



ADVICE NOTE ANTI-SOCIAL BEHAVIOUR

Practical advice for tackling antisocial behaviour in your block



Note:

As the leading trade body for residential leasehold management, ARMA is also an important resource for leaseholders. Our Advice Notes cover a range of topics on the leasehold system to help leaseholders understand their rights and responsibilities and ultimately get the most out of living in their flat.

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SUMMARY

- If you're suffering from anti-social behaviour in your block, there's a wide range of actions you can take.
- Your landlord or managing agent will be limited in terms of what they can do to help so unless the circumstances are particularly serious, ARMA recommends you take some initial action yourself.
- In this Advice Note we'll take a look at some practical ways for leaseholders to tackle anti-social behaviour in their building.

WHAT IS ANTI-SOCIAL BEHAVIOUR?

Anti-social behaviour can be difficult to define. Generally it's behaviour that lacks consideration for others and causes distress, harassment or alarm. To be anti-social, the behaviour must be consistent.

Some examples include:

- Intimidation
- Harassment
- Verbal abuse
- Noise
- Dumping rubbish
- Vandalism, property damage and graffiti
- Animal nuisance, including dog fouling

What you can do

Most complaints about anti-social behaviour in blocks of flats result from noise — DIY, loud music or barking dogs.

Unless you're dealing with serious intimidation or violent behaviour, such as racial harassment, it's often better to take some initial steps yourself.

Firstly, try solving things amicably by approaching the neighbour that is causing the problem. They may not be aware that their behaviour is causing you grief.

If things don't improve, suggest to your neighbour that they go with you to a local mediation service. Mediation works well for noise, dogs, parking and boundary disputes. There may be a local scheme available for free or at low cost.

If mediation is not an option, or the situation is more serious, you can approach your local authority or police to deal with noise problems and anti-social behaviour in your building.

As a last resort, you could consider taking your own legal action against the people behaving anti-socially.

What your landlord or managing agent can do

Most leases contain covenants prohibiting leaseholders from causing nuisance and annoyance to neighbours. There may be more specific restrictions against certain activities such as playing loud music between 11pm and 7.30am; or clauses that state that floors must be carpeted to prevent transmission of noise.

These clauses are all well and good but in practice they can be difficult for your landlord or managing agent to enforce. Any benefit of doubt over the meaning will always be given to the leaseholder against whom the complaint is being made.

So how does the landlord enforce a covenant against anti-social behaviour? In reality, it's likely to be their managing agent who deals with any anti-social behaviour problems.

First of all the agent would want to check that there's a genuine problem. If there is, they should write a letter to the offending leaseholder, drawing their attention to the clause being breached. If that doesn't work, and the anti-social behaviour continues, then they may consider taking more serious action such as an injunction or forfeiture.

Forfeiture is a procedure to seize the flat from the offending leaseholder. It's not an easy route for landlords as it means going to a tribunal and then, if successful, a court appearance. It's extremely costly and will not produce quick results. However, the threat of forfeiture itself may well produce a response to some problems.

Injunctions may be a quicker remedy but will be very costly.

The more practical route for a managing agent faced with a distressed leaseholder is to offer advice on how they can take better and cheaper action themselves.

Not all leases contain clauses that require the landlord to enforce the covenants. If this is the case, then there's no obligation on them to take any action.

Even when the lease does contain a clause requiring the landlord to enforce the covenants against other leaseholders (a mutual enforceability covenant) then there's usually a catch — the complaining leaseholder will have to pay the landlord's costs of enforcing the covenant.

Remember that your managing agent is just that — an agent. They must take instructions from their client landlord, Residents' Management Company or Right to Manage Company before taking any action.

IF THERE'S ANTI-SOCIAL BEHAVIOUR IN OR NEAR YOUR DEVELOPMENT, ASK THE POLICE FOR HELP AND ADVICE. LOCAL COMMUNITY SUPPORT OFFICERS WILL ASSIST AND PATROL MORE OFTEN OR SPEAK TO RESIDENTS ABOUT INCIDENTS.

What your local authority can do

All local authorities have anti-social behaviour policies and procedures. Here are some options:

- In most areas there are Crime and Disorder Reduction Partnerships, which include the police and local authority. Find out if they can help;
- In many areas there are anti-social behaviour co-ordinators you can ask for help;
- Apply to the court for an Anti Social Behaviour Order (ASBO) to curb the behaviour of a disruptive tenant or leaseholder;
- Look into using environmental health powers to tackle noise and other nuisances;
- Many local authorities now have 'Envirocrime' units that work in partnership with the police to deal specifically with litter, street cleaning, graffiti, fly tipping, dog fouling, fly posting and abandoned cars.

