 4.8.5 Demotion

Midland Heart may use demotion as a tool to stop anti-social behaviour whilst still enabling us to work with a customer to try to sustain the tenancy. A demoted tenancy has fewer rights and bears similarities with starter tenancies. Demoted tenancies usually last for 1 year. If the customer fails to rectify their behaviour, Midland Heart will then seek possession of their property. Before possession action is taken, customers will be offered an appeal of the decision to seek possession. If there are no problems during that time, the tenant is automatically given a new assured tenancy. This applies even if they had a secure tenancy before the tenancy was demoted.

#### 4.8.6 Possession, Forfeiture and Eviction

4.8.6.1 Midland Heart will take possession action only where other action has been unsuccessful or the behaviour is so serious, no other action is appropriate.

4.8.6.2 For a customer with a licence for one of our supported schemes, possession action will progress in accordance with the conditions of that licence. Every eviction or exclusion will be reviewed to check if the recommendations regarding that customer's eviction/exclusion are fair and proportionate. If the reviewing officer does not feel the recommendations are fair and proportionate, then they can override the service manager's decision (see Appeals Procedure).

4.8.6.3 For other customers, possession action may include a request for Mandatory Possession (relying on an Absolute Ground), in accordance with the powers set out in the Anti-Social Behaviour, Crime and Policing Act 2014 or the use of the Mandatory route for possession in the case of Starter Tenancies (see Tenancy Policy) or a request for possession or forfeiture because of breach of a lease.

4.8.6.4 The Absolute Ground for possession is available to Midland Heart where serious housing related anti-social behaviour has been proven in another court. "Serious housing related anti-social behaviour" is defined as either:

1. A conviction for a serious offence as listed in Schedule 2A of the Housing Act 1985, as amended from time to time;

2. Breach of a Civil Injunction;
3. Breach of Criminal Behaviour Order;
4. A customer's premises are subject to a Closure Order;
5. Breach of an Order relating to statutory nuisance.

4.8.6.5 Midland Heart reserves the right to consider relying on the Absolute Ground for possession wherever one of the above conditions is met. Midland Heart will have regard to the statutory guidance when deciding on the appropriate course of action. Where possession is sought on the Absolute Ground, or the Mandatory route in the case of Starter tenancies, customers will be offered a review/ appeal of the decision to seek possession on that basis (see Appeals Procedure).

## 4.9 **D. Support**

4.9.1 Midland Heart will provide support to complainants or witnesses and the subjects of complaints, where it is appropriate. We will:

- Ensure every customer has a named member of staff responsible for managing the case who will work with them to help them to resolve the anti-social behaviour;
- Ask at the outset what the complainant is looking for as a satisfactory outcome, giving Midland Heart the opportunity to be honest about what can be achieved;
- Agree an action plan that will be variable dependent on the circumstances, needs or risk of harm to the individual;
- Ensure a method and frequency of communication is agreed with the customer and ensure all parties are kept up to date with the progress of any action being taken;
- Aim to identify support needs as early as possible and throughout the case and work with partner agencies to provide appropriate levels of support;
- Provide staff with appropriate training, support and resources to enable Midland Heart to take appropriate action to, wherever possible, ensure the problem is resolved with a sustainable outcome.

4.9.2 In dealing with and investigating cases of anti-social behaviour, Midland Heart recognises that our staff may come across issues around the protection of adults and children at risk of harm or abuse. Midland Heart staff will:

- Be vigilant in looking for signs that adults or children are at risk of harm or abuse;
- Report any such concerns to the police and/ or Local Authorities as a Safeguarding concern.

4.9.3 Midland Heart has a Safeguarding & Wellbeing policy and procedure that deals with safeguarding concerns.

## 4.10 **Working in Partnership and Information Sharing**

4.10.1 Midland Heart is committed to working with partner agencies who can contribute solutions to tackling problems of anti-social behaviour and who can deliver activities that will prevent anti-social behaviour from occurring.

4.10.2 All information will be kept confidential and not released to a third party unless we have consent to do so by the individual concerned, or there is a duty upon us to do so, and/ or where information sharing protocols are in place.

