

Appendix 1

AGREEMENT

between

South Lanarkshire Council

and

Clyde Valley Housing Association Limited

Relating to the provision of Anti-social
Investigative Services

Period:
1 April 2011 to 31 March 2013

File Ref: HTSS-00409-5

AGREEMENT

between

SOUTH LANARKSHIRE COUNCIL, a Local Authority established in terms of the Local Government etc (Scotland) Act 1994 and having its main offices at Council Offices, Almada Street Hamilton ML3 0AA (hereinafter referred to as “the Council”)

and

CLYDE VALLEY HOUSING ASSOCIATION LIMITED, a Company incorporated under the Companies Acts and registered as a Scottish Charity (Charity Registration Number SC037244) having their Registered Offices at 50 Scott Street, Motherwell, ML1 1PN] (hereinafter referred to as “the Housing Association”)

WHEREAS:-

(One) the Housing Association is part of The Clyde Valley Group and the landlord of approximately 1300 tenants in the South Lanarkshire area who are currently party to Tenancy Agreements in terms of the Housing (Scotland) Act 2001;

(Two) the Housing Association wishes to secure delivery of anti-social investigative services;

(Three) the Council’s approach to dealing with anti-social behaviour has been established over a number of years and is detailed in Part 1 of the Schedule, hereinafter defined;

(Four) the Housing Association has offered to purchase anti-social investigative services from the Council; and

(Five) the parties wish to expand upon the terms and conditions of the Agreement as hereinafter defined for the delivery of anti-social investigative services

NOW THEREFORE by their execution hereof the parties agree as follows:

1. **DEFINITIONS, INTERPRETATIONS AND RELATED MATTERS**

1.1 For the purposes of the Agreement:-

“Agreement” means this agreement between the Council and the Housing Association including the Schedule and any written variation or amendment thereof;

“Commencement Date” means 1 April 2011 notwithstanding the date or dates of signature of the Agreement by the Council and the Housing Association;

“Environmental Information Regulations” means the Environmental Information (Scotland) Regulations 2004

“FOISA” means the Freedom of Information (Scotland) Act 2002 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Scottish Information Commissioner in relation to such legislation.

“Information” for the purposes of Clause 4 of the Agreement has the meaning given under section 73 of the FOISA.

“Nominated Person” means the person appointed by the Council to liaise with the Housing Association in relation to all matters connected with the provision of the Services under the Agreement

“Price” means the costs as detailed in Part 4 of the Schedule;

“Schedule” means the Schedule of 4 Parts annexed and executed as relative to the Agreement;

- “Services”** means the Services to be provided by the Council’s Joint Problem Solving Unit as detailed in Part 2 of the Schedule;
- “Staff”** means any person employed or appointed by the Council to perform Services in terms of the Agreement;
- “Termination Date”** means the 31 March 2013
- “Working Day”** means any day excluding Saturday and Sunday and statutory holidays as fixed by the Council, and shall include local variations including Lanimer Day.

- 1.2 Any reference in the Agreement to any Statute or Statutory Instrument or any part thereof means a reference to those Statutes or Statutory Instruments or part thereof as amended, modified or re-enacted from time to time and any order or regulation made thereunder.
- 1.3 References to the singular include the plural and vice versa and references to male include female unless the context otherwise requires.
- 1.4 Clause headings and sub headings are for reference purposes only and shall not affect the construction of anything in the Agreement.
- 1.5 The provisions of the Interpretation Act 1978 with respect to interpretation and construction shall apply mutatis mutandis.

2. PERIOD OF AGREEMENT

- 2.1 The Agreement shall start on the Commencement Date and shall continue until the Termination Date when it will terminate without the need for notice unless terminated earlier in accordance with Clause 8.1 or 9.5, or extended in accordance with Clause 9.6.

