

Loreburn Housing Association  
**Anti-Social Behaviour Policy**



**Creating Great Places to Live**

<b>Policy</b>	Anti-Social Behaviour									
<b>Version Reference</b>	2									
<b>Approved by</b>	MC			LET	X				MT	
<b>Date of Approval</b>	June 2019									
<b>Review Period</b>	Every 3 Years <b>or</b> as legislation or substantive changes occur									
<b>Review Due</b>	June 2022									
<b>Policy Champion</b>	Head of Housing									
<b>Who this policy affects</b>	Staff	x	Customers	x	Contractors		Members of the Public	x		
<b>Where this policy affects</b>	General needs	x	Sheltered	x	Supported	x	Offices/staff base			

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## 1 PURPOSE OF THIS POLICY

- 1.1 To set out Loreburn Housing Association’s approach to tackling anti-social behaviour to enable customers and their households to live in an environment that is attractive, safe and secure that is free from nuisance, intimidation and harassment.
- 1.2 Local experience has shown that antisocial behaviour can remove vitality and confidence from individuals and communities, can affect health and wellbeing, and has long been recognised as a barrier towards prosperity and ambition. The effects of antisocial behaviour are felt, not only by individuals and their families, but also by the wider community.
- 1.3 The key principle to tackling anti-social behaviour is to have a clear understanding of the nature, frequency, location and complexity of the issue. A number of factors can contribute toward an individual acting anti-socially, such as substance misuse, adverse childhood experience and trauma. Loreburn’s approach to tackling anti-social behaviour recognises this and will ensure individuals acting anti-socially are supported to amend their behaviour and to seek the appropriate support.
- 1.4 Loreburn is a member of the Dumfries and Galloway’s multi-agency Antisocial Behaviour Strategy Group and works to promote an ambitious, prosperous and confident Dumfries and Galloway where people can achieve their potential. In order to achieve this vision, the Antisocial Behaviour Strategy Group work closely together to produce and deliver this strategy.



## 2 LEGISLATIVE BACKGROUND AND GUIDANCE

2.1 In preparing this policy Loreburn HA have taken account of:

- Housing (Scotland) Acts 2001, 2010 and 2014
- Anti-Social Behaviour etc (Scotland) Act 2004
- General Data Protection Regulations
- Scottish Social Housing Charter 2017 – This sets out the standards that Scottish landlords must achieve when conducting their housing activities.
- The Scottish Secure Tenancy Agreement – this is the formal document that outlines the customer’s responsibilities and obligations in relation to their tenancy, including updating the Association with any changes to household details.
- The Short Scottish Secure Tenancy Agreement - this is the formal document that outlines the customer’s responsibilities and obligations in relation to their tenancy, including updating the Association with any changes to household details.
- Assured Tenancy Agreement – this is the formal document that outlines the customer’s responsibilities and obligations in relation to their tenancy with Dumfries and Galloway Homes.
- Exclusive Occupancy Agreement - this is the formal document that outlines the customer and landlords’ responsibilities and obligations in relation to factored properties.

## 3 AIM OF THIS POLICY

3.1 The aim of the policy is to mitigate potential impacts of anti-social behaviour on our customers by ensuring we have robust procedures in place to tackle anti- social behaviour promptly and effectively, whilst adhering to legislation.

To achieve this, we will:

- Design our properties to minimise the opportunity for anti-social behaviour and achieve Secure by Design standards.
- Advise new tenants when they are allocated a property of their obligations contained in the Tenancy Agreement.
- Take early action in responding to reports of anti-social behaviour and adopt a balanced non-judgemental approach.

- Keep the victims of anti-social behaviour informed during the investigation into their complaint, whilst respecting the confidentiality of information received from both the complainer and alleged perpetrator.
- Offer the victims of anti-social behaviour support, regular information updates, and the opportunity to receive support from Victim Support Scotland.
- Regularly inform all our tenants of the approach we take to anti-social behaviour.
- Consider what support, where appropriate, is offered to tenants to help them sustain their tenancy.
- Pursue legal action against the perpetrators of anti-social behaviour where intervention has failed to stop the behaviour.
- Work closely with Dumfries & Galloway Council's Anti-Social Behaviour Strategy Group and the Community Safety Team and follow the Working Protocol Agreement.
- Work closely with other external agencies such as the Police, Fire Service and other Registered Social Landlords to prevent and tackle anti-social behaviour.
- Keep accurate records of the type and frequency of anti-social behaviour occurring in our housing developments.

#### **4 ASSOCIATED POLICES**

- Complaints Policy
- Estate Management Policy
- Allocations Policy
- Pets Policy

#### **5 SCOTTISH SOCIAL HOUSING CHARTER – PERFORMANCE MONITORING**

5.1 The Scottish Social Housing Charter sets out the standards and outcomes that all Scottish social landlords should achieve when conducting their housing activities. These are used to monitor performance and to ensure customers are receiving a high standard of service.

5.2 There are five relevant charter outcomes, these are described below:

### Equalities

Social landlords should ensure every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

We can achieve this by prompt resolution of estate management complaints, and by offering solutions to meet the needs of our customers.

### Communication

Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get information they need about their landlord, how and why it makes decisions and the services it provides.

Loreburn H A can achieve this outcome by using a variety of methods of communication from face to face conversations to social media. Customers should be able to have queries about the management of their neighbourhood answered promptly.

### Participation

Social landlords manage their businesses so that tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with. Loreburn H A will use the communication methods outlined above and also look to our Customer Engagement Strategy to engender a culture where customers can influence the management of their own neighbourhood.

### Neighbourhood and Communities

Social landlords, working in partnership with other agencies, help to ensure that tenants and other customers live in well maintained neighbourhoods where they feel safe.

Where appropriate Loreburn will work with other agencies such as Police Scotland, and social work to tackle issues which are of concern to our residents.

### Tenancy Sustainment and Support

Tenants get the information they need on how to obtain support to remain in their home and ensure suitable support is available, including services provided directly by the landlord and by other organisations.

We will offer advice and assistance to residents to help them maintain their tenancy by referring them to appropriate agencies or by organising support by us or other support services.

5.3 All Loreburn H A's policies adhere to VFM principles.

## **6 HOW WILL WE ACHIEVE OUR AIMS AND OBJECTIVES?**

6.1 We will provide advice and assistance on anti-social behaviour matters to ensure tenants are able to live in an environment where they feel safe, secure and free from harassment and intimidation.