#### **4.11 Closing Cases**

4.11.1 Midland Heart aims to close all cases of anti-social behaviour with a sustainable outcome and we will contact all parties to advise that the case is closed, outlining the actions taken to resolve the issue. The matter will be closed when:

- The issues have been resolved to the customer's satisfaction; or
- Midland Heart has taken all available action to resolve the matter; or
- When the complainant fails to assist in providing evidence and we cannot take any further action without their assistance; or
- When another agency is dealing with the case and it no longer requires involvement by our officers.
- Following our investigation, no evidence exists to prove that incidents of anti-social behaviour have occurred.

#### **4.12 Unreasonable, Persistent and Malicious Complaints**

Customers have the right to complain about anti-social behaviour. However, if following our investigation, it is found that the complaints are false and/ or malicious or that the customer persistently complaining is being unreasonable, Midland Heart may take action against them when it is reasonable and proportionate to do so (see complaints, comments and compliments policy).

#### **4.13 Publicity and Communications**

Midland Heart may publish information about case resolutions where the action taken has had a positive impact, where legal action has been taken and a court order has been granted and / or where the information is in the public domain. We may do this to encourage other victims or witnesses to come forward in other cases and where it may act as a deterrent. Publicity will always be proportionate to the anti-social behaviour that has taken place.

#### **4.14 Complaints & Appeals**

4.14.1 Where a customer is unhappy with Midland Heart's response to a report of anti-social behaviour and believes that we have not delivered our service in line with our published policies and service standards, the customer is able to make a service complaint. Please refer to Midland Heart's complaints, comments and compliments policy for further information.

4.14.2 Customers who have breached their licence or tenancy agreement, where a notice to extend or end the probationary period has been served, or where a notice has been served for possession under the Absolute Grounds, have the right to appeal the decision. Please refer to Midland Heart's appeals procedure for further information.

## 4.15 External Review – ASB Case Review/ Community Trigger

- 4.15.1 All members of the public have the right to request that the Local Authority, Local Police Force and the local clinical commissioning group conduct a review of the way in which an anti-social behaviour case has been handled. Arrangements for requesting this review will differ depending upon the local authority area. These arrangements will set out a threshold that must be met for a review to be commenced. If the threshold is not met, the case will not be subject to a review.
- 4.15.2 Midland Heart will work with relevant partners when a review is requested to ensure that all relevant information is provided to the review panel to enable them to respond effectively to customers who request a review. Where it is requested that Midland Heart presents a case to a review panel, the representative from Midland Heart will be of a suitably senior level to enable an effective discussion of the case.
- 4.15.3 Where actions are recommended by the review panel, Midland Heart will consider these recommendations in line with the relevant Midland Heart policies and procedures. Where the recommendation is compatible with Midland Heart's approach and it is reasonable to carry out the recommendation, the action will be taken. Where the recommendation is incompatible with Midland Heart's approach, a representative will discuss the matter with the relevant panel members and advise the panel of the alternative approach that Midland Heart will take.
- 4.15.4 Where a customer requests a review in this way, Midland Heart will consider the review to constitute an informal complaint in line with complaints, comments and compliments policy.

## 5. To be read in conjunction with

### Related Documents

#### 5.1 External:

- Anti-Social Behaviour Crime and Policing Act 2014
- Anti-Social Behaviour Act 2003
- Housing Acts 1985; 1988; 1996
- Data Protection Act 2018
- Equality Act 2010
- Care Act 2014
- Crime and Disorder Act 1998, as amended in 2002
- Human Rights Act 1998
- Protection from Harassment Act 1997
- Criminal Justice Act 2003
- Racial and Religious Hatred Act 2006
- Regulation of Investigatory Powers Act 2000
- Regulatory Framework – HCA Neighbourhood and Community Standard

## 5.2 Internal:

- Safeguarding and Wellbeing Policy & Procedure
- Data Protection Policy & Procedure
- Complaints, Comments and Compliments Policy
- Unreasonable and Persistent complaints guidance
- Tenancy Policy
- Risk Alerts Procedure
- Appeals Procedure
- Surveillance Policy

## 6. Legal Framework

The main pieces of legislation which Midland Heart can use are detailed below but we will also work in partnership with other agencies such as the police who may have more appropriate tools and powers to resolve anti-social behaviour issues.

