

Anti-Social Behaviour

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Glen Oaks Housing Association consults with residents, on policies that directly affect the management of the properties, which is in compliance with the Housing (Scotland) Act 2001. The consultation process on the Anti-social behaviour Policy took place between May & June 2015.

 Glen Oaks HOUSING ASSOCIATION	Policy number:	H03
	Policy approved on:	June 2015
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1 Introduction

- 1.1 Glen Oaks Housing Association believes that anti-social behaviour is unacceptable and should not be tolerated. Anti-social behaviour can seriously affect the quality of life of our residents and communities. We firmly believe that our tenants should expect, and be able, to live peacefully in their homes and community.

2 Aims and Objectives

- 2.1 The purpose of this policy is to outline the framework and measures Glen Oaks Housing Association has adopted to address anti-social behaviour. This policy should ensure a pro-active and strategic approach to anti-social behaviour that can tackle the problems quickly, sensitively and effectively.

- 2.2 The policy will deal with anti-social behaviour and neighbour nuisance by:

- Providing good quality information to promote good tenancy relations and manage the expectations of users of the service;
- Responding quickly to complaints in an effective, sensitive and consistent manner by undertaking thorough investigations, ensuring accurate record keeping and keeping complainants informed of progress;
- Encouraging mediation and communication to tackle problems early and effectively and to minimise the risk of escalation;
- Ensuring that the approach to anti-social behaviour complies with the law and best practice is incorporated throughout the service delivery;
- Support and offer help to victims;
- Co-ordinating a multi-agency approach with Community Safety Glasgow, Glasgow City Council and Police Scotland to tackle causes and consequences of anti-social behaviour;
- Work with residents via our Customer Engagement strategy to tackle persistent problems of anti-social behaviour;
- Informing the development of staff procedures that guide staff through the process of investigating and resolving problems of anti-social behaviour;
- Developing and promoting a staff ethos that will not tolerate or accept anti-social behaviour; and
- Monitoring and reviewing the effect and outcomes so the aims and objectives of the policy are successfully met;

3 Legal Definition of Anti-Social Behaviour

- 3.1 Anti-social behaviour can be difficult to define. It means different things to many people. Anti-social behaviour can involve incidents from minor nuisances, noise and neighbour disputes through to serious violence and intimidation.

3.2 There is however two legal definitions of anti-social behaviour.

Part 1 of Schedule 2 to the Housing (Scotland) Act 2001 defines anti-social as:

“action or course of conduct which causes or is likely to cause alarm, distress, nuisance or annoyance”.

Section 143 of the Anti-social Behaviour Act 2004 defines anti-social behaviour as:

“acting in a manner which causes or is likely to cause alarm or distress

or

pursue a course of conduct which causes or is likely to cause alarm or distress to a least one person who is not of the same household”

3.3 These legal definitions will be used to inform the categorisation and investigation of anti-social behaviour. It will influence the decision making process in terms of deciding when it is appropriate for legal action to be instigated.

4 The Legal and Regulatory Framework

4.1 The principal legislation that governs anti-social behaviour is the Housing (Scotland) Act 2001 and the Anti-social Behaviour Act 2004.

4.2 The policy and Glen Oaks Housing Associations approach to managing anti-social behaviour is also based on legislation, good practice, the raising standards manual from the SFHA (Scottish Federation of Housing Associations), CIH (Chartered Institute of Housing) Housing Management Standards Manual and compliance with the Scottish Social Housing Charter outcome 6 estate management, anti-social behaviour, neighbour nuisance and tenancy disputes.

The outcome states:

Social landlords, working in partnership with other agencies, help to ensure that:

- Tenants and other customers live in well-maintained neighbourhoods where they feel safe.

This outcome covers a range of actions that social landlords can take on their own and in partnership with others. It covers action to enforce tenancy conditions on estate management and neighbour nuisance, to resolve neighbour disputes, and to arrange or provide tenancy support where this is needed. It also covers the role of landlords in working with others to tackle anti-social behaviour.

5 The Main Forms of Anti-Social Behaviour

5.1 Anti-social behaviour can cover a wide range of action and different types of behaviour. In the context of this policy, anti-social behaviour will include:

- Noise nuisance
- Harassment
- Graffiti
- Violent behaviour
- Aggressive or threatening behaviour
- Using housing accommodation for illegal purposes – for example, drug dealing
- Discrimination - for example, on grounds of race, sexual orientation, religion

5.2 Clearly, however, the list is not exhaustive. All complaints of behaviour that causes distress or a nuisance will be treated seriously, sensitively and fairly. The type of action Glen Oaks Housing Association decide to take against a complaint of anti-social behaviour will be influenced by a range of factors. This includes the frequency and nature of the incidents, the effect of the incidents on the victim and community and the intentions of the perpetrator.