6.2 Enforce tenancy conditions, using legal action where appropriate.

6.3 This policy is supported by detailed procedures outlining our day to day practice which will enable us to meet the aims and objectives of the policy.

6.4 We will aim to be consistent, but we also aim to be flexible and proactive, meeting customer needs and expectations when providing housing management service.

6.5 Participate in Community Safety Multi-Agency Tasking and Co-ordinating group meetings (MATAC). These meetings formalise local partnership arrangements and adopt a problem-solving approach to consider the most problematic cases. The meetings ensure shared situational awareness, share and maximise use of finite resource, and ensure accountability and progress toward improved outcomes for people and communities affected by antisocial behaviour.

## **7 WHAT IS ANTI-SOCIAL BEHAVIOUR?**

7.1 Anti-Social Behaviour is defined as "behaviour by a person which causes or is likely to cause harassment or distress to one or more persons not of the same household as the person" (Anti-Social Behaviour Act 2004).

7.2 It is crucial to distinguish between anti-social behaviour as defined in the Act and general living noise or minor lifestyle variances. These are not generally considered anti-social behaviour and will not be considered under this Policy unless intentional and persistent. Such behaviours include:

- Dog fouling
- Fly tipping
- Cat fouling/roaming
- Noise from people walking across a wooden floor whilst wearing shoes, doors banging, noise from communal areas up and down stairs.
- Noise from washing machines, tumble driers, vacuum cleaners
- Children playing in or near their own homes
- Children falling out with each other



- 7.3 The above list is not exhaustive. Where we cannot provide assistance, we will explain why we are unable to intervene and if possible, we will give advice on other agencies that may be of assistance.
- 7.4 Customers are advised that criminal activity must always be reported to Police Scotland if it is caused by or affecting a customer of Loreburn Housing Association. This must also be reported to Loreburn HA to allow investigation and appropriate action to be taken.

## 8 RECORDING AND INVESTIGATING A COMPLAINT

### Classification

- 8.1 We will record and monitor anti-social behaviour based upon a range of categories/priorities that set out the type and severity of behaviour. How an incident is classified will determine how and when it is dealt with. In most cases this will be done by the Customer Engagement Team; however, every member of Loreburn's staff has responsibility to act on complaints of anti-social behaviour.

### Receiving Complaints

- 8.2 The Customer Engagement Advisor must decide which category the complaint comes under to determine how quickly Loreburn should commence its response. It is vital that this is completed and recorded correctly. If the Customer Engagement Advisor is unclear on the priority level then clarification should be sought from the Housing & Community Engagement Officer (HCEO).

Severe Priority – Respond 1 working day – Serious threats of violence, actual violent behaviour, racist or offensive graffiti, drug dealing. Police Scotland involvement may be likely in this category. We may not be able to resolve the issue in 1 working day unless the issue can be quickly resolved e.g. removing offensive graffiti. However, a Housing and Community Engagement Officer will contact the customer within 1 working day to discuss the situation and ask for further details and explain the actions and timescales they can expect from the association.

Urgent Priority – Respond 3 working days – Frequent/persistent incidents or incidents that cause distress but are not life threatening e.g. serious noise nuisance, malicious damage and failure to control dangerous pets. The customer will be contacted by the HCEO within 3 working days of the complaint to discuss the situation, ask for any further details and explain the actions and timescales they can expect from the association.

- 8.3 If a case is not considered as anti-social behaviour then the HCEO should advise the complainant by a phone call and follow up with a letter and advice information (Appendix 1).

## Recording Complaints

8.4 All complaints must be recorded on QL. In most instances this will be by the Customer Engagement Advisor however any member of staff who has the customer contact, either by phone or out in the communities, must record the complaint on QL or notify the relevant staff member. To record the anti-social behaviour correctly, the Customer Engagement Advisor has the choice of the following:

- Animal
- Drugs
- Fire
- General
- Harassment
- Neighbour
- Noise
- Not ASB (D&G Council Strategic requirement for records / data analysis)
- Racial
- Sexual Orientation
- Vandalism

8.5 Sometimes the category and urgency indicator may not be clear which category it falls into in these instances' judgement will be needed and if required, discussion with the Line Manager.

8.6 The Customer Engagement Advisor must then select the appropriate urgency:

- Urgent – 3 days
- Severe – 1 days

8.7 The Housing and Community Engagement Officer must then complete QL with the date the initial action was taken as this forms the targets for completion.

8.8 Information must be recorded accurately and in detail. This information will form the basis of our cases should legal action be required. It also enables Loreburn to produce statistics on the number and type of anti-social behaviour complaints it receives. The 'Type' concurs with the categories used by Dumfries and Galloway Council's Anti-Social Behaviour Strategy Group to produce their Strategic Assessment.

8.9 After the initial incident is recorded, any updates should be recorded under the original case. If there is a new complaint of a different type of anti-social behaviour it

should be recorded as a new case. If in any doubt in these cases this should be discussed with the Assistant Housing Manager or the Customer Experience & Lettings Assistant Manager.

### Initial Investigation

- 8.10 When a complaint is received the customer is updated via a telephone call from the Customer Advisor or the member of staff who takes the complaint advising that the matter is being taken forward. This should be followed by an acknowledgement letter/email issued by the Customer Advisor (Appendix 2). If the Housing and Community Engagement Officers feels that they need to investigate further they will interview, phone, email or use the most appropriate method to contact the complainant in order to establish the facts, unless the complainant specifically does not want further contact.
- 8.11 Once further investigation has been completed by the HCEO, if it is considered not to be anti-social behaviour these cases should still be recorded on QL under CRM, and the case closed under ASB. The HCEO will advise the customer by telephone and follow this up by letter as per Appendix 1.
- 8.12 During the investigation the Housing and Community Engagement Officer should not be judgemental or make assumptions. There are five main questions to be answered:
- **What is problem?** Check the problem raised is the real one.
  - **Who is affected?** Are there more people than the complainant affected. Extra witnesses will give more supporting evidence and will be useful if the case goes to Court.
  - **Where does it happen?** Details of the location
  - **When does it happen?** Find out precise dates and times
  - **Why does it happen?** This will only be the complainant's view but will help assess if it is harassment.
- 8.13 Where appropriate the complainant should be given a Neighbourhood Log (Appendix 3) to enable them to accurately record any further incidents. The HCEO will review the log, start any necessary action and save the original log to Documotive and link this to the ASB case on QL.
- 8.14 For noise nuisance the customer should be advised of the *Noise App* and assistance with setting this up. The Noise App allows the customer to record noise nuisance on their mobile phone/tablet. The HCEO can then access the Noise App portal and view information including timings, decibel levels etc. that has been shared by the customer to inform the ASB case.

