



Anti-social behaviour

The information below is taken from Association of Residential Managing Agents (ARMA) advisory notes.

The ability of landlords/agents to deal with anti-social behaviour is limited by the terms of the lease and legal restrictions on the actions they can take. Unless there are exceptional circumstances ARMA recommends that the lessee suffering the anti-social behaviour is better advised to take initial action themselves.

What to expect from my landlord or managing agent?

Many lessees think that agents have the power to deal with anti social behaviour in developments of flats. **Unfortunately, this is not the case.** Most leases will contain covenants which will say leaseholders shall not cause nuisance and annoyance to neighbours. There may be more specific restrictions such as no loud music between say 11pm and 7.00am, or that floors should be carpeted. These clauses are all well and good but unfortunately difficult to enforce for several reasons:

- The meaning of the covenant should be clear before considering enforcement. Any benefit of doubt will be given to the lessee.
- The lease may not contain a clause that requires the landlord to enforce the covenants; if it doesn't, there is no obligation on the landlord to take action.
- Even if the lease does contain a clause requiring the landlord to enforce the covenants against other lessees, a mutual enforceability covenant, there is usually a catch; the catch is that the complainant leaseholder suffering the noise will have to pay the landlord's costs of enforcing the covenant.

The procedure for a landlord/agent to enforce a covenant against anti-social behaviour is as follows:

- Firstly, the landlord/agent would want to confirm that there was a genuine problem.
- If there is, then a reminder letter to the offending lessee may work.
- If the letter does not work, then the legal remedies open to the landlord/agent is an injunction or forfeiture.
- Forfeiture is a procedure to seize the property from the lessee and is not an easy route for landlords as it requires a tribunal and then, if successful, a court appearance. It will be extremely expensive and will not produce quick results. However, the threat of forfeiture may produce a response to some problems.
- Injunctions may be a quicker remedy but will be very costly.
- Considering the above, the more practical route for a landlord/agent faced with distressed lessees complaining about anti-social behaviour from neighbours is to

offer advice on how they can take better and cheaper action themselves as set out below.

- Please remember that your agent is just that, an agent and must take instructions from the client landlord or residential management company or right to manage company before taking any action.

What powers do the police and local authorities have?

- The police can take action if a criminal offence has taken place e.g. someone has attacked another person, wilfully damaged a property, harassment or intimidation.
- The police can apply to the courts for an ASBO.
- The police can close down properties being used by drug dealers.
- All local authorities must have anti-social behaviour policies and procedures which you can ask about and seek advice.
- Seek advice from a Crime and Disorder Partnership to see if they can help.
- In many areas there are anti-social behaviour co-ordinators.
- Many local authorities have 'Envirocrime' units that are partnerships with the police to deal specifically with litter and street cleaning, graffiti, fly tipping, dog fouling, fly posting and abandoned cars.
- There may be a scheme in place where local community support officers will assist and patrol more often or speak to residents about incidents.

Practical steps a lessee can take:

- Unless you are dealing with serious or violent behaviour, it is often better to start with practical steps yourself.
- Approach the other lessee or tenant causing the problem amicably. They may not be aware that their behaviour is causing you a problem.
- Keep a record of the nuisance as soon as it happens e.g. date, time, details. You may need it to back up your complaint and could be used as evidence if you go to court.
- Mediation works well for noise, dogs, parking issues and boundary disputes. There may be a local scheme available free or at a low cost that you can use.
- Approach the local authority direct to deal with noise nuisance or pet problems.
- Approach the local authority or police for assistance with anti-social behaviour in the local area or common parts.
- Ask the local Citizens Advice for specialist advice.

Some common problems within a communal development:

Noise

Lessees are encouraged to resolve neighbour noise themselves unless there is a threat of physical violence. Local authorities can act to abate a statutory noise nuisance. There is no legal definition of what is a nuisance and lessees will need to keep a record to provide evidence. Most local authorities have emergency response teams to deal with complaints about late night parties and can issue warnings, seize offending equipment and issue fixed penalty notices.

Dogs

Incessant barking can be dealt with by the local authority as noise nuisance. It is also a crime to allow an animal to endanger or injure other people. The RSPCA is also a useful partner that a lessee can contact for advice before approaching the local authority.

Graffiti

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

Drugs and immoral behaviour

If there is suspected drug dealing, police have a power to issue a closure notice on premises. The closure order will apply for 3 to 6 months and during this period the property will be sealed and entering will be an offence. If you suspect there is drug dealing in your block tell the police first of all and then tell your agent.

Hedges

Local authorities have powers to deal with complaints about evergreen hedges, that are over two metres high, which adversely affect a neighbour's enjoyment of their property. The local authority can issue a notice requiring action to be taken; failure to comply would be an offence. The local authority could then take the action itself.

Abandoned vehicle

Please report an alleged abandoned vehicle to your agent. Please note that an agent has to be extremely cautious about removing abandoned vehicles as they often turn out not to be.

Obstruction of common parts

Report this to your agent. Please get the facts first about who caused the obstruction.

Damage to common parts

Lessees or their tenants may damage doors, carpets or decorations by misuse. Most leases will contain clauses that provide that lessees will pay for any damage they cause to the common parts. There would have to be clear evidence to identify a culprit not circumstantial