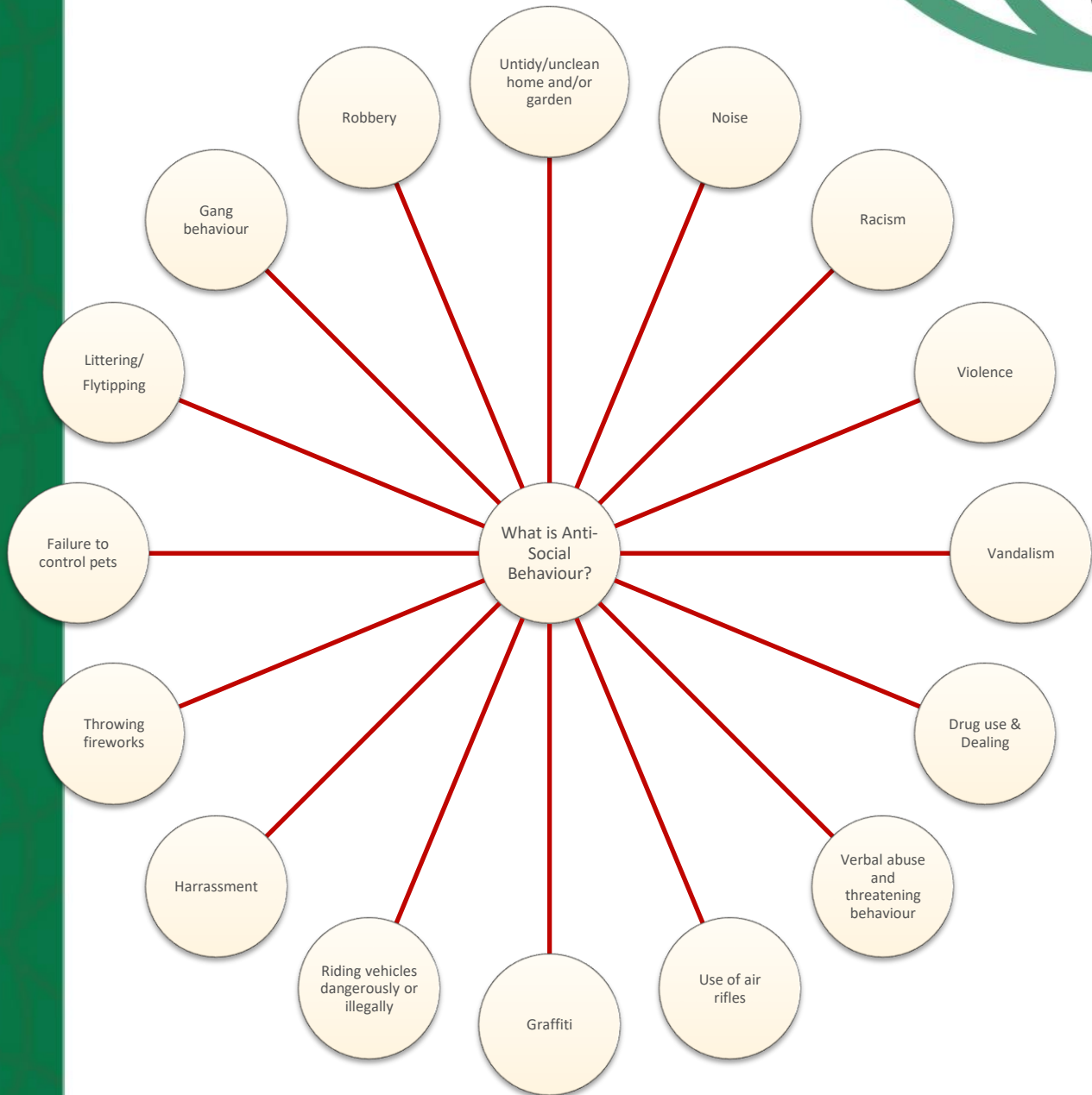


## Hellens Residential Anti-Social Behaviour Policy.

Version 1

September 2021

A1.1 ASB Policy



Hellens Residential Ltd recognises that Anti-Social Behaviour can take many forms and is often difficult to deal with. If our tenant's behaviour is causing problems for neighbours or other tenants, then as the landlord of the property, there is an expectation that we will take reasonable steps to deal with these problems. This guide is to help us deal with anti-social behaviour caused by our tenants.