6 Obligations of Tenants

6.1 Section 3.1 of the Glen Oaks Scottish Secure Tenancy Agreement clearly sets out the standards of behaviour expected of tenants, those who live with them and their visitors. It states:

6.2 *“You, those living with you, and your visitors, must not harass or act in an anti-social manner to, or pursue a course of anti-social conduct against, any person in the neighbourhood. Such people include residents, visitors, our employees, committee members, agents and contractors and those in your house.”*

7 Categorisation of Disputes and Response Times

7.1 Glen Oaks Housing Association recognise that categorisation and early intervention of complaints can prevent minor disputes escalating. The categorisation is based on “the seriousness” of the complaint and will determine the processes and timescales to follow in responding to the complaint. There are three categories. Examples of each category are as follows:

Category A – Extreme

- Drug dealing
- Violent conduct

- Racial abuse
- Criminal behaviour
- Harassment

Category B – Serious

- Frequent disturbances
- Vandalism/damage to property
- Threatening and abusive behaviour

Category C – Other Nuisance/Disputes

- Infrequent disturbance
- Noise complaints
- Running a business
- Pet nuisance
- Stair cleaning
- Boundary disputes
- Family disputes affecting neighbours

7.2 **The above lists are not intended to be exhaustive.**

7.3 On receipt of a Category A complaint, Housing Service Officers should inform and discuss the case with their line manager immediately.

7.4 Glen Oaks Housing Association believes it’s important that there are realistic but challenging timescales for dealing with complaints. This is vital because if complainants have a reasonable expectation about the length of time of each stage of the investigation they will have confidence and trust in the process. **Following consultation with our Service Improvement Group, locally agreed targets have been set.** Our timescales are as follows:

ACTION	CATEGORY A	CATEGORY B	CATEGORY C
Contact complainer	24 hours	3 working days	5 working days
Contact neighbour/witnesses	24 hours	3 working days	5 working days
Contact/interview alleged offender	24 hours	5 working days	7 working days
Liaise with other agencies	24 hours	5 working days	7 working days
Case evaluation /closed	48 hours	14 working days	28 working days

8 Preventative Action

8.1 Glen Oaks Housing Association believes that one of the best ways to tackle anti-social behaviour is to have effective preventative measures in place. Early intervention is key - identifying possible problems before they become anti-social. Glen Oaks has adopted the following preventative measures:

- A robust Scottish Secure Tenancy Agreement that has specific clauses relating to anti-social behaviour;
- New tenants are made clear of the conditions of the tenancy agreement and particularly their obligations relating to anti-social behaviour when they sign their Scottish Secure Tenancy Agreement and when the new tenant visit is carried out;
- We actively consider support needs of existing and prospective tenants, developing effective partnerships with care and support providers to try and ensure appropriate support needs are in place to enable the tenant to sustain a tenancy;
- Promoting a firm stance and confirm intent to take action against anti-social behaviour in our tenants handbook, newsletters and the Glen Oaks anti-social behaviour leaflets;
- A Gold service scheme that rewards tenants with a record of a well conducted tenancy;
- Developing tenant participation and community capacity measures to encourage residents to take an active role in the community

9 Remedies – Non Legal and Legal

9.1 Our aim is to try and resolve complaints quickly, effectively and as harmoniously as possible. Generally, all disputes should initially be dealt with using remedies other than legal action. Although remedies may be either formal or informal, the expectation is Housing Services staff will initially explore these options prior to instigating any legal action. In certain instances, however, non-legal remedies will be bypassed. An example being when there has been serious criminal behaviour.

9.2 Non-legal Remedies

9.2.1 Advice

The provision of advice may be effective in resolving certain category C complaints. Occasionally, the perpetrator may not be aware their behaviour is causing nuisance or annoyance. Often, less serious breach of tenancy conditions – such as stair cleaning – are likely to involve the Housing Services Officer visiting both parties and, if satisfied that a breach has been committed, giving advice or a warning.

In the context of advice, it may be that another agency such as **Community Safety Glasgow** or Environmental Protection Service is the appropriate service provider to address a particular problem of anti-social behaviour. There is a wide range of services available to tackle anti-social behaviour. Its important residents can access this information to allow problems to be dealt with early and effectively. This is achieved by training and development so staff are aware of all options available and promoting relevant services through newsletters, sign-ups, new tenant visits and the Glen Oaks anti-social behaviour leaflets.