3. SERVICES TO BE PROVIDED

- 3.1 The Council shall provide the Services under the terms and conditions of the Agreement in exchange for payment of the Price.
- 3.2 The Council will provide the Services using reasonable skill and care and the Services provided shall conform to generally accepted business/industry standards and practices.
- 3.3 The Council shall comply with the requirements of the review arrangements as detailed in Part 3 of the Schedule.
- 3.4 The Council shall appoint a Nominated Person (and second person in their absence) who shall be responsible for all communications with the Housing Association relating to the Council's obligations under the Agreement.

4. STATUTORY OBLIGATIONS

- 4.1 The Housing Association acknowledges that the Council is subject to the requirements of FOISA and shall assist and co-operate with the Council to enable the Council to comply with these information disclosure requirements.
- 4.2 The Council reserves the right to disclose information contained within the Agreement and any supporting correspondence, notes etc. held by them in compliance with a Request for Information (the decisions of the Council in relation to the interpretation of FOISA and the Environmental Information Regulations, including but not limited to whether
 - an exemption or exception applies
 - if an exemption or exception applies, whether the public interest in giving out the information outweighs the public interest in holding back the information
 - shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms).

4.3 The Council shall endeavour to keep the Housing Association informed about any Request for Information it receives which may require it to disclose information relevant to this Agreement.

4.4 In any of the above circumstances in Clause 4.2 the Housing Association shall not treat this disclosure of the information as a breach of this Agreement.

4.5 This clause 4 shall survive the expiry or termination of this Agreement.

5. PAYMENT

5.1 In exchange for the Council providing the Services the Housing Association will pay the Price to the Council, in accordance with the financial arrangement detailed in Part 4 of the Schedule.

5.2 The Price shall be exclusive of Value Added Tax, which may now or at any time after the date hereof become payable thereon, whether at the option of the Council or otherwise. In respect of any Value Added Tax which is payable, the Council shall deliver a Value Added Tax Invoice to the Housing Association within 10 Working Days of the date of payment.

6. PERFORMANCE REVIEW

6.1 The Council's performance in delivering the Services in terms of the Agreement will be reviewed regularly by the Housing Association during the period of the Agreement.

6.2 Interim review meetings may be called by the Housing Association at any time during the currency of the Agreement upon giving at least 10 Working Days written notice to the Council.

7. ASSIGNATION

7.1 The Council shall be entitled to assign its rights and obligations under

the Agreement with the consent of the Housing Association, except to any statutory successor(s) when the Council shall be entitled to assign its rights and obligations under the Agreement without requiring the consent of the Housing Association.

8. TERMINATION

Early Termination

8.1 Either Party may terminate the Agreement, even though the Council is not in default, by giving at least one calendar month's written notice.

Termination by default

8.2 The Agreement may be terminated with immediate effect, in writing, by either party if either party is in material breach of any aspect of the Agreement. Without prejudice to the foregoing generality the failure to deliver the Services and/or to meet the Outcomes detailed in the Schedule shall not be regarded as a material breach of the Agreement by the Council.

8.3 The Agreement may not be terminated in terms of Clause 8.2 unless and until written notice has been given to the party in default, which states the basis of the breach and allows a reasonable period of at least 10 Working Days for the breach to be remedied and the party in default has failed to do so within the period specified in the notice.

Termination by liquidation etc

8.4 If any of the following occurs:-

8.4.1 The Housing Association passes a resolution that it be wound up or an application is made for an administration order or the Housing Association resolves to enter into a voluntary agreement with its creditors;

8.4.2 A receiver, liquidator, administrator, supervisor or administrative receiver is appointed in respect of the Housing Association's property or assets or any part thereof or the Housing Association is wound up or a receiver of all or any of its assets is appointed by Court Order;

8.4.3 The Housing Association being unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986;

8.4.4 In England and Wales a petition being presented for the Housing Association's bankruptcy or a criminal bankruptcy order being made against the Housing Association or the Housing Association making any composition or arrangement with or for the benefit of its creditors; or

8.4.5 In Scotland, the Housing Association becoming apparently insolvent within the meaning of Section 7 of the Bankruptcy (Scotland) Act 1985,

then the Council shall be entitled to treat the Agreement as being terminated by reason of a material breach by the Housing Association.

