

## Antisocial behaviour guide for landlords

### **1. Introduction**

Anti-social behaviour is a broad term used to describe the day to day incidents of crime, nuisance and disorder that make many people's lives a misery. If it is not resolved effectively, it can create an environment where more serious crime can occur which has a lasting impact on the local area and communities. Ealing Council, the Metropolitan Police and residents play a key role in ensuring that anti-social behaviour is addressed at the earliest opportunity. By working together the problems can be tackled and a difference made through prevention, enforcement and rehabilitation.

### **2. What is Anti-social behaviour?**

The Antisocial Behaviour Act 2003 and the Police Reform and Social Responsibility Act 2011 define antisocial behaviour as "behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household as the person"

Anti-social behaviour also has a slightly different definition in the Housing Act 2004 as "conduct on the part of occupiers of, or visitors to, residential premises which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises, or involves or is likely to involve the use of such premises for illegal purposes"

Some examples of behaviour which could be considered anti-social are:

- playing loud music in the property, garden, communal or public areas
- shouting, screaming and swearing in the property, garden, communal or public areas
- loud or public sexual acts in the property, garden, communal or public areas
- riding or driving motorbikes, quad bikes, motorised scooters and racing cars in public open spaces and walkways
- letting off fireworks
- abandoned cars and other vehicles
- parking illegally or inappropriately
- parking motorised scooters or vehicles within communal entrances, balconies, corridors or walkways to blocks of dwellings
- repeated sounding of burglar and/or car alarms
- allowing the build-up of refuse in the property and/or garden
- threatening or abusive behaviour towards neighbours
- interfering or obstructing the police, council and partner agencies from carrying out their lawful duties in the local area

- smoking within internal communal areas of blocks of dwellings where smoking is prohibited
- taking/selling illegal substances or drugs
- allowing children or young people to behave in a way that may cause fear or nuisance, such as playing loud and aggressive ball games
- nuisance caused as a result of running a business from residential property
- using racist or homophobic language (verbally or in writing)
- damage or threats to other people's property
- committing housing benefit or other financial fraud relating to the property

### **3. Your responsibility as a landlord**

As a landlord, you play a vital role in tackling anti-social behaviour. It's your responsibility to respond to complaints about the behaviour of your tenants. Depending on the type of anti-social behaviour, this may involve either issuing a warning directly to your tenants or if complaints are made directly to the council, working with us in order to assist officers to take action against them.

Furthermore, if you are letting a licensed property within Ealing, your licence conditions will require you to undertake specific actions in relation to anti-social behaviour at your property.

### **4. How can I prevent anti-social behaviour taking place?**

Your tenancy agreement should include a clause which makes clear that the tenancy can be ended early where anti-social behaviour is established.

It is beneficial for landlords and tenants to meet before the start of new tenancies to make sure that they understand their responsibilities and obligations. This meeting will also provide you with an opportunity to provide your tenant with all the information they need about the property.

At this meeting, you should make clear to your tenants, the importance of:

- not allowing anti-social behaviour
- not causing nuisance or annoyance to neighbours
- not allowing overcrowding
- disposing of rubbish and recycling properly
- looking after the property

In addition, you need to ensure that your tenants fully understand your right to apply to end the tenancy using the proper legal procedures, should they not meet these obligations.

If there is a language barrier, you need to ensure that there is someone present who can translate and interpret in order to explain these points ensuring that the tenant has understood fully what their obligations are.

It is recommend that you introduce yourself to neighbours of the property and let them know you are the landlord as well as provide them with contact details so that you can be informed at an early stage should your tenant cause a nuisance. Some neighbours have a negative opinion of HMOs and tenanted properties so this meeting will provide you with an opportunity to alleviate any concerns that the neighbours may have by discussing how you plan to manage the property.

If you are letting a licensed property within Ealing, your licence conditions will require you to undertake specific actions in relation to anti-social behaviour at your property. These will include maintaining written copies of arrangements that are place to manage antisocial behaviour, and steps to be taken in response to reports of such behaviour.

## **5. What should I do if I receive a complaint of anti-social behaviour?**

If you receive a complaint directly from a resident, try to get as much information regarding the complaint. Be sure to make notes and details of the incident. Any complaints of anti-social behaviour will need to be handled sensitively, especially if the resident or complainant may be worried about being identified as being involved.

Landlords are expected to investigate and take responsibility for responding to such complaints and must be mindful of the management arrangements in place and enforcing the appropriate clauses in the tenancy agreement. You will need to refer to your licence conditions which outline the steps to be taken in response to complaints of anti-social behaviour.

The council's Safer Communities team can offer advice to landlords on dealing with reports of tenants' anti-social behaviour. They can be contacted by telephoning 020 8825 5994 or by email [safercommunities@ealing.gov.uk](mailto:safercommunities@ealing.gov.uk)

For advice in regards to property licence conditions, please contact Property Regulation by either telephoning 0208 825 6622 or emailing [PRSlicensing@ealing.gov.uk](mailto:PRSlicensing@ealing.gov.uk)

## **6. Options other than asking the tenant to leave**

Pro-active management of anti-social behaviour in your property should result in complaints being resolved satisfactorily. However, there may be some occasions where problems continue.