### In-depth Investigation

- 8.15 When dealing with an in-depth investigation we will make every effort to collect and evaluate evidence from a variety of sources. Examples include witness statements,

reports from Police Scotland and other agencies, photographs of injuries and damage to property. All such evidence will form the foundation for future action.

- 8.16 The Housing and Community Engagement Officer should arrange a meeting with the alleged perpetrator in order to hear their views. Depending on the circumstances it may be appropriate that the interview is carried out by two members of staff/in a neutral venue. Health and Safety and Lone Working procedures should be considered.
- 8.17 Counter complaints are common at this stage. The interviewer should avoid getting side-tracked and go through the original allegations and get a detailed response to each. At the end of the interview then take details of the interviewee's counter allegations and any witnesses they may have to support their version of events. Details of these complaints should be logged on QL (under the appropriate code) and they should be investigated as necessary.

#### Referral to the Community Safety Team

- 8.18 In some cases it may be appropriate to refer the case to Dumfries and Galloway Council's Community Safety Team (Appendix 4). For example, where Loreburn's procedures have been exhausted and the case remains unresolved, it should at that stage be escalated to the Dumfries and Galloway Council's Community Safety Team who can enforce an Acceptable Behaviour Contract (ABC) and apply for an Anti-Social Behaviour Order (ASBO). This process is funded by Dumfries and Galloway Council. This is an enhancement to Loreburn taking action not a substitute and Loreburn staff should work in partnership with the Community Safety Team to bring about an appropriate resolution rather than pass the case on to them. If in doubt this should be discussed with the Assistant Housing Manager or Customer Experience and Lettings Assistant Manager.
- 8.19 Where cases are referred to the Community Safety Team, they will take the lead role but work closely with Loreburn staff - this may be a joint visit.
- 8.20 Initially the H&CEO will contact the Community Safety Team on a weekly basis to advise of any individual visits made, statements taken and advice given. The H&CEO will update QL weekly with a case update.
- 8.21 As the case progresses the H&CEO will undertake reviews with the Community Safety Team on an ongoing basis to ensure agreed actions are being progressed. This must

be completed at least once per month and QL updated to reflect the position of the case.

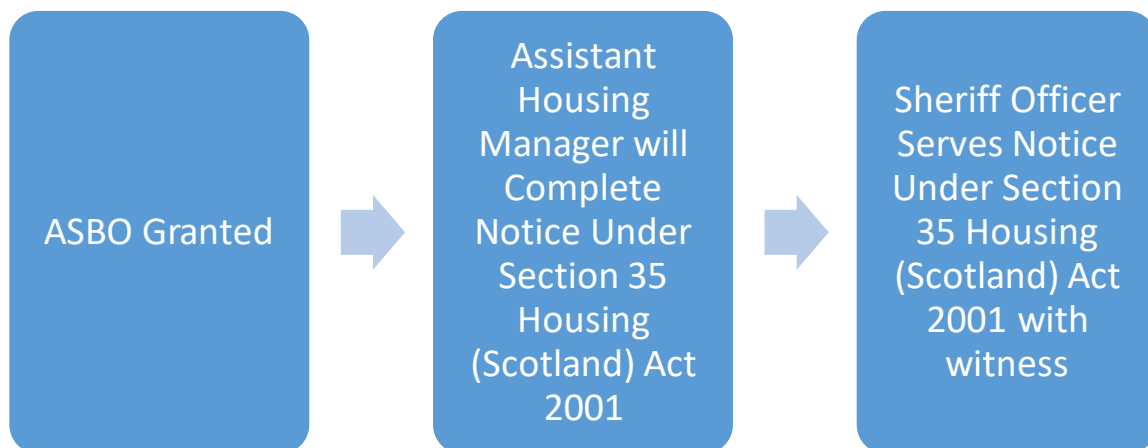
#### Remedial Action (Non-Legal)

- 8.22 In many cases contact from staff, or written warnings, to the perpetrator may suffice and they may then moderate their behaviour (Appendix 5 & 6).
- 8.23 If the person does not address their behaviour an Acceptable Behaviour Contract (ABC) may be introduced. This action will be led by the Community Safety Team and monitored by the H&CEO. Where the perpetrator signs the ABC and keeps to its action no legal action against them will be necessary.

#### Remedial Action (Legal)

#### Anti-social Behaviour Orders (ASBOs)

- 8.24 Where a perpetrator refuses to sign an ABC or signs an ABC and then continues to breach its conditions, a multi-agency case conference will be arranged by the H&CEO. In attendance will be the H&CEO and the Community Safety Team. The Assistant Housing Manager may attend if deemed necessary.
- 8.25 The case conference will decide what further action should be taken and if it is appropriate to apply for an ASBO. Where an ASBO is to be sought Dumfries and Galloway Council's Legal Team will prepare the application. Loreburn staff will assist in supplying all relevant material, statements, etc.
- 8.26 Where full ASBO is obtained the Housing and Community Engagement Officer will arrange for the service of a Notice of Tenancy Conversion to convert the tenancy from a Scottish Secure Tenancy (SST) to a Short Scottish Secure Tenancy (SSST) in line with process below:



- 8.27 The Housing and Community Engagement Officer should ensure that affected tenants and residents in the locality are notified that an ASBO has been granted and given a summary of the conditions of the ASBO and advise the tenants/residents that Police Scotland should be phoned immediately if the tenant is breaching their ASBO.
- 8.28 After 2 weeks of the initial complaint the H&CEO will phone the customer to check if there has been any further anti-social behaviour. If there have not been any further incidents of the same action code, then the case should be closed and recorded on QL by the H&CEO.
- 8.29 In serious complex cases where a resolution has not been achieved in 2 weeks, the H&CEO will arrange to contact the complainant every week or more frequently over a period of two weeks depending on the complexity of the case, to check if there have been further incidents. All details must be recorded against the case on QL.
- 8.30 Security of the complainant or witness is very important, and the association recognises that anti-social behaviour can make tenants feel vulnerable. The HCEO should therefore identify any support that the victims/ witnesses require and seek the assistance of relevant agencies such as Victim Support.
- 8.31 In follow up contact, if there have been instances of a different type of anti- social behaviour, it should be noted on QL as a new case under a different case reference and action taken within the timescales detailed at point 2 (Receiving Complaints). Contact with the complainant would begin again. In this case the original complaint could be continued or closed as appropriate.