9.2.2 **Warning Letters**

A warning letter is a useful tool in tackling anti-social behaviour. This will generally follow a formal interview with the perpetrator. The letter will outline what needs to be done and what the potential consequences will be if the actions do not cease.

9.2.3 **Mediation**

Glen Oaks Housing Association believes mediation is an effective intervention method that can prevent neighbour disputes escalating. Mediation can help people who are in dispute reconcile their differences themselves rather than having a solution imposed on them by ourselves or the courts. However, mediation is only appropriate when both sides voluntarily chose it. Moreover, mediation is inappropriate in cases that involve violence, harassment or intimidation. Glen Oaks Housing Association can make referrals to Community Safety Glasgow for the mediation service.

9.2.4 **Acceptable Behaviour Contracts**

Glen Oaks Housing Association work in partnership with Police Scotland to use acceptable behaviour contracts as a method to tackle anti-social behaviour. An acceptable behaviour contract is a written agreement between the perpetrator, Glen Oaks Housing Association and the Police. If the perpetrator is aged between 12 – 16 years of age the consent of the parents will be required.

The agreement requires that the perpetrator must not continue with certain acts which could be considered anti-social behaviour. The contract will set out what is and what is not acceptable behaviour. Generally, the agreement will normally last 6 months and will be reviewed periodically. The acceptable behaviour contract has no legal status. However, if the terms of the contract have been breached, it is a valuable source of evidence in the pursuit of legal remedies.

An unacceptable behaviour notice can be used where an individual refused to sign an acceptable behaviour contract. The aim is to make the person aware of their actions and the consequences of continuing with their behaviour. Again, this does not have any legal standing. Although it can be used as evidence to support the application of legal remedies such as anti-social behaviour orders or eviction action.

9.3 **Legal Remedies**

Glen Oaks aim to adopt an early interventionist approach to anti-social behaviour to prevent the need for legal remedies. On occasions however, we recognise that legal remedies will have to be progressed to effectively tackle serious problems of anti-social behaviour.

9.3.1 **Interdict**

An interdict is an order of the court requiring a person to stop doing something legally wrong. Glen Oaks Housing Association might for example seek an interdict against anti-social behaviour that was a breach of tenancy condition, a threat of violence or a pattern of ongoing nuisance.

An interdict can be held on an interim basis pending final determination of the merits of the case. In other words, the order is made without proof of the facts or full legal debate. Interdicts are a recommended course of action to intervene quickly and provide immediate protection.

Examples of cases where an interdict/interim interdict have been successful are: playing loud music; swearing/shouting; noise; harassment of neighbours; verbal abuse/threats to staff; and damage to property.

If an interdict is granted and the behaviour does not improve, action can be taken for a breach of interdict. However, the proof required is comparable to that of a criminal prosecution, i.e. beyond all reasonable doubt. If an interdict is breached, the penalty is either a fine or imprisonment.

9.3.2 **Ant-Social Behaviour Order**

The Criminal Justice (Scotland) Act 2003 gave Registered Social Landlords, as well as a Local Authority, in conjunction with the Police, the power to apply to the courts for an Anti-Social Behaviour Order (ASBO) for individuals aged over 16. The Anti-social Behaviour Act 2004 replaces this legislation and extends the use of ASBOs to those between the age of 12 and 16.

It is important to recognise that an ASBO is not a substitute for criminal proceedings. An ASBO is a civil order that exists to protect the public from behaviour that causes or is likely to cause alarm or distress. An order will contain conditions prohibiting the person named in it from doing anything specified in the ASBO such as verbally abusing named persons or entering defined areas.

Glen Oaks Housing Association can raise an ASBO against any person aged 12 or over irrespective of their tenure. They do not have to be Glen Oaks tenants or stay in a Glen Oaks property. We can apply for an ASBO if a person is an owner occupier, private sector tenant or tenant of a local authority.

A Sheriff would have to be satisfied that the individual has engaged in anti-social behaviour and that the order is necessary to protect others from anti-social behaviour. The Sheriff, in making the decision, will consider the definition of anti-social behaviour in the 2004 Act. As detailed at 3.2, this defines anti-social behaviour as when a person acts in a manner that

causes or is likely to cause alarm or distress, or if they pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not in their household.

There are provisions in the 2004 Act to apply for an interim ASBO. This is where immediate protection from anti-social behaviour is required pending the application of a full ASBO. The Sheriff may grant an interim order provided that they are satisfied that the anti-social behaviour cited would be established when a full hearing takes place. The Sheriff must also be satisfied that an interim order is necessary to protect the affected people from further anti-social acts or conduct by the person.