## How can we Prevent Anti-Social Behaviour taking place?

We have included a clause in the tenancy agreement which makes clear that the tenancy can be ended early where Anti-Social Behaviour is established. At the start of tenancy key handover, we must make especially clear to our tenants, the importance of:

- not allowing anti-social behaviour,
- not causing nuisance or annoyance to neighbours
- not allowing overcrowding
- not accumulating and properly disposing of rubbish and recycling properly

We must make sure our tenants understand that we can apply to end the tenancy using the proper legal procedures, if the tenants do not meet these obligations.

If the tenant does not speak English well enough to understand this information, we should make sure that someone is present who can act as an interpreter and explain these points well enough for the tenant to understand.

We may wish to introduce ourselves to neighbours of the property and let them know that Hellens Residential Ltd are the landlord and give them our contact details so they can contact us at an early stage should our tenant cause a nuisance.

## What should we do if we receive a complaint of Anti-Social Behaviour about a tenant?

Initially, it is sensible to find out as much as we can before approaching the tenant, e.g., talk to those affected by the alleged behaviour. Make notes and details of the incident.

We could encourage the complainant to contact the Council or Police to complain about the behaviour of their neighbours. We should then keep in contact with the investigating officer or department to see how the case is progressing.

## Evidence

Even at an early stage of receiving a complaint of anti-social behaviour, it is important we keep records of the complaints we receive and to keep any evidence we have of bad behaviour by the tenants. This will help us if we have to take the sort of legal action described below. It will also help, if we have kept clear records of having tried to speak to our tenants in a reasonable way, before taking legal action. It is usually advisable to follow up conversations or attempts to contact the tenant, by emailing or writing as well, so that there is a clear record of our attempts to resolve things. All communication with tenants needs to be recorded in their tenant journal. Emails, photographic evidence & letters should be saved in file. Texts should be screenshot and saved in file if applicable.

### Verbal Warning

Speak to our tenants at an early stage. In some cases, we will be able to deal with the situation by simply making clear to the tenant that their behaviour is causing problems. We would point out the clause in the tenancy agreement and explain that if this behaviour continues, they could be evicted. Keep a record of all conversations. We should take a balanced, measured approach, based on the evidence available.

Alternatively, if we are unable to make contact verbally with our tenant, we could consider sending an 'initial contact letter' asking the tenant to contact us to discuss the complaint of anti-social behaviour.

### Written Warnings

If reasoning with the tenant does not help, and there is clear evidence of the problems continuing we could consider sending a warning letter to the tenants. It is important to keep a copy of all correspondence sent, and a record of how and when we sent it.

If this does not have any effect, we should consider sending a final warning letter.

Warning letters should clearly state;

- What tenancy condition has been breached
- How occupiers have broken them
- What they should do to prevent further action being taken
- The consequences of continuing to breach the tenancy condition

### Caution

A Caution falls somewhere between a warning letter and a Notice because it is a more formal warning about breach of tenancy conditions, but it is not legal document.

The Caution lists the previous warnings they have received and specific incidents that have happened which have put them in breach of their tenancy conditions. They should only contain factual information, for example:

"On 1st September 2015 you, your household members or guests, caused a disturbance to your neighbours by playing loud music between 9.35pm and 12.45am".

Cautions should be used in cases where a warning letter does not appear to have worked but we do not feel the case is serious enough to serve a Notice. They should not be used in serious cases where a Notice would be more appropriate.