Before applying to the Court for possession, you could be advised of other ways of handling the problems the tenants are causing, these could include:

- In the case of a neighbour dispute, the Ealing Mediation Service can help neighbours work out mutually acceptable solutions. They can be contacted on 0208 575 9500 or by email [admin@ealingmediation.org.uk](mailto:admin@ealingmediation.org.uk).
- Sometimes problems happen because the tenant cannot cope in the accommodation without support. For more information please call the council's Adult Social Care team on 0208 825 8000.
- You should inform the Police if you think the complaint might amount to a criminal offence.

## 7. Ending the tenancy

If all else fails and you consider that it is necessary for your tenants to leave, you need to serve them with a notice seeking possession of the property and apply to the Court for a possession order. This advice applies to Assured Shorthold Tenancies (AST).

Ending an Assured Shorthold Tenancy can be done under the Housing Act 1988 (as amended) and there are two types of notices you can serve on your tenants:

- **Section 21 Notice**

This notice can be used in any situation where you want a tenant to leave. With a "section 21" notice you get automatic possession of the property and do not have to prove anything or show any evidence of the tenant having caused any problems or breaches of their tenancy agreement. Whilst you can give the notice at any time, you cannot get possession until the end of the fixed term of the tenancy. Furthermore, you cannot use this procedure to reclaim any money owed, such as rent arrears.

A notice served under section 21 has to:

- be in writing (in the case of tenancies before 1 October 2015)
- be on a special form (in the case of tenancies created after 1 October 2015). This can be downloaded from the internet.
- state that possession is required not less than 2 months after the date the notice was given
- run out after the last day covered by the fixed term
- in the case where the fixed term has passed, run out on the last day of the rental period

Before giving this notice, you must make sure that you have properly protected any deposit the tenant has given you in accordance with a government-backed tenancy deposit scheme. Furthermore, if your property requires a licence under Part 2 or 3 of the Housing Act 2004, but is not licensed, you will not be able to use this procedure.

For tenancies starting from 1 October 2015, you must also have provided your tenants with the following documents:

- a copy of the leaflet 'How to rent: the checklist for renting in England'
- an energy performance certificate
- a gas safety certificate

Section 21 notices and prescribed forms can be downloaded from the internet from good legal stationers and also be purchased from some stationers. However, you are recommended to get legal advice to ensure the notice contains all the required information, the correct notice periods and is properly served. Otherwise, the court will not be able to grant the possession order resulting in delays in being able to remove the tenants from the property.

- **Section 8 Notice**

This procedure can be used to seek possession using specific grounds (reasons). These grounds are listed in schedule 2 to the Housing Act 1988 (as amended) and include rent arrears, anti-social behaviour and the tenant failing to adhere to their obligations under the tenancy agreement.

The notice you must give if you are using section 8 can vary from 2 weeks to 2 months depending on the ground(s) you are using.

A notice served under section 8 has to:

- be on a prescribed form. This can be downloaded from the internet.
- have the name(s) of the tenant(s)
- the address of the rented property
- full text of the grounds for possession. For antisocial behaviour this will usually be grounds 12 and 14 (refer to schedule 2, Housing Act 1988 (as amended)) but state other grounds that are also applicable
- a full explanation on why each ground is being relied on. If for anti-social behaviour, it will need to contain the details of the tenant behaviour that is causing the nuisance. You should describe the behaviour, the effect on others and the approximate dates or time period where the nuisance has taken place. You would not need to provide collated evidence at this stage
- the correct expiry date
- your name and address

You will need to provide evidence to the courts to support the grounds for the eviction, which tenants can challenge or make counter-claims against (e.g. for any disrepair). Following this procedure enables you to make a financial claim, e.g. for any rent arrears.

You are recommended to get legal advice to ensure the notice contains all the required information, the correct notice periods and is properly served. Otherwise, the court will not

be able to grant the possession order resulting in delays in being able to remove the tenants from the property. Your solicitor or advisor will also be able to assist you in deciding whether to give notice under section 8 or 21.

Government guidance on gaining possession of private rented properties is available from [www.gov.uk/guidance/gaining-possession-of-a-privately-rented-property-let-on-an-assured-shorthold-tenancy](https://www.gov.uk/guidance/gaining-possession-of-a-privately-rented-property-let-on-an-assured-shorthold-tenancy). From here you can also download any necessary forms that are needed to give notices under both section 8 and 21.

## **8. Applying to Court**

If in the event that your tenants do not vacate the property following expiry of the notice served, an application to the court is necessary to seek a possession order. Information regarding the process can be found on Her Majesty's Courts and Tribunal Service website [www.justice.gov.uk/about/hmcts](https://www.justice.gov.uk/about/hmcts)

Alternatively you can access the Possession Claim Online service (PCOL) to complete court forms online to make, issue, view and progress a possession claim electronically. For further information see [www.possessionclaim.gov.uk/pcol](https://www.possessionclaim.gov.uk/pcol)

If the tenants do not leave by the date required on the possession order, you must return to court and apply for a warrant of execution. This is where bailiffs will be appointed to remove the tenants from the property.