In terms of making an application for either an interim or full ASBO in respect of an under 16, we must first consult the Principal Reporter. The Sheriff must have regard to any views expressed by the Principal Reporter before determining whether to make an order or an interim order. It is important to note that the Scottish Government guidance states that the children's hearing system should continue to be the primary forum for dealing with anti-social behaviour of under 16s.

Examples of behaviour where Glen Oaks may consider applying for an ASBO include:

- Individuals who intimidate neighbours and others through threats or violence;
- Persistent unruly behaviour by small groups of youths on an estate intimidating and causing distress to the local community;
- A course of racial harassment or homophobic behaviour;
- Persistent anti-social behaviour as a result of drugs or alcohol abuse.

An ASBO is not a criminal conviction and does not form part of a criminal record. However, a breach of an ASBO is a criminal offence and an individual found guilty of a breach of an ASBO would have a criminal conviction.

9.3.3 **Anti-Social Behaviour Order – Short Scottish Secure Tenancy conversion**

In terms of Section 35 of the Housing (Scotland) Act 2001, if a full ASBO has been granted against a tenant, we have the right to instigate action to convert their Scottish Secure Tenancy to a Short Scottish Secure Tenancy. In considering whether this action should be pursued, we will take the following into consideration:

- The nature, frequency and duration of the anti-social behaviour;
- The effect that the anti-social behaviour is having or is likely to have on the person;

- Action taken by Glen Oaks before raising the ASBO proceedings, with a view to securing the cessation of the conduct;
- Whether the ASBO has been breached and whether there are any convictions in that respect;
- The expected support needs of the household;
- The rehabilitative process undertaken since the last complaint; and
- Any other relevant factors

The Tenancy Management policy outlines fully the factors to consider in converting a tenancy to a Short Scottish Secure Tenancy on these grounds.

Section 34(7) of the Housing (Scotland) Act 2001 requires landlords (where the tenant has the tenancy converted to a Short Scottish Secure Tenancy due to the award of an ASBO) to provide or ensure the provision of housing support services to enable the tenancy to convert to a Scottish Secure Tenancy.

Section 91(8) of the Act provides a broad definition of housing support services: *“Housing support services includes any service which provides support, assistance, advice or counselling to an individual with particular needs with a view to enabling that individual to occupy, or to continue to occupy, as the person’s sole or main residence, residential accommodation other than expected accommodation”*.

A Short Scottish Secure Tenancy will be converted to a Scottish Secure Tenancy after 12 months unless the landlord takes action to recover the tenancy.

9.3.4 **Repossession**

If all appropriate methods of trying to resolve the problem have failed, Glen Oaks will take eviction action against a tenant responsible for persistent and serious anti-social behaviour.

Section 16 of the Housing (Scotland) Act 2001 sets out the various grounds in which the landlord has the right to take action to recover possession. There are a number of grounds that relate to anti-social behaviour.

The 2001 Act sets out specific criteria which the courts must take into account. Essentially, the decision to evict must be subjected to the test of reasonableness. The court must have due regard for the points listed below before awarding a decree for eviction in anti-social behaviour cases:

- The nature, frequency and duration of the alleged conduct;

- The extent to which the conduct is or was a consequence of acts or omissions of persons other than the tenant member;
- The effect that the conduct had, is having and is likely to have on any person other than the tenant member; and
- Any action taken by the landlord, before raising proceedings, with a view to securing the cessation of that conduct.

This makes the process of preventative action (gathering evidence and recording incidents etc) very important in terms of arguing the case of reasonableness in court.

9.3.5 **Anti-social Behaviour Act 2004**

The Anti-social Behaviour Act 2004 gives a wide range of legal powers to a range of organisations including Local Authorities, Registered Social Landlords, the Police, Children’s Panels, Sheriffs and the Courts. The new ASBO provisions for registered social landlords are detailed at 9.3.2. Appendix 1 provides a summary of the different measures contained in the Act.

10 Partnership Working

10.1 Glen Oaks fully recognise that anti-social behaviour has to be tackled in partnership because no single agency can tackle such a wide-ranging and complex issue in isolation. Consequently, the development of multi-agency partnerships can be an effective way to prevent and tackle anti-social behaviour.

10.2 Glen Oaks are committed to building and developing effective partnership working with agencies such as the Police, Social Work Services, **Community Safety Glasgow**, Glasgow City Council, and other housing providers in the South West area. Only by working together with these agencies can we successfully tackle the causes and effects of anti-social behaviour.