## Options other than getting the tenant to leave

Before thinking of applying to the Court for possession, we could consider whether there are any other ways of handling the problems the tenants are causing:

- If there is conflict or disagreement between **neighbours**, the mediation service MESH can help neighbours work out mutually acceptable solutions. They can be contacted on 0114 241 2771 and their web address is [www.meshccs.org.uk](http://www.meshccs.org.uk)
- Sometimes problems happen because the occupier cannot cope in the accommodation without support. If so, it can help to put them in contact with someone who could provide support and help. This sort of help for the occupier can have very positive benefits for us as a landlord. It can help the occupier with practical problems in looking after the property, paying bills and getting Benefits. Also, it can encourage a responsible approach from the occupier. One such support organisation is the Citizens Advice Bureau, contactable on 03444 111 444.
- Where a tenant appears to be having severe difficulties coping, perhaps because of mental health problems, or where there are concerns about the young or elderly, it might be appropriate for Social Services to be involved.
- Where there is a specific problem for instance with noise or rubbish, we can contact the Council's Community Protection service. They can investigate and sometimes take legal action against the people causing it.
- Where the anti-social behaviour of a tenant is creating problems in the wider community, and we have been unable to resolve these problems ourselves, there may be broader powers which can be used e.g. Anti-Social Behaviour Orders (ASBOs) Acceptable Behaviour Contracts and closure orders. Problems can be reported to the Police on tel. 101
- We should also inform the **Police** if we think the tenant's behaviour or any of their actions might amount to a criminal offence(s).
- There may be some extreme cases, where the tenant is very disruptive or violent. If they might be a danger to others, we can consider asking the Court for an **injunction** against them. An injunction could, for instance, stop the tenant returning to the premises for a period of time or prevent them from behaving in a dangerous or threatening way. To get an injunction we need further legal advice.

## Ending the tenancy

If all else fails, we may need to consider taking action to get our tenants to leave by serving them with a Notice and applying to Court for a Possession Order.

There are two types of notices we could serve our tenants:

### Section 21 Notice

This is the sort of Notice we can use in any situation where we want a tenant to

leave. It is also important that we have provided our tenant with certain documents prior to the start of the tenancy and you have an up-to-date gas safety certificate. Further information is available here:

<https://www.gov.uk/government/publications/how-to-rent/how-to-rent-the-checklist-for-renting-in-england>

With a 'section 21 Notice' we do not have to prove anything or show any evidence of the tenant having caused any problems. We should ensure we have the most recent version of this Notice as it can change.

### **Notice Seeking Possession ('Section 8' Notice)**

We can serve a Notice Seeking Possession using a special form which should contain all of the legal information. It should be included in the full text of grounds on which we are basing our notice. In the case of anti-social behaviour, Grounds 12 and 14 are the most likely to apply but if we think that more Grounds apply, we should state them all. It is likely that we will need to copy or cut and paste the text of these Grounds onto a separate sheet or appendix. The full list of all grounds is attached.

We need to provide details of the tenant behaviour that is causing the problem. Again, we will probably need a separate sheet. We should describe the behaviour, its effect on others and the approximate dates or time period when the behaviour has taken place. At this stage, we would not need to provide any witness statements or names of the people who have complained. Further information is available here: <https://www.gov.uk/tenancy-agreements-a-guide-for-landlords/ending-a-tenancy>

### **Which Notice to give?**

There is nothing to stop us giving both kinds of Notice which means that we can keep our options open if you have to think about applying to Court for a Possession Order. Remember that if the tenancy contract still has quite a few months to run, a section 21 Notice is unlikely to give us a chance of getting the tenants to leave within a reasonable timescale. Also, the Notice Seeking Possession enables us to apply to court straight away instead of having to wait for at least two months. However, the Section 21 procedure, unlike the Section 8 / Notice Seeking Possession procedure, provides a definite outcome so long as we have followed the procedure correctly. Also, the Court procedure which follows a Section 21 Notice is more straight forward.

### **Applying to Court**

If we do need to take the next step of applying to court to get the tenant to leave, the law recognises that these claims for possession need to be considered urgently, and, if we have given a Notice Seeking Possession, we can apply to Court for possession as soon as we have served the Notice. We have to pay a fee when you apply to Court, but if we are successful, we can ask the court to make the tenant pay this back to us in 'costs' (bear in mind though, that the tenant will only be required to reimburse us at a rate they can afford).



### Applying to Court - Section 21

The procedure we use depends on what sort of Notice we have given. If we are applying to Court following a Section 21 Notice, then, we can use the Accelerated Possession Procedure.