## Possession Proceedings

- 8.32 A Notice of Proceedings for any non-rent arrears must be authorised by the Assistant Housing Manager. This action may be taken in conjunction with action taken by the Community Safety Team or may be in response to a serious tenancy breach where the Community Safety Team have not been involved e.g. where a tenant has been convicted of drug dealing from the property.
- 8.33 Where legal action is being taken staff should follow Legal Actions procedure detailed in Appendix 7 to ensure all necessary legal steps are taken from raising the initial action to enforcing an eviction. If Decree for Eviction is granted in court, process outlined in Appendix 9 should be referred to.
- 8.34 In cases where an ABC has been signed or an ASBO awarded, there are likely to be cases where the anti-social behaviour has ended but the ABC or ASBO is still current. The case will be closely monitored and any recording on QL will be made against the historical closed case. If further anti-social behaviour occurred a new case would be opened.
- 8.35 If a customer is charged with drug offences from or within the locality of their tenancy the case would be closed pending court action. Any action following a conviction would be recorded on QL against the historical closed case.
- 8.36 If an ABC has been signed or ASBO sought/awarded a warning will be placed on QL.

## **9 USE OF A SHORT SCOTTISH SECURE TENANCY (SSST)**

- 9.1 The Association will work preventatively to reduce anti-social behaviour at the beginning of tenancies by explaining the tenancy conditions and undertaking new tenants' visits. In appropriate circumstances the Association will provide a new tenant with or demote an existing tenancy to a Short Scottish Secure Tenancies (SSST).
- 9.2 The Housing (Scotland) Act 2014 provides scope for granting an SSST to situations where applicants or tenants have acted anti-socially in or near their home in the last three years or where there has been an eviction or ASBO issues in the last three years.

- 9.3 During the period of the SSST the Association is obligated to ensure that appropriate housing support is available to facilitate the conversion from the SSST to a full SST. This allows the Association to more closely manage the tenancies of those who have a recent history of ASB, with the ultimate aim of moving them into successful and sustainable Scottish Secure Tenancies (SST).
- 9.4 The minimum term for an SSST issued due to anti-social behaviour is 12 months. Those Short Scottish Secure Tenancies which are intended to convert to a full SST after the 12 month minimum period will be able to be extended for a one off period of six months to enable further work with the household if a position has not yet been reached where the tenancy can be converted to a full tenancy. This means that SSSTs relating to ASB could last for up to eighteen months. The duty to provide or arrange the provision of housing support continues to apply during the six-month extension.

## 10 RECOVERING A SHORT SST

- 10.1 The Association is obligated by law to a right to review the SSST, before court action is taken, for tenants whose SSST is not going to convert to a full SST. The Association is required to provide the tenant(s) with the reasons why it is seeking to recover possession of a property let under an SSST where the SSST was given on ASB grounds (i.e. a SSST which would convert to a full SST after the minimum period) and the SSST has been breached.

## 11 GROUNDS FOR EVICTION AFTER A CRIMINAL CONVICTION

- 11.1 To complement the existing measures available to landlords to address antisocial behaviour in, or in the locality of a social housing tenancy, several new provisions were introduced in the Housing (Scotland) Act 2014. These measures include:
- a new short Scottish secure tenancy for antisocial behaviour (Section 7 of the 2014 Act)
  - a power for landlords to extend the term of some short Scottish secure tenancies by 6 months, including those related to previous antisocial behaviour, where housing support services are being provided (Section 10 of the 2014 Act); and
  - a new streamlined eviction process where there has been a recent criminal conviction punishable by imprisonment for tenancy related antisocial or criminal behaviour (Section 14 of the 2014 Act) within



the previous 12 months.

- 11.2 The purpose of the streamlined eviction process is to help landlords to act on serious antisocial behaviour more quickly in some cases and help reduce the harm that is caused to communities from serious antisocial or criminal behaviour.
- 11.3 It is the Associations policy to exercise its powers to use a streamlined process for eviction where a tenant (or any one of joint tenants), a person living in or lodging in the house, a subtenant or a person visiting the house has been convicted of an offence punishable by imprisonment within the previous 12 months.
- 11.4 The process requires a notice of proceedings to be served before the first anniversary of the date of the conviction, or where that conviction was appealed, the day on which the appeal was dismissed or abandoned.
- 11.5 In those antisocial behaviour cases where the notice of proceedings has not been served in the required timescale, landlords can continue to use the ground set out in paragraph 2 of schedule 2 of the 2001 Act, either in its own right or combined with any of the other conduct grounds in schedule 2 to raise eviction proceedings. The statutory test of reasonableness at section 16(2)(a) of the 2001 Act will however continue to apply to those cases where the streamlined eviction process is not appropriate when the court is considering making an eviction order.

## **12 CLOSING THE CASE**

- 12.1 Cases will be closed when;
- The situation has been resolved or where the evidence shows that the allegations are unsubstantiated or misplaced ( if in doubt the HO can seek guidance from the Assistant Housing Manager);
- OR
- Where the perpetrator of the anti-social behaviour has been evicted or jailed.
- 12.2 A closure letter will be issued to a complainant advising them that the case has been closed (Appendix 8).
- 12.3 If further evidence does come to light a case can be re-opened or a new case initiated with links to the first case. References should be recorded.

### Monitoring

- 12.4 The Assistant Housing Manager will monitor all anti-social behaviour cases over 14 days.
- 12.5 The Head of Housing will review the weekly ASB report and review any cases still live after 28 days with the Assistant Housing Manager to agree necessary actions.
- 12.6 All serious cases of ASB should be highlighted to the Head of Housing, who will alert the Director of Housing Services, or in their absence another member of LET. This could be high profile cases, or where there may be negative publicity.

### Compliance

- 12.7 The Improvement & Innovation Team will take a sample of cases to test them for compliance against the policy.