Termination due to Corrupt or Illegal Practices etc

8.5 Either party may terminate the Agreement with immediate effect upon giving written notice to the other party if the Housing Association employed any corrupt or illegal practices including offering or giving or agreeing to offer or give any gratuity, bonus, discount, consideration or bribe of any kind whatsoever to the Council or any Member or Official of the Council either in obtaining or carrying out any contract/agreement with the Council.

8.6 In the event of termination in terms of clause 8.5 the Council shall be entitled to recover any losses incurred resulting from such termination.

Effects of the termination

- 8.7 Termination of the Agreement shall have no effect on the liability of either party to any payments due in terms of the Agreement prior to the date on which termination takes effect.
- 8.8 Termination of the Agreement shall not affect the coming into force or the continuance in force of any provisions of the Agreement which is expressly or by implication intended to come into force or continue in force upon the expiry or earlier termination of the Agreement.

9. NOTIFICATION OF INABILITY TO DELIVER SERVICES

- 9.1 The Council will notify the Housing Association in writing immediately if, for any reason, it is unable to deliver the Services in accordance with the Agreement. The parties shall meet to discuss future performance of the Agreement and either party may at any time thereafter give notice to the other party that they wish to terminate the Agreement in terms of Clause 8.1.
- 9.2 In the event of the Agreement being terminated in terms of Clause 9.1 the Council shall provide such assistance as it is able to facilitate the implementation of such contingency plans as the Housing Association may propose to ensure the continuity of the delivery of the Services and the Housing Association will make payment of any sums outstanding and due to the Council in terms of Clause 8.7.
- 9.3 The Housing Association, following discussions with the Council, may require the Council to return any part of the Price paid to the Housing Association in terms of the Agreement which relates specifically to the Services not provided in proportion to the period remaining.
- 9.4 The Housing Association must provide a written demand to the Council in respect of any monies due in terms of Clause 9.3.
- 9.5 In the event of the Council being unable to provide the Services for a period of one month the Housing Association shall be entitled to

consider the Agreement to be at an end and the provisions of Clauses 9.2, 9.3 and 9.4 hereof shall apply as if one of the parties had given notice in terms of Clause 9.1 that they wished to terminate the Agreement early and that in terms of the minimum period stated in Clause 8.1.

9.6 If following the final review during the period of the Agreement, the Housing Association seeks a continuation of this Agreement for a further fixed term period that said fixed term period shall not extend beyond the second anniversary of the Termination Date and shall be subject to the Council's appropriate authority; and the terms of any continuation shall be documented in writing.

10. NO PARTNERSHIP

10.1 Nothing in the Agreement shall be deemed to constitute or create a Partnership (as defined in the Partnership Act 1890) between the parties to the Agreement.

11. AMENDMENT AND VARIATION

11.1 No amendment to or variation of the Agreement shall have any effect unless it is in writing and signed by each of the parties hereto.

12. ENFORCEABILITY

12.1 In the event that any term of the Agreement is held to be illegal or unenforceable by any Court or by virtue of any legislation, such term shall be deemed not to form part of the Agreement the validity and enforceability of the remainder of the Agreement shall not be affected.

13. WAIVER

13.1 No delay by or omission of both parties in exercising any right, power, privilege or remedy under the Agreement shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or

remedy shall not preclude any other or further exercise or the exercise of any other right, power, privilege or remedy.

13.2 The failure of either party to enforce or exercise any terms of the Agreement shall not constitute a waiver of such term and will in no way affect that party's right later to enforce or exercise it.

14. ENTIRE AGREEMENT

14.1 This Agreement supersedes all previous agreements or discussions, whether oral or written, between the Council and the Housing Association and comprises the entire agreement between the parties subject always to the terms of the Agreement with respect to the Services being provided in terms thereof.