Further information on the accelerated possession procedure can be found on Her Majesty's Courts and Tribunals Service website: [www.justice.gov.uk/about/hmcts/](http://www.justice.gov.uk/about/hmcts/). This procedure is quicker than other applications to Court in that, so long as we have followed the right procedure, there may not be a need for a Court hearing.

### Applying to Court - Section 8

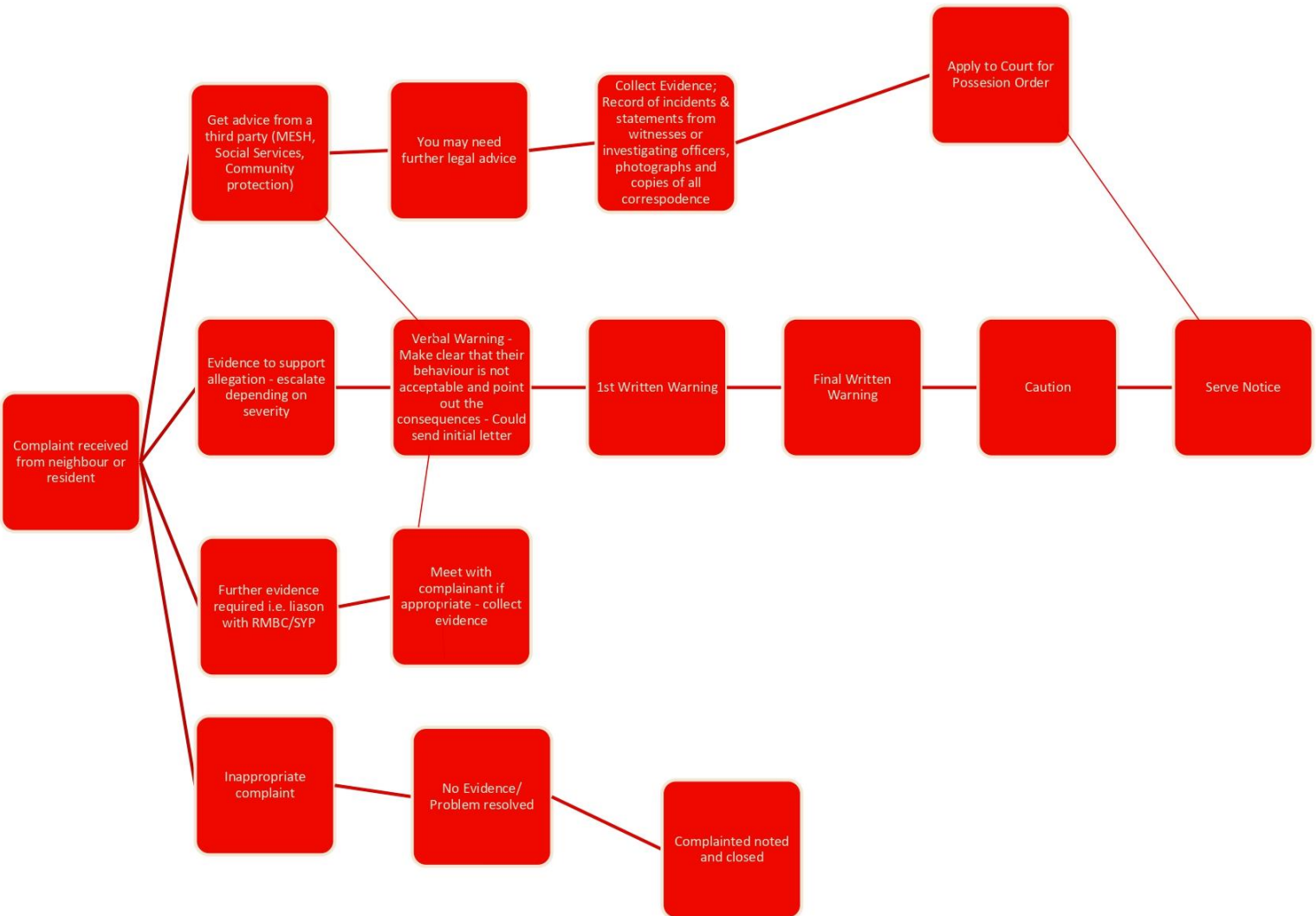
If we are applying for possession because we have given a Notice Seeking Possession (section 8), further information can also be found on Her Majesty's Courts and Tribunals Service website: [www.justice.gov.uk/about/hmcts/](http://www.justice.gov.uk/about/hmcts/).

