

**Radian****Injunction Policy****Version: 1****Approved: 2<sup>nd</sup> June 2009****1. Statement of Intent**

- 1.1 We are committed to ensuring that all residents in the properties we manage are entitled to live in peaceful harmony in their homes. If a resident is allegedly causing a nuisance to another, we will take the appropriate action against that resident having due regard to the circumstances and the evidence available.
- 1.2 We are committed to ensuring that we meet the requirements of the Gas Safety (Installation and Use) Regulations 1998. To ensure that we meet the requirements, we will consider the use of injunctions to gain the necessary access.

**2. Definition**

- 2.1 An injunction is an Order of the Court requiring a party either to carry out a specific act (mandatory or positive injunction) or to refrain from doing a specific act or acts (a prohibit injunction). An injunction can therefore be seen as preventative action as not only does it deal with existing breaches (i.e. in a tenancy agreement) but also deals with preventing future breaches.
- 2.2 We can seek injunctions under the Housing Act 1996. There are three types of injunction available:
  - S153A: Injunction for anti-social behaviour
  - S153B: Injunction for unlawful use of premises
  - S153D: Injunction for breach of tenancy agreements
- 2.3 A breach of an injunction is contempt of court and we can apply for committal proceedings.
- 2.4 S153C of the Housing Act 1996 provides us with the additional protection of a power of arrest when an injunction is breached in circumstances involving violence or threats of violence.
- 2.5 A “without notice application” or ex-parte can be applied for under S153C. This is where the court considers all the circumstances surrounding an application for a power of arrest to be attached to an injunction when the person who is to be subject of the injunction is not present at the hearing of the application. A further hearing will be heard, if granted, with notice given to the person.
- 2.6 The Anti-Social Behaviour Act 2003 amended the Housing Act to allow us to apply for an injunction against a person who is not our tenant.

2.7 The court, may however accept an undertaking from the alleged perpetrator. An undertaking is a promise to the court with to perform a specific act(s) or stop a specific act(s). The alleged perpetrator does not have to admit to any of the alleged incidents for an undertaking to be given. If the undertaking is broken the alleged perpetrator will be committing contempt of court, and we can apply for committal proceedings.

### **3. Policy**

- 3.1 We will only apply for an injunction once all other available options have been considered. We will consider applying for an injunction where a tenancy agreement has been breached but where we do not wish to obtain possession of a property. For example where we need to obtain access to carry out gas servicing or if we need to ensure that a garden is cultivated.
- 3.2 In serious cases involving violence or threat of violence, an injunction can be applied for as a separate action in conjunction with possession proceedings or seeking a demoted tenancy as the injunction will be heard quicker and can be an interim measure before any other court hearings.
- 3.3 We can apply for an injunction against either a tenant, a member of the tenant's household or a visitor to the tenant's property who is causing anti-social behaviour or if tenant a breach of tenancy agreement. We can also apply for an injunction against a person who is causing anti-social behaviour in or around the properties that we manage or within any of our offices.
- 3.4 Once an injunction has been obtained, the Order has to be personally served on the perpetrator in order for it to become valid.
- 3.5 We will look at each case individually if an injunction has been breached. The situation will be discussed with our legal representatives to decide which of the following actions to take:
- Apply for committal proceedings or
  - Seek either possession of a demoted tenancy.
- 3.6 We will identify those residents with vulnerabilities and where applicable will work with other agencies to solve these cases.
- 3.7 We will ensure that all staff involved in this process receives regular training.

### **4. Legal & Regulatory Framework**

- Housing Act 1996
- Anti-Social Behaviour Act 2003
- Housing Act 1996.
- Good Practice Note 8 – Equality and Diversity

### **5. Links to other Policies**

- Radian Anti-Social Behaviour Policy

- Radian Domestic Abuse Policy
- Radian Harassment Policy
- Subsidiary Gas Servicing Policy
- Equality and Diversity Policy

## 6. Related Procedures

6.1 This policy does not detail the practical advice and assistance that should be provided, nor the actions to be taken by staff, when dealing with the issues of equality and diversity. Any such advice, action and assistance will be covered in specific procedure documents which should be used in conjunction with this Policy.

- Radian Anti-Social Behaviour Procedure
- Radian Domestic Abuse Procedure
- Radian Harassment Procedure
- Subsidiary Gas Servicing Procedure

## 7. Responsible Officer

Sandra Theckston – Director of Drum

## 8. Review Details

Approved by (including date of approval)	Radian Board, 2 <sup>nd</sup> June 2009
Review Cycle	3-yearly
Date of next review	February 2012

## 9. Associated Documents

Hyperlink One	Radian Anti-Social Behaviour Policy
Hyperlink Two	Radian Domestic Abuse Policy
Hyperlink Three	Radian Harassment Policy
Hyperlink Four	Subsidiary Gas Servicing Policy
Hyperlink Five	Radian Anti-Social Behaviour Procedure
Hyperlink Six	Radian Domestic Abuse Procedure
Hyperlink Seven	Radian Harassment Procedure
Hyperlink Eight	Subsidiary Gas Servicing Procedure

## 10. Appendices

None