15. NO WARRANTY

15.1 The parties acknowledge that in entering into the Agreement they have not relied on any warranty, representation or undertaking given to or on behalf of the other party.

16. COMPLAINTS PROCEDURE

16.1 The Council shall maintain a procedure for receiving and investigating complaints which shall include keeping details of how many complaints are received, and how these are dealt with.

17. NOTICES

17.1 All notices which require to be served in terms of the Agreement shall be in writing and shall be sufficiently served if delivered personally or sent by first class recorded delivery post to the following persons :-

17.1.1 In respect of the Council, to:-

South Lanarkshire Council, Joint Problem Solving Unit,
Cambuslang Gate, 27 Main Street, Cambuslang, G72 7EX

17.1.2 In respect of the Housing Association, to:-

Clyde Valley Housing Association Limited, Scott Street,
Motherwell, ML1 1PN

or to such other person at such other address as may be intimated to the other party.

17.2 Any notice served in terms of the Agreement shall be deemed to be duly served, if delivered personally, at the time of delivery or, if sent by post, 48 hours after posting. In proving service, it shall be sufficient to prove that the envelope containing the notice was duly addressed to the addressee in accordance with this clause and accepted by the Post Office for posting.

18. RESOLUTION OF DISPUTES

18.1 Both parties will use their reasonable endeavours to resolve any dispute between them and (One) in respect operational matters, in terms of the arrangements for resolution of such disputes as detailed at Part 2 of the Schedule; (Two) in respect of the Agreement, to reach an amicable and workable resolution of the matter in dispute within 10 Working Days of the dispute arising or within such other mutually acceptable timescale.

18.2 In the event that either party is not satisfied with the agreed solution or the dispute has not been dealt with timeously in terms of Clause 18.1 the matter may be referred to a single arbiter to be mutually agreed by the parties. The arbiter's decision on the matter and any expenses relating to such arbitration shall be final and binding on both parties.

18.3 In the event the parties cannot agree on an independent arbiter either party can refer the dispute to an arbiter to be appointed by the President of the Law Society of Scotland.

18.4 For the avoidance of any doubt and insofar as the Council has sufficient capacity to continue provision of the Services, the Council shall remain responsible for the provision of the Services and the Housing Association shall remain responsible for payment of the Price in terms of the Agreement during any period of dispute in terms of clause 18.1.

19. LAW OF SCOTLAND

19.1 The Agreement shall be construed and interpreted in accordance with Scots Law and shall be subject to the exclusive jurisdiction of the Scottish Courts: IN WITNESS WHEREOF these presents typewritten on this and the 12 preceding pages, together with the Schedule, are subscribed as follows

**Subscribed for and on behalf of South Lanarkshire Council.
(Executive Director, Housing & Tech Resources)**

By authorised signatory Signature -
Print Name -
Designation -
Date -
Place of Signing

In the presence of this Witness Signature -
Print Name -
Address of Witness
.....

Subscribed for and on behalf of Clyde Valley Housing Association Limited

By First authorised signatory Signature -
Print Name -
Designation -
Date -
Place of Signing

By Second authorised signatory/Witness Signature -
Print Name -

Designation -

Date -

Place of Signing

Address of Witness

.....

This is the Schedule referred to in the foregoing Agreement between South Lanarkshire Council and Clyde Valley Housing Association Limited

PART 1 – BACKGROUND

South Lanarkshire Council

The Council has adopted a successful partnership approach to dealing with anti-social behaviour issues in local communities as part of the problem solving process. The Council recognises that people are affected in different ways and to different levels by anti social behaviour. The Council has established joint working to effectively deal with these issues by establishing:-

- what the problems are;
- where they are occurring;
- who is involved;
- what impact it is having; and
- what action it will take

PART 2 – SERVICES

Services to be provided by the Anti Social Investigation Team

The Services under this Agreement will be provided by the Joint Problem Solving Unit's Anti-Social Investigation Team ("the team") which works alongside the Area Housing Offices, legal services team and external agencies in order to find solutions to serious anti-social behaviour problems.