What the police can do

The police can take action for any anti-social behaviour that's a criminal offence, including:

- Someone who has attacked another person
- Someone who has wilfully damaged another's property
- Harassment or intimidation
- Inciting racial hatred
- Drug dealing

If there's antisocial behaviour in or near your development, ask the police for help and advice. Local community support officers will assist and patrol more often or speak to residents about incidents. The police can also apply to the courts for an ASBO at their discretion.

Solving noise problems

Local authorities have powers to act on noise problems and have emergency response teams to deal with late night parties. They can issue warnings, seize offending equipment and issue fixed penalty notices.

If you're suffering from noise problems, then have a read of our advice note, 'Noisy Neighbours'.

Combatting graffiti

A local authority officer or the police can issue fixed penalty notices for minor graffiti and fly-posting offences.

Dealing with dogs

Incessant barking can also be dealt with by the local authority. It's also a crime to allow an animal to endanger or injure someone.

The RSPCA is another useful partner you can contact for advice before approaching your local authority.

Headache hedges

Local authorities have powers to deal with complaints about high evergreen hedges (over 2 metres), which affect a neighbour's enjoyment of their property. They can issue a notice requiring action to be taken. Failure to comply would be an offence and the local authority could then take action themselves.

Tackling drugs and immoral behaviour

If you suspect drug dealing is going on in your building or on your development, the police have powers to issue a closure notice. The order will apply for 3-6 months and during that period, the property will be sealed and entering will be an offence.

You should always tell the police first of all and then your agent.

Acceptable behaviour agreements

Acceptable behaviour agreements are used by local authorities to tackle early signs of anti-social behaviour by young people. They are relevant to issues like graffiti or racist and threatening behaviour. Contact the police or your local authority for more information on this.

Anti-social behaviour orders (ASBO)

Anyone can ask the police or local authority to apply to a magistrates' court for an ASBO against someone causing alarm, distress or harassment.

ASBOs are civil orders that prohibit a person from specific activities and from entering a defined area. They are used to tackle more serious forms of anti-social behaviour, including verbal abuse and intimidation.

Injunctions

Local authorities can use powers under the Local Government Act 1972 to obtain an injunction to prevent a public nuisance. These injunctions have been used to prevent begging, drug dealing and prostitution. Injunctions can be quicker than obtaining a criminal prosecution and courts can also attach a power of arrest to them.

Premises closure orders

The courts can temporarily close any premises, including communal areas of blocks of flats, associated with significant and persistent disorder or nuisance. This power is a last resort after other measures have failed and can be applied for by the police or local authority. The sorts of problems it may help with would be prostitution, drinking dens or violent offences.

Abandoned vehicles

You should report any vehicle you think is abandoned to your managing agent. They will be cautious about removing a vehicle unless they have clear evidence that it is abandoned. You may also wish to have a read of our advice note 'Parking Issues'.

Damage to communal areas

Most leases will stipulate that leaseholders will pay for any damage they cause to the communal areas. So if someone's causing damage to walls, carpets, decorations or gardens for example, it's a good idea to speak to your managing agent. You will need to have clear evidence to identify the culprit.

FINAL WORD

If you're unfortunate to be experiencing antisocial behaviour in your building then make sure you're aware of all your options before taking action. If the situation is not too threatening, it's often worth taking some initial steps yourself.

Although your managing agent might be limited in their powers to take action, it's always worth asking them for some initial advice. And don't forget to look into the options offered by your local authority.



FURTHER INFORMATION AND SOURCES OF ADVICE

**The Association of
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- For more advice on dealing with noise problems in your block, read our advice note 'Noisy Neighbours'. Download it for free from our Leasehold Library at www.arma.org.uk
- For more advice on dealing with parking issues in your block, read our advice note 'Parking Issues'. Download it for free from our Leasehold Library at www.arma.org.uk
- Citizens Advice provide independent, practical and reliable advice on a range of issues including antisocial behaviour. Visit them at www.citizensadvice.org.uk
- The national drugs helpline FRANK provide confidential advice on drug problems. Visit them at www.talktofrank.com
- If you're thinking about mediation as a way to solve an antisocial behaviour problem then you can find a civil mediation provider through the Ministry of Justice: www.civilmediation.justice.gov.uk
- If you're having problems with a high hedges then the lobby group Hedgeline may be able to help: www.clareh3.webspace.virginmedia.com/index.htm

Note:

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