### Satisfaction Survey

- 12.8 When the case has been closed on QL this generates an action to H&CE assistant tasking them to carry out the ASB satisfaction survey. The H&CE assistant will contact the customer within 5 working days of the closure to complete the ASB Questionnaire via CRM on QL.
- 12.9 If the H&CE Assistant has not managed to get a response after several attempts this should be recorded on QL with dates entered when calls were made. Any contact should also be recorded under the case concerned on the ASB module within the notes.

### Right of Appeal

- 12.10 If a tenant is unhappy with the way in which the Association has dealt with their complaint in respect of anti-social behaviour by another tenant, or feel they have been unfairly treated; they have recourse to Loreburn's Complaints Policy.
- 12.11 Loreburn take takes the learning from complaints to ensure when possible service improvements are made. Any complaints will be used to monitor and improve the service.
- 12.12 If the customer is not satisfied with the outcome of their complaint and have exhausted the complaints process above, they have the right to refer the matter to the Scottish Public Services Ombudsman.

### **13 STAFF TRAINING AND DEVELOPMENT**

- 13.1 Training will be provided to relevant staff to ensure a consistent approach is taken and to ensure staff are fully equipped to carry out the roles and duties linked to the application of this policy.

### **14 MEASURING PERFORMANCE**

- 14.1 Performance is monitored through Loreburn H A's Performance Management Framework using the Scottish Housing Regulator Annual Return Charter Indicators, House Mark and Loreburn HA's Strategic Performance Indicators and operational performance indicators for anti-social behaviour.
- 14.2 Loreburn HA will consult customers, stakeholders and other agencies in order to continually measure good practice.
- 14.3 The Policy will adhere to Loreburn HA's commitment to continuous improvement and value for money.

### **15 EQUALITY, DIVERSITY & INCLUSION**

- 15.1 Loreburn aims to ensure that equality, fairness, dignity and respect are central to the way we work and how we treat our customers. We support diversity and uphold equal opportunities in all areas of our work as an employer and service provider.
- 15.2 Loreburn will not discriminate against tenants, staff, visitors, suppliers or others based on their age, sex, sexual orientation, race, disability, religion or belief, marital status, pregnancy and maternity or gender reassignment (collectively referred to as 'protected characteristics' in the Equality Act 2010).

### **16 RISK MANAGEMENT**

- 16.1 Loreburn has a Risk Management Strategy, Policy and Procedure. These documents set out how the organisation will manage risk as an integral part of its governance and management systems, ensuring risks are identified, evaluated and controlled effectively.
- 16.2 Identifiable risks arising from this policy will be monitored and managed by the internal processes set out herein and by regular review of this and all other associated policies and procedures, ensuring risks are mitigated and Loreburn complies with all legislative requirements and regulatory and best practice guidance.

### **17 POLICY REVIEW**

- 17.1 The policy champion is the Head of Housing.

17.2 The policy will be reviewed **every three years** or as required due to legislative or regulatory change. The review will be completed by the policy champion and circulated to Loreburn’s executive team (LET) for approval.

## 18 RESPONSIBILITIES CHART

18.1 The chart below illustrates the responsibilities of all staff in relation to the policy.

<b>Responsibilities</b>	<b>Board/ CEO</b>	<b>LET</b>	<b>Head of Housing</b>	<b>Assistant Housing Manager</b>	<b>All Staff</b>
To set the policy and direction with regards to anti-social Behaviour	✓				
Ensure Loreburn H A staff have a robust understanding anti-social behaviour and the associated risks		✓			
Participate in MATAC group meetings				✓	
Participate in ASB Strategy group meetings			✓		
Manage service, reporting and update EMT quarterly			✓		
Take lead on applications, make day to day decisions					✓
Record Keeping for ASB cases					✓
Policy Champion			✓		
Ensure effective and clear communication with key stakeholders including Customers					✓
Reporting any concerns to Line Manager				✓	✓
Participate in meetings and provide evidence for investigations as required			✓	✓	✓
Ensure feedback is used to improve service			✓	✓	✓
Working with Head People & Culture to ensure staff have appropriate training			✓	✓	
Ensure policy is reviewed as necessary			✓	✓	✓
Ensure E&D guidance is adhered to		✓	✓	✓	✓



## Appendix 1

Dear

Anti-Social Behaviour

I am writing in response to your complaint of ---- (insert details and date) ----

In accordance with Loreburn Housing Association's Anti-Social Behaviour Policy, aspects such as usual living noise, or lifestyle issues, are not considered anti-social behaviour. As your complaint falls into this category it will not be treated as anti- social behaviour.

Please find enclosed an information leaflet which gives examples of what is, and what is not, considered anti-social behaviour.

If you have any questions regarding this, or any other matter, please do not hesitate to get in touch

Yours sincerely

Housing & Community Engagement Officer

Enc. – ASB Information Leaflet

## Appendix 2

[Click here and type Date]

[Click here and type Name] [Click here and type Address] [Click here and type Postcode]

Dear [Click here and type Name]

Anti-Social Behaviour Complaint Number XXX

I refer to your recent complaint regarding anti-social behaviour.

The Association takes matters of anti-social behaviour very seriously and aim to ensure our tenants are able to live peacefully in their homes.

You will receive an update within ..... working days from when you informed the Association. This letter will confirm whether your complaint is being treated as anti- social behaviour and outline what we will do to progress the case.

If you have any queries or if further incidents of anti-social behaviour, please contact me or another member of the Housing Team.

Yours sincerely

Housing & Community Engagement Officer

Enc. ASB information leaflet

### Appendix 3

#### Neighbourhood Log

Name of person completing log:

Address:

DATE	START TIME	END TIME	WHAT HAPPENED? (FACTS ONLY)	POLICE CALLED? REF NUMBER?