The team has vast experience in dealing with serious cases of anti-social behaviour and, in the course of their investigations they will interview and take statements from all the parties involved.

The team will provide the following Services:-

- A professional witness service for cases referred by the Housing Association will be available Monday, Tuesday and Thursday 0845hrs – 1645hrs
Wednesday 1100hrs – 1645hrs and Friday 0845 – 1615hrs.

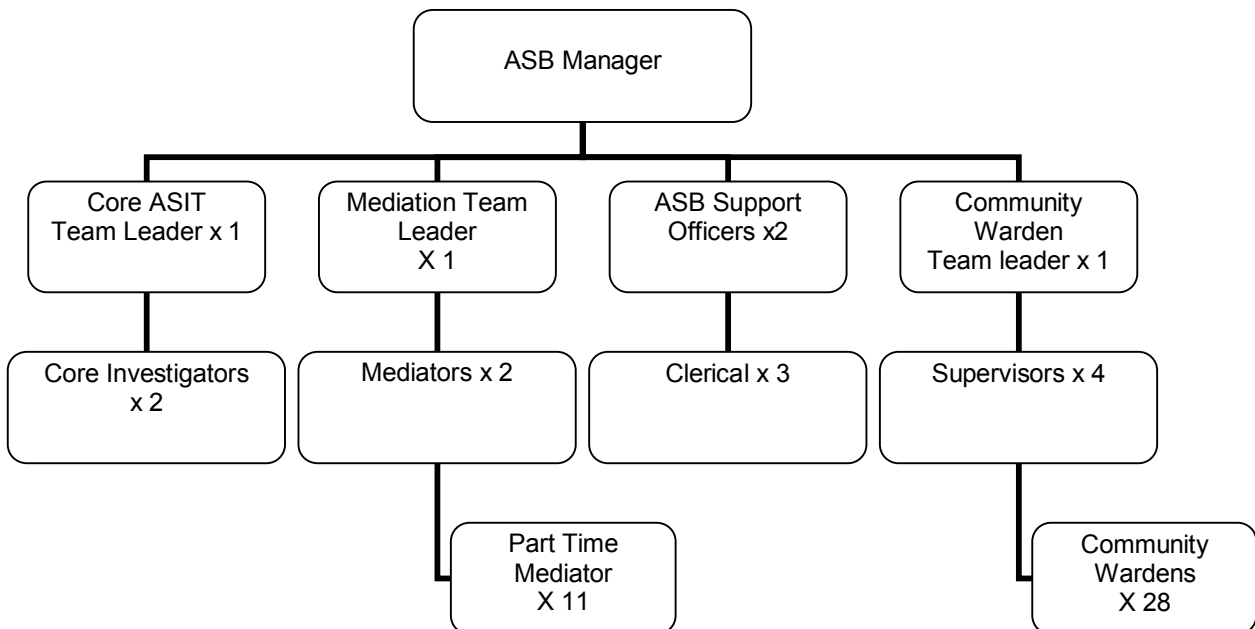
All referred cases will be investigated in accordance with the Council's procedures. Any enquires taken by the Joint Problem Solving Unit will be faxed to the Housing Association the next working day.

- Two members of staff will work on the investigation of cases, with one officer responsible for updating and reporting.

- Interim and final reports and statements for cases referred by the Housing Association will be provided as the case progresses. A full report will be available on a monthly basis.
- Assistance will be provided in the drafting and implementation of letters and notices such as Anti Social Behaviour Contracts (ABCs) and Unacceptable Behaviour Notices (UBN)
- Recommendations for action by the Housing Association will be made in the final report
- It is the responsibility of the Housing Association to consider the recommendations and instigate identified actions
- Regular case review meetings and liaison with the Housing Association staff.
- Attendance at court as and when necessary (non legal services staff).

The team will treat everyone equally and without discrimination. All complaints will be treated in confidence, although if action is required the team may not always be able to maintain confidentiality.