Legislation	Main powers and relevance to anti-social behaviour
Housing Act 1985	<ul style="list-style-type: none"> <li>• Contains the grounds that landlords must prove to gain possession - Schedule II Grounds for Possession of secure tenancies &amp; s84A for the Absolute Ground</li> <li>• Contains requirement for Notices Seeking Possession – first stage in possession process (s.83) s82A added by the Anti-Social Behaviour Act.</li> </ul>
Housing Act 1996	<ul style="list-style-type: none"> <li>• Widened the anti-social behaviour ground for possession</li> <li>• Introduced local authority injunctions and power of arrest</li> <li>• Introductory tenancies created</li> </ul>
Anti-Social Behaviour Act 2003 (amended the Housing Act 1996)	<p>Clarified, streamlined and reinforced powers already available to social landlords:</p> <ul style="list-style-type: none"> <li>• Introduced s.143 demoted tenancies</li> <li>• Requirement that landlords prepare and publish a statement of its policy and procedure</li> <li>• Replaced and extended the injunctive powers available under the Housing Act 1996 with new Provisions</li> </ul>
Housing Act 1988	<ul style="list-style-type: none"> <li>• Contains the grounds that landlords must prove to gain possession -Schedule II Grounds for Possession of assured tenancies including Ground 7A (the Absolute Ground)</li> <li>• Contains requirement for Notices Seeking Possession - first stage in possession process (s.8). S6A added by the Anti-Social Behaviour Act 2003 regarding demotion orders</li> </ul>
Housing Act 2004	<ul style="list-style-type: none"> <li>• Provides landlords with additional tools to tackle anti-social behaviour.</li> </ul> <p>Allows landlords to:</p> <ul style="list-style-type: none"> <li>• Extend Starter tenancies</li> <li>• Use s21 notices</li> <li>• Withhold consent for secure tenants to mutually exchange</li> <li>• Suspend its obligation to complete a right to buy sale, preserved right to buy sale and right to acquire sale in certain circumstances.</li> </ul>
Police and Justice Act 2006	<ul style="list-style-type: none"> <li>• Allows community safety officers and officers of housing associations to apply for parenting orders.</li> </ul>
Criminal Justice and Immigration Act 2008	<ul style="list-style-type: none"> <li>• Gives Local Authorities the power to make an application for a Closure Order in respect of premises associated with significant and persistent serious nuisance.</li> </ul>

ASB, Crime and Policing Act 2014	<p>Introduced:</p> <ul style="list-style-type: none"> <li>• Changes to civil Injunctions</li> <li>• Absolute Ground for Possession – s84A and Ground 7A</li> <li>• Criminal Behaviour Orders, Community Protection Notices and Community Triggers</li> </ul> <p>Stopped parties from being able to apply for Anti-Social Behaviour Orders (ASBOs) going forward</p>
Equality Act 2010	<ul style="list-style-type: none"> <li>• Landlords should consider a person’s disabilities when considering appropriate action to take in response to anti-social behaviour.</li> </ul>
Human Rights Act 1998	<ul style="list-style-type: none"> <li>• Landlords should ensure any action they take in response to anti-social behaviour is appropriate and proportionate.</li> </ul>

## 7. Monitoring and Review

Midland Heart constantly strives to improve the service it provides and so we will carry out surveys with customers to assess their satisfaction with the way the case was handled and the outcomes achieved. Regular performance reporting, information on anti-social behaviour and customer satisfaction data will be used to monitor and measure the effectiveness of this policy and benchmark Midland Heart against other Registered Providers.

We will review this policy bi-yearly, or as the need arises, to ensure it is effective and comply with current legislation and good practice.

## 8. Policy Document Version Control

Version	Date	Business Owner	Review/Health Check
4.0	1/6/17	Nigel Collumbell	Review
5.0	1/9/19	Gary Hardy	Health Check. Section 4.14 added and amended wording in 4.15 to reflect statutory guidance.