**DUMFRIES AND GALLOWAY COMMUNITY SAFETY TEAM**

**REFERRAL & GUIDANCE FORM**

**Complaint received by (full name):**

**Date**

**Time:**

CST Reference No:

<b>Referral from</b>		<b>Date:</b>	
<i>Name:</i>			
<b>Position:</b>			
n/			
<b>a Organisation.</b>			
<b>Address:</b>			
<b>Postcode:</b>			
<b>Contact</b>	<b>Tel</b>		
<b>No's:</b>			
<b>E-mail:</b>			
<b>Complainers name:</b>			
<b>Complainers address :</b>			
<b>Tenure:</b>			
<b>Contact phone number:</b>			
<b>Details of complaint:</b>			
<b>Landlord:</b>		<b>Tenure:</b>	
<b>Housing Officer:</b>		<b>Contact telephone No:</b>	
<b>Name of Alleged Perpetrator:</b>			
<b>Address:</b>			
<b>Postcode</b>			
<b>: Tenure:</b>			

<b>Landlord:</b>	
<b>Summary of Complaints (continue on separate sheet if necessary):</b>	
<b>Summary of info gathered, action taken so far (including dates), persons interviewed including name, address and phone contact nos. (continue on separate sheet and state clearly name(s) and address(s) of witness(s)):</b>	
<b>Summary of other agency involvement, including contact names and telephone nos.</b>	
<b>Reason for referral to CST:</b>	
<b>Referrers Name :</b>	<b>Date:</b>
<b>Signed:</b>	<b>Contact telephone no:</b>

Please attach further information if required.

RETURN TO:

[communitysafetyteam@dumgal.gov.uk](mailto:communitysafetyteam@dumgal.gov.uk)

Community Safety Team Cargen Tower  
Garroch Loaning Dumfries  
DG2 8PN

## Appendix 5 – First Warning Letter

I have been made aware by (relevant agency that made you aware if applicable as well as date of incident, and what the incident was).

We are therefore issuing you with a first warning letter as this behaviour is a breach of your Tenancy as per paragraph 3 of the Tenancy Agreement:

### 3. *Respect for Others*

*3.1 You, those living with you, and your visitors, must not harass or act in an anti-social manner to, or pursue a course of anti-social conduct against, any person in the neighbourhood or within any of our premises including our offices. Such people include residents, visitors, our employees, our Committee members, agents and contractors and those in your house.*

*3.2 “Anti-social” means causing or likely to cause alarm, distress, nuisance or annoyance to any person or causing damage to anyone's property. Harassment of a person includes causing the person alarm or distress. Conduct includes speech. A course of conduct must involve conduct on at least two occasions.*

Any further instances of this behaviour will result in further action being taken against you which could result in your Tenancy being at risk. Your cooperation in ensuring this behaviour does not continue is appreciated.

Yours sincerely

Housing & Community Engagement Officer

## Appendix 6

[Click here and type Date]

[Click here and type Name] [Click here and type Address] [Click here and type Postcode]

Dear [Click here and type Name]

### **First Warning Letter for Anti-Social Behaviour**

I have been made aware by Police Scotland, that on (insert date), you have both been issued with an Antisocial behaviour fixed penalty ticket for breach of the peace.

We are therefore issuing you with a first warning letter as this behaviour is a breach of your Tenancy as per paragraph 3 of the Tenancy Agreement:

#### *3. Respect for Others*

*3.1 You, those living with you, and your visitors, must not harass or act in an anti-social manner to, or pursue a course of anti-social conduct against, any person in the neighbourhood or within any of our premises including our offices. Such people include residents, visitors, our employees, our Committee members, agents and contractors and those in your house.*

*3.2 "Anti-social" means causing or likely to cause alarm, distress, nuisance or annoyance to any person or causing damage to anyone's property. Harassment of a person includes causing the person alarm or distress. Conduct includes speech. A course of conduct must involve conduct on at least two occasions.*

Any further instances of this behaviour will result in further action being taken against you which could result in your Tenancy being at risk. Your cooperation in ensuring this behaviour does not continue is appreciated.

Yours sincerely

Housing & Community Engagement Officer

## Appendix 7

### Legal Action and Process

The Association aims to minimise ASB and avoid legal action and eviction. However, this may be necessary from time to time and where it is necessary, this will be done within a framework of delegated authority and accountability.

Issue/renewal of Notice of Intention to Raise Proceedings: HCEO, with approval given by the Assistant Housing Manager, if they are unavailable the request is escalated to the Head of Housing upwards.

Instruction to Solicitor to commence Proceedings for Recovery of Possession: this will be in the form of a conjoined action for recovery of possession and payment of arrears and recoverable legal expenses and is instigated by the Housing and Community Engagement Officer (H&CEO) with the approval of the Assistant Housing Manager or Head of Housing and escalated where necessary.

The H&CEO will then provide the following documents to the Solicitor:

Tenancy agreement

Notice of Proceedings (NOP) and pre-action requirements

ASB case report

Rent statement covering letter

Court Report (a summary of relevant actions and stages, including compliance statement and any other evidence required, i.e. witness statements, photographs, noise application recordings etc.)

Prior to the case being passed to court, the H&CEO will make D&G Councils' Homeless Team and Social Service Department aware of the case in a prompt manner.

When the case calls in Court, the Association will;

Seek Decree for Repossession and Payment (if in arrears) – The Assistant Housing Manager will discuss this case with the Head of Housing where a decision will be taken as to the course of action that will be pursued.

The H&CEO under the direction of the Assistant Housing Manager informs the solicitor of the Associations decision of the action that they wish to pursue on the day before the case calls to court.

In cases where Decree has been awarded, the Head of Housing shall prepare a report for the Director of Housing Services detailing the circumstances of the case in the format prescribed for such reports and recommending that Decree shall be enforced.

Decree may only be enforced with the express approval of the Director of Housing Services, or in their absence another member of LET.

Where the Director of Housing Services has approved enforcement of the Decree, the H&CEO under the direction of the Head of Housing shall instruct Sherriff Officers to complete the eviction with minimum possible delay.

On the appointed date for an eviction, a member of H&CE staff will attend the property supported by the Sheriffs Officer(s) and a joiner. Personal health and safety should always be considered and if it is felt to be necessary, the Police should be advised. The Sheriff's Officers shall complete the eviction in accordance with due process. If the customer is present, a forwarding address and arrangement for payment of outstanding sums due will be sought. The joiner shall change the locks of the property and any additional measures felt to be necessary such as security screens will be carried out.

A minute of recall can be served right up until the date and time of the eviction. Where a Minute of Recall is served, the Association will stop any programmed eviction in accordance with due process.

The Management Committee will receive quarterly reports on the number of evictions and be advised of the outcome of the eviction.

To demonstrate our compliance with the Equality Duty, the Audit and Compliance Committee will receive an annual report on the age, ethnic origin and disability status of customer that have been evicted in the previous 12 months

## Appendix 8

### STEPS TO BE TAKEN BEFORE USING THE STREAMLINED EVICTION PROCESS

#### Verifying Information

In cases where a landlord is considering taking eviction action following information about a relevant criminal conviction, the landlord will wish to take legal advice to identify whether and how the ground required for raising an eviction action under the streamlined eviction process can be satisfied.