The team's current departmental structure is as follows:-



The types of cases to be referred to the team are as follows:-

Cases should be referred in instances where the housing officer has explored all other options and it is considered that enforcement action is required. This would include complaints in relation, but not exclusively, to:-

- Serious Neighbour disputes
- Noise complaints
- Hate crime
- Verbal abuse
- Harassment
- Youth disorder

Expected outcomes for service users:

1. Effectively tackle anti social behaviour problems as part of a multi agency approach.
2. Comprehensive reports detailing nature and extent of anti social cases referred to the Joint Problem Solving Unit in terms of the Agreement.
3. Increased awareness of anti social behaviour problems in the area in which the Housing Association operates.
4. Increased awareness of the Housing Association's commitment to tackling anti social behaviour.
5. Improved and increased links with the Council resulting in an effective and genuine multi agency approach to tackling anti social behaviour.
6. Increased levels of resident satisfaction.

Referral Arrangements for the Anti Social Investigation ("ASIT") Team

- All case referrals shall be made direct to the Anti Social Behaviour Manager, or Team Leader (Anti Social) located at the Joint Problem Solving Unit.
- All referrals shall be made on **Pro Forma ASF6** providing all required details.
- Discussions between organisations should take place prior to official referral.
- The Housing Association should identify who should be the main point of contact for the case during the referral process where further background information is required.
- The Housing association should present a comprehensive case file of actions already carried out in relation to the case.
- The Council will notify the Housing Association by letter to confirm acceptance of the referral and identify who will be the main point of contact for the case.

Arrangements for resolution of disputes regarding operational matters

Stage 1

The team and the Housing Association will use their reasonable endeavours to resolve any operational problem between them and to reach an amicable and workable resolution of that matter in dispute within 10 Working Days of the dispute arising or within such other mutually acceptable timescale.

Stage 2

In the event the said problem is not resolved within the specified period indicated in Stage 1, the matter shall be referred to the Council's Anti Social Behaviour Manager and the Housing Association's Housing Operations Manager who shall meet within one week of the date of said referral to seek a solution acceptable to both parties. A written minute of the meeting will be prepared at the instance of the Council's Anti Social Behaviour Manager and made available thereafter to each party. The said minute of meeting will record the details of any action agreed upon, including specified timescales.

Stage 3

In the event that a solution to the said problem cannot be agreed upon following Stage 2, or a solution agreed by the parties is not implemented within a specified timescale, the matter shall be referred to the Council's Head of Area Services who shall meet with the Housing Association's Housing Operations Director within one month of the said referral being made to him/her in order to seek a solution acceptable to both parties. A written minute of the meeting will be prepared at the instance of the Council's Head of Area Services and made available thereafter to each party and in any event no later than within three (3) Working Days. The said minute of meeting will contain details of any action agreed upon.

Stage 4

In the event that the matter remains unresolved at the end of Stage 3, or any solution agreed by the parties is not implemented within any timescale specified thereunder, the provisions of Clauses 18.2 to 18.4 of the Agreement shall be employed.

PART 3 – PERFORMANCE REVIEW

- The Anti Social Behaviour Manager and the Anti Social Investigation Team Leader will participate in any monitoring, evaluation and review procedures adopted by the Housing Association in respect of this Agreement. Regular reports on cases will be provided to allow the Housing Association staff to report to their Board.
- Regular case reviews will take place to ensure that appropriate action is being taken in cases and that the conditions of the Agreement are being met. If there is concern that service standards are not being achieved the Housing Association should provide the Council with details of their concerns in writing. The Council will acknowledge and reply to the concerns raised within 10 Working Days.
- The regular case review meetings will take place every eight weeks and will be attended by the Team Leader (anti social).

PART 4 - COST OF SERVICES

- The cost of investigation work carried out on referred cases, will be:-
 - £17.65 per hour for an anti social investigator; and
 - £19.90 per hour for the Anti Social Investigation team leader

NB The above costs are inclusive of “on-costs” (set at 25% to cover national insurance and pension contributions) and will be subject to up-rating at the beginning of each financial year to reflect any increase in salary and associated costs.