Alternatively, we can use the **Possession Claim On-Line service** (PCOL) if we are seeking possession of the property together with any rent arrears. PCOL allows us to access court forms online to make, issue, view and progress a possession claim electronically. For further information see: [www.possessionclaim.gov.uk/pcol/](http://www.possessionclaim.gov.uk/pcol/).

We cannot use the **Possession Claims On-line** (PCOL) service if we are seeking possession under Section 21 or if we are using the accelerated possession procedure.

For a Court to grant possession, the judge would have to be satisfied that there was enough evidence against the tenant, and that their behaviour is serious enough, to make it reasonable for them to have to leave their home. Getting this sort of evidence is not straight forward and the Court procedure using Section 8 is not very straight forward. We should get specialist legal advice before beginning any Court action using this procedure.

## Summary of Process



## Grounds for Possession

### Grounds for possession - Assured Shorthold Tenancies and non- shorthold Assured Tenancies

The full texts of the more commonly used grounds are reproduced below. You need to quote the full text in a Notice Seeking Possession.

The 'Mandatory' Grounds for Possession are:

The most common useful 'mandatory ground' is:

#### Ground 8 - Rent Arrears

*Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing-*

- (a) if rent is payable weekly or fortnightly, at least [eight weeks'] rent is unpaid;*
- (b) if rent is payable monthly, at least [two months'] rent is unpaid;*
- (c) if rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and*
- (d) if rent is payable yearly, at least three months' rent is more than three months in arrears; and for the purpose of this ground "rent" means rent lawfully due from the tenant.*

The most usual useful 'Discretionary Grounds' are:

#### Ground 10 – Rent Arrears

*Some rent lawfully due from the tenant-*

- (a) is unpaid on the date on which the proceedings for possession are begun;*
- and*
- (b) except where subsection (1)(b) of section 8 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.*

#### Ground 11 - Rent Arrears

*Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.*



### Ground 12 - **Tenant has broken a term of the Tenancy Agreement**

*Any obligations of the tenancy (other than one related to the payment of rent) has been broken or not performed.*

### Ground 13 - **Damage to the Premises**

The full text is:

*The condition of the dwelling house or any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any other person residing in the dwelling house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.*

*For the purpose of this ground, "common parts" means any part of a building comprising the dwelling house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling house in which the landlord has an estate or interest.*

### Ground 14 - **Nuisance**

*The tenant or a person residing in or visiting the dwelling house-*

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality,*
- (aa) has been guilty of conduct causing or likely to cause a nuisance or annoyance to the landlord of the dwelling- house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions or*
- (b) has been convicted of-*
  - (i) using the dwelling house or allowing it to be used for immoral or illegal purposes, or*
  - (ii) an arrestable offence committed in, or in the locality of, the dwelling house.*

### Ground 14ZA

*The tenant or an adult residing in the dwelling-house has been convicted of an indictable offence which took place during, and at the scene of, a riot in the United*

Kingdom.

*In this Ground—*

*“adult” means a person aged 18 or over;*

*“Indictable offence” does not include an offence that is triable only summarily by virtue of section 22 of the Magistrates’ Courts Act 1980 (either way offences where value involved is small);*

*“riot” is to be construed in accordance with section 1 of the Public Order Act 1986. that is directly or indirectly related to or affects those functions,”.*

### Ground 15 - **Condition of furniture**

The full text is:

*The condition of any furniture provided for use under the tenancy has, in the opinion of the court, deteriorated owing to ill-treatment by the tenant or any other person residing in the dwelling house and, in the case of ill-treatment by a person lodging with the tenant or by a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.*

### Ground 17 - **False statements by tenant**

The full text is:

*The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by-*

- (a) the tenant, or*
- (b) a person acting at the tenant’s instigation.*