Consideration of how the ground can be satisfied will include the evidence of the criminal conviction available and whether the criminal offence is one which concerns using the house for immoral or illegal purposes **or** carried imprisonment as a possible penalty. A prison sentence does not need to have been imposed. For example, a community payback order may be given by the criminal court as an alternative to a prison sentence.

Landlords could consider obtaining an extract conviction from the court as evidence of the conviction. Where an extract conviction is available, this should be lodged as part of the sheriff court application if the case is taken to court.

An extract conviction cannot however be issued by the court until either:

- the expiry of the appeal period where no appeal is lodged; or
- the disposal of any appeal lodged.

The court will let the landlord know if they are unable to issue an extract conviction and the reasons for this. Landlords are however not prevented from raising eviction action under ground 2 of schedule 2 of the 2001 Act, including streamlined eviction action, simply because an extract conviction cannot be provided by the court.

Information on the current procedures for obtaining extract convictions can be obtained from the Scottish Courts and Tribunals Service.

If eviction action is being taken under ground 2 of schedule 2 of the 2001 Act only, pre action requirements do not have to be satisfied. If landlords are taking action on combined grounds which include rent arrears, pre action requirements will have to be satisfied.



## Other Factors Which Landlords Should Consider

There are a range of factors which landlords should consider in deciding whether raising eviction action using the streamlined eviction process is both appropriate and proportionate. Some examples of this could include:

- the nature and seriousness of the offence, including any recurring nature of convictions or cumulative effect of several incidents, or the potential seriousness of a one off offence;
- who has been convicted of the offence and their connection to the property;
- where the offence was committed and the connection to the social housing tenancy;
- whether and to what extent the offence has affected neighbours or others in the community;
- the impact on neighbour's and communities over time and the impact on the stability of the community;
- what action, if any, the person convicted of the offence is taking to make positive change;
- impact of eviction on household members;
- other steps taken/which could be taken by the landlord or partner agencies to address the antisocial or criminal behaviour.

In some situations, it is likely to be very difficult to demonstrate to the court that eviction action is proportionate. An example of this could be where a criminal conviction is given for an isolated offence such as possession of a small amount of illegal drugs and the behaviour of the tenant has caused no harm to neighbours or others in the community. Another example could be where a person has been convicted of a breach of the peace that had little local impact. The nature and seriousness of the offence should be considered, along with any other relevant factors or circumstances.

## **The Nature and Seriousness of the Criminal Offence**

The types of criminal convictions that allow use of the streamlined eviction process are only those for offences 'punishable by imprisonment committed in, or in the locality of, the house'. There are a range of serious criminal offences punishable by imprisonment which could be committed in social housing or in the locality. Some examples of this could include: breach of an ASBO, closure order or dispersal order, threatening and abusive behaviour, murder, rape, other violent offences, offences related to the use of offensive weapons and serious drug related offences.

There is however no specific offences where the landlord should invariably seek to use the streamlined eviction process. The nature and severity of the offence is only one of the factors which landlords should consider as part of their assessment of whether eviction action using this process is appropriate and proportionate.

## **Who Has Been Convicted and their Connection to the Property**

In some cases, it may be a visitor to the house or someone who lives at the property from time to time who has been given a criminal conviction. In such cases landlords may have limited information about the convicted person's connection to the property and will be investigating this and determining what impact the behaviour leading to the conviction has had on neighbours and the community. There will be situations where neighbours or others in the community are afraid to speak out and in other cases; the tenant may be unable, despite their best efforts, to prevent a person with a criminal conviction from returning to the property where for example, the tenant fears for their own safety. When considering this type of case landlords may wish to consider factors such as:

- how frequently the person visits or lives in the property;
- any action the tenant is taking to stop the person returning to the property;
- whether it is reasonable in the circumstances for the tenant to try to prevent the person returning to the property.

## **Where the Offence was Committed**

The streamlined eviction process can only be used where the criminal conviction in question is related to the social housing tenancy. The criminal conviction must either be committed in the house or committed in the locality of the house. Landlords will already be used to exercising their judgement when defining

'locality' and will need to make a decision based on the circumstances of the individual case. Where the criminal offence was committed elsewhere, landlords cannot use the streamlined eviction process as the ground for raising eviction proceedings at paragraph 2 of schedule 2 of the 2001 Act will not be met. Landlords will need to use other grounds to proceed with eviction action.

### **Whether and To What Extent the Offence has Affected Neighbours or Others in the Community**

Eviction action under the new streamlined eviction process should only usually be considered where there is evidence that the behaviour leading to the conviction has had a serious impact on neighbours or others in the community. This could, for example, include threatening and abusive behaviour towards neighbours or significant disruption to their lives.

### **Positive Change**

Sustainable and secure housing is a key factor in preventing re-offending. Landlords have a role to play in helping people to sustain tenancies and prevent re-offending. There will be situations when the person who has received a conviction has changed their behaviour. Some examples of this could be:

- the behaviour has stopped, for example there have been no repeat offences, convictions, disturbances or complaints;
- engagement in training/employment;
- participating in a rehabilitation programme or treatment for drug/alcohol/mental health;
- regular and meaningful engagement with support services to change behaviour in a positive way.

These examples may indicate positive change and landlords should consider the impact that eviction action may have on preventing positive change and the potential for re-offending in such cases.

### **Impact of eviction on household members**

As with all eviction action the impact on the other members of the household should also be considered. Landlords should ensure that communication with other relevant services has taken place to establish potential benefits and/or risks to other household members.

This should however be balanced against the impact of the behaviour on the wellbeing of neighbours and the local community.

## **Notifying Tenants of the Landlord's Decision to Take Eviction Action**

Landlords should ensure that they communicate clearly with their tenants. When legal action is to be taken it is particularly important that the tenant concerned is notified of:

- the action to be taken and what will happen;
- the timescales for the action;
- why this action has been taken, including reference to the legislation and the tenancy agreement;
- who they can contact for advice and assistance, for example, Shelter Scotland, Citizens Advice and getting independent legal advice.

A tenant who is disagrees with a decision taken by the landlord to raise court proceedings could seek judicial review of the landlord's decision to seek a court order, and/or defend the repossession action.