- The costs are not inclusive of VAT.

NB Any additional costs incurred by the Council e.g. to meet the costs of travel , overtime or as a result of having to deploy camera equipment, will be passed on to the Housing Association. In relation to the use of equipment or overtime the costs will be discussed with and agreed by the Housing Association in advance

- The Housing association will be notified if the investigation cost of a case exceeds £500. In this instance the housing association should advise the Council if they wish to proceed further.
- The Housing Association agrees to pay invoices within one month of receipt and failure to do so may result in the Council issuing notice that the service is being withdrawn.

**Subscribed for and on behalf of South Lanarkshire Council
(Executive Director, Housing & Tech Resources)**

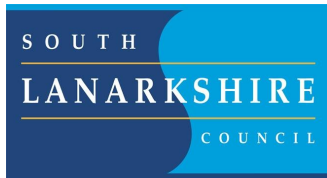
By authorised signatory Signature -

Subscribed for and on behalf of Clyde Valley Housing Association Limited

By First authorised signatory Signature -

By Second authorised signatory Signature -

This is the Pro Forma ASF6 referred to in the foregoing Schedule to the Agreement between South Lanarkshire Council and Clyde Valley Housing Association Limited



REFERRAL TO ANTI-SOCIAL INVESTIGATION TEAM/ OFFICER

1. DETAILS OF PERSON BEING COMPLAINED ABOUT

Name		DoB	
Address		Gender	
		Tenure	
		Landlord	
Tel No.		PSU Area	

2. DETAILS OF PERSON MAKING COMPLAINT

Name		DoB	
Address		Gender	
		Tenure	
		Landlord	
Tel No.		PSU Area	

3. REFERRAL DETAILS

Referred by	
Tel No	
Signed	
Date referred	

ASIT USE ONLY

Date Received by ASIT

Investigator Assigned

Case Reference

4. DETAILS OF COMPLAINT (Nature & Timescales)

Empty space for details of the complaint.

5. REASON FOR REFERRAL

<input type="checkbox"/> Urgent case	Racial Incident
	Sectarian Incident
	Direct threat/assault resulting in police charges
<input type="checkbox"/> Non Urgent Case	A written warning has been served and requires further monitoring/investigation.
	The case involves an owner-occupier.
	Further complaints received.
	A lengthy and detailed investigation is required.
	There has been intervention by another service ie Mediation/Restorative Justice
	ASIT are already investigating a person involved in this case.
	Other (to be specified)

6. ACTION TAKEN - INVESTIGATIONS & EVIDENCE – (Police reports, Witness statements etc)

Action	Tick (if appropriate)	Date actioned
Initial interview with complainant		
Incident Diaries completed/provided to complainant		
Police information/report obtained		
Witness statements obtained		

Any other action taken/advice given to those involved -

7. ACTION TAKEN TO RESOLVE CASE BEFORE REFERRAL

What actions taken:

Why actions taken:

Outcomes:

8. DOCUMENTARY EVIDENCE

List all investigation records and letters issued (tick if included with referral)			

9. INVOLVEMENT OF OTHER COUNCIL DEPARTMENTS (e.g. ENVIRONMENTAL/SOCIAL WORK)

(Please provide dates and actions)

10. INVOLVEMENT OF EXTERNAL AGENCIES (e.g. POLICE/ VICTIM SUPPORT)

(Please provide dates and actions)

11. SAFETY ISSUES FOR PERSONS VISITING HOUSE/INTERVIEWING IN OFFICE

12. RENT ACCOUNT DETAILS AT TIME OF REFERRAL

(Is this case being considered for action due to non payment of rent)

13. HOUSING APPLICATION

Is there a current housing application? _____

Housing application number _____

Date Application suspended _____

14.PLEASE PROVIDE ANY ADDITIONAL INFORMATION YOU FEEL NECESSARY