**BAHAY KUBO HOUSING ASSOCIATION LIMITED**

**Policies, Procedures and Guide to Dealing with Anti-Social Behaviour**

Certified as approved by the Director under delegated authority on December 2021

To be reviewed in December 2024

**How does Anti-Social Behaviour involve us as a Housing Association?**

If your tenant’s behaviour is causing problems for neighbours or other tenants, then as the landlord or managing agent of the property, there is an expectation that Bahay Kubo Housing Association Ltd will take reasonable steps to deal with these problems.

**Preventing and Reducing Anti-Social Behaviour**

* Bahay Kubo HA must take all reasonable and all practicable steps for preventing and dealing with anti-social behaviour and undertake a thorough process of incremental steps to deal with any complaints, which have been made either directly to them, or via the Local Authority or any Police service, regarding our tenants.

Anti-social behaviour is taken to comprise behaviour by the occupants of the house and/or their visitors, which causes a nuisance or annoyance to other occupants of the house, to lawful visitors to the house or to persons residing in or lawfully visiting the locality of the house.

* Bahay Kubo HA is required to provide an authorised officer of the Local Authority, a Police Officer or Police Community Support Officer, upon request, information regarding the full names and dates of birth of each occupant.
* Bahay Kubo HA will ensure that the occupants of the house are aware of the assistance available to them to deal with anti-social behaviour and how they can report nuisance and anti-social behaviour to the housing association or relevant authority (Council or Police). Bahay Kubo HA will make such information available to tenants via its welcome pack, website or any relevant medium reasonable and practical.
* Bahay Kubo HA will respond to reference requests within a reasonable timescale and provide an honest and accurate reference relating to existing or past tenants.
* Bahay Kubo HA must take steps to terminate the tenancy following advice and recommendation from the its Board of Management, Senior Officers, Council, Police, should it be found that the property is being used for illegal or immoral use or where there is evidence of persistent and ongoing anti-social behaviour.

However, Bahay Kubo HA also recognise that Anti-Social Behaviour can take many forms and is often difficult to deal with whether you are a landlord or anyone else.





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

Bahay Kubo HA should include a clause in the tenancy agreement which makes clear that the tenancy can be ended early where Anti-Social Behaviour is established.

During the process of sign-up, before the signing of new tenancies, Bahay Kubo HA are required to meet with the tenants to make sure that they understand their responsibilities and obligations, and so that we can provide them with all the information they need about the property.

At this meeting, 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 that 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 we are the landlord and give them our name and 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 our tenant?**

First, 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, or if appropriate liaise closely with any investigating officer from the Council or the Poilce. 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.

**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 could 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. You 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 our tenant to contact us to discuss the complaint of anti-social behaviour. (Appendix 1)

**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 our tenants (Appendix 2). 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. (Appendix 3)

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 conditions

**Caution** (Appendix 4)

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.

**Evidence**

Even at an early stage of receiving a complaint of anti-social behaviour, it is advisable to keep records of the complaints we receive and to keep any evidence we have of bad behaviour by the tenants. This will help if wehave 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.

**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**, mediation services can help neighbours work out mutually acceptable solutions. We should consult a mediation service within the Council or area and the tenants and/or parties involved if we consider this option.

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. 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. The Citizens Advice Bureau is a good resource for this. Other Councils and Boroughs also have other similar service or agencies which we should have to supply the tenants.

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. Contact the Safeguarding Hub in the Local Authority.

Where there is a specific problem for instance with noise or rubbish, we can contact the relevant Council department. They could 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, 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 (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 should seek 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 the tenants:

**Section 21 Notice**

This is the sort of Notice we can use in any situation where you want a tenant to leave. With a ‘section 21 Notice’ you do not have to prove anything, or show any evidence of the tenant having caused any problems.

**Notice Seeking Possession (‘Section 8’ Notice)**

The preferable route is to 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 the 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 (Appendix 5).

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.

**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 we 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 us with 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 to apply to Court for possession as soon as we have served the Notice.

We have to pay a fee when we 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. We do this using court form number

N5B.

Further information on the accelerated possession procedure and Form N5B 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), we can use court form N5, which 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, you can use the you are seeking possession of

**Possession Claim On-Line service** (PCOL) ifthe property together with any rent arrears.

PCOL allows you 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 you are seeking possession under Section 21 or if you 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. You may therefore, need to get specialist legal advice before beginning any Court action using this procedure.

**Summary of Process**