## **SERVING A NOTICE**

Once landlords have decided to consider taking action to recover possession of a tenancy under the new streamlined eviction process, landlords must serve a notice on the tenant(s) that explains that they may raise proceedings for possession of the property and sets out the grounds for doing so. The Regulations introduce a new form of Notice of Proceedings for this purpose.

## **COURT ACTION AND REPOSSESSION**

### **Raising Proceedings**

Once a case has been received by the court, the court will identify which cases the landlord wants the streamlined eviction process to apply to from the details of the grounds for repossession given in the statement of claim section of the court writ. The landlord can however choose to raise proceedings on more than one ground, if they wish to do so. There are no changes to the procedure up to the point when the case calls in court (see xx below).

What evidence landlords submit to the court for cases where proceedings are being raised under the streamlined eviction process is a decision for them. Where an appropriate extract conviction has been obtained this should however be included. There is no requirement at this stage for landlords to supply the

court with any other specific evidence. Landlords may, however, have to give further evidence during court action.

## **Court Action**

The streamlined eviction process removes the ability of the court to consider whether it is reasonable to grant an eviction order. The court must grant an eviction order where it is satisfied that:

- the landlord has a ground for recovery of possession set out in paragraph 2 of schedule 2 to the 2001 Act; and
- the notice of proceedings was served on the tenant before the first anniversary of the date of the conviction, or where that conviction was appealed, the day on which the appeal was dismissed or abandoned.

In cases where the court is not satisfied that the criteria for streamlined eviction is satisfied, the court will then consider any other grounds for recovery of possession of the house raised by the landlord in the statement of claim section of the court writ.

If tenants or their representatives challenge the proportionality of a streamlined eviction action on human rights grounds, then the court may consider the reasons for such a challenge before reaching a decision. Landlords may need to give evidence on the reasons for the eviction action if such a challenge is raised and the sheriff decides that the challenge has sufficient basis to be considered.

## Appendix 9

Dear

Anti-Social Behaviour Complaint Number XXX

Further to your complaint regarding anti-social behaviour.

There have been no further reports of anti-social behaviour and the Association now considers the case to be closed.

However, please do not hesitate to contact your Housing & Community Engagement Officer if further incidents of anti-social behaviour arise.

Yours sincerely

Housing & Community Engagement Officer

## Appendix 10

### Process to follow if Decree for Eviction is granted in Court

Notification received from solicitors advising decree granted in court – usually received the next working day following court hearing.

Customer to be advised in writing that decree for eviction has been granted (App 11)

Letter to be issued to Homeless and Social Services advising that Decree has been granted (App 12 and 13)

On receipt of Extract Decree from solicitors, HCEO to instruct Sherriff Officers to issue paperwork on tenant advising of date for Eviction. Sherriff Officer is required to give 14 days' notice to tenant ahead of eviction.

In cases where Decree has been awarded, the Head of Housing shall prepare a report for the Director of Housing Services detailing the circumstances of the case in the format prescribed for such reports and recommending that Decree shall be enforced.

Decree may only be enforced with the express approval of the Director of Housing Services or in their absence another member of LET.

Where the Director of Housing Services has approved enforcement of the Decree, the H&CEO under the direction of the Head of Housing shall instruct Sherriff Officers to complete the eviction with minimum possible delay.

## Appendix 11

«Correspondence\_Name»

«House\_Code» «Address\_Line\_1»

«Address\_Line\_2»

«Address\_Line\_3»

«Postcode»

Dear «Correspondence\_Name»

### Legal Action – Eviction

I refer to the above.

As you are aware, when your case relating to anti social behaviour called into court on, xxxxxxxx. I can advise that we were granted Decree for Eviction along with recovery of any debt and expenses. We are currently awaiting the court papers to allow us to arrange the eviction.

If you wish to avoid physical eviction I would suggest that you arrange alternative accommodation and return the keys for the property. You should ensure that you remove all your belongings from the property. The Homeless Department of Dumfries and Galloway Council may be able to assist you with this and I would suggest that you contact a member of the Homeless Team on 030 33 33 3000.

I would point out that action to recover all debts owed to the Association will continue. The total debt owed at present is £xxxxxxx in rent arrears, £xxxxxx in rechargeable repairs. You will also be liable for legal expenses in the region of £XX for the current legal action.

In order to discuss this matter further I will call at your home on xxxxxxxxxxxxxxxxxxxxxxxx. If this date or time is inconvenient please contact me to arrange an alternative appointment.

Yours sincerely«Manager»

Housing & Community Engagement Officer



## App 12

Date

Homeless Persons Officer

Dumfries and Galloway Council

STREET

TOWN

POST CODE

Dear Sir/Madam

Eviction

«Correspondence\_Name», «House\_Code» «Address\_Line\_1», «Address\_Line\_2»,  
«Address\_Line\_3»

Rent Arrears: £«Current\_Balance»

Tenancy Related Debt: £

I refer to the above named tenant(s) and to previous correspondence.

I can advise that at Dumfries/Stranraer Sheriff Court on DATE DECREE AWARDED we were granted Decree for Recovery of Possession, Debt and Expenses. We will therefore be proceeding with the eviction once the necessary court papers have been received. We anticipate this to be within the next 5 weeks.

I would be obliged if you could make contact with the tenant as soon as possible to discuss the implications of being made homeless.

If you require any further information please do not hesitate to contact me.

Yours faithfully

«Manager»

Housing & Community Engagement Officer

## App 13

Date

Duty Social Worker

Dumfries and Galloway Council

STREET

TOWN

POST CODE

Dear Sir/Madam

Eviction

«Correspondence\_Name», «House\_Code» «Address\_Line\_1», «Address\_Line\_2»,  
«Address\_Line\_3»

Rent Arrears: £«Current\_Balance»

Tenancy Related Debt: £

I refer to the above named tenant(s) and to previous correspondence.

I can advise that at Dumfries/Stranraer Sheriff Court on DATE DECREE AWARDED we were granted Decree for Recovery of Possession, Debt and Expenses. We will therefore be proceeding with the eviction once the necessary court papers have been received. We anticipate this to be within the next 5 weeks.

I would be obliged if you could make contact with the tenant as soon as possible to discuss the implications of being made homeless.

If you require any further information please do not hesitate to contact me.

Yours faithfully

«Manager»