11 Information Sharing/Confidentiality

11.1 The sharing of information is vital to tackling anti-social behaviour and developing effective joint working with local agencies. Glen Oaks have an information sharing protocol with Strathclyde Police. This outlines procedures and protocols for sharing information to prevent and tackle anti-social behaviour.

11.2 Glen Oaks will treat all information provided by a complainant with the utmost of confidence and will only be passed to external agencies with prior consent. The exception to this is where we consider a child is “at risk” in any situation, or if there is a high risk of serious harm to anyone in the situation described. The Housing Services Director will approve any disclosure made without the complainants consent.

12 Support for Victims/Witnesses

12.1 Glen Oaks are committed to supporting individuals who are affected by anti-social behaviour. This is crucial to the success of the service. If we are to effectively tackle anti-social behaviour we must encourage people to report incidents and come forward to act as witnesses.

12.2 We support victims/witnesses of anti-social behaviour by:

- Dealing with reports promptly and effectively;
- Keeping complainants informed of developments;
- Advise on action police can take and refer to police with victims consent;
- Advise and refer to appropriate support services;
- Provide information on Glasgow City Council 24 hour anti-social help-line;
- Treat damage/graffiti as emergency repairs where appropriate;
- Ensure estate security is adequate i.e. good lighting, fencing, entry phones to flats etc;
- Provide additional security measures where appropriate to victims of serious anti-social behaviour and harassment;
- When there is risk of violence, where the victim consents, urgent consideration will be given to a transfer request.

13 Staff Training and Development

Glen Oaks recognise that staff are the key resource in tackling anti-social behaviour. It is important staff have the confidence and knowledge to identify and investigate incidents of anti-social behaviour and take appropriate action.

All staff will receive training on anti-social behaviour to keep them aware of all options available for dealing with the problem and to enable them to develop the necessary skills to put these effectively into practice.

14 Performance Monitoring

14.1 Glen Oaks is committed to delivering a continuously improving anti-social behaviour service. We understand that effective monitoring and reporting is fundamental to the process of evaluating and reviewing performance.

14.2 We will report our performance in respect of the percentage of anti-social behaviour cases reported which were resolved within locally agreed targets. A report will be made to the Board on a monthly basis that will include the number of cases of anti-social behaviour reported and of those the number of cases resolved within locally agreed targets.

14.3 We will also provide Glasgow City Council with monthly reports on the volume and type of anti-social behaviour reported to Glen Oaks to assist the strategic development of their anti-social behaviour strategy.

14.4 Glen Oaks firmly believe residents should have access to performance information so they have criteria in which they can measure and evaluate the quality and effectiveness of the service that we deliver. Residents will be kept informed of progress in tackling Anti-Social Behaviour through articles in newsletters and reports to **the Housing Services Sub Committee** and the Registered Tenants Organisation.

15 Equal Opportunities

15.1 In the provision of all our services including the anti-social behaviour policy, Glen Oaks will seek to ensure equality of opportunity and treatment of all persons.

15.2 No person or groups of persons will be treated less favourably than another person or group of persons because of race, colour, ethnic or national origin or because of religion, sex, gender, physical disability, appearance, marital status or sexual preference.

16 Policy Review

16.1 The policy will be reviewed every three years by **the Housing Services Sub Committee** unless amendment is prompted by a change in legislation, or monitoring and reporting and feedback from residents reveals that a change in policy is required sooner.

17 Risk Management

17.1 Risk can arise from the Anti-social behaviour policy as a result of

- Tenancy terminations resulting in rent loss
- Stigmatisation of an area due to perceived anti-social problems
- Demand for allocations

Given the importance of these risks the effective management of this policy is vital

18 Links with other Policies

The anti-social behaviour policy is related to the following policies:

- Allocations
- Estate management
- Complaints
- Equal opportunities

- Tenancy Management
- Community Participation strategy
- Data Protection
- Harassment Policy
- Gold Service
- Risk Management
- Discriminatory Harassment

19 Complaints/Appeals

Any complainant who feels that their dispute has been unfairly dealt with has a right to complain. A complainant dissatisfied with the management of their case should be encouraged to use our complaints procedure. This is available at reception in our office and can be made available on tape, Braille, large print or in translation.

Appendix 1 The Anti-social Behaviour Etc Act 2004

The Act received Royal Assent on 26 July 2004 with implementation from October 2004 through 2005.

Part 1

Placed a duty on Local Authorities and Chief Constables to prepare and publish anti-social behaviour strategies. These should be kept under review and update or amended as necessary.

Part 2

This replaced the anti-social behaviour order legislation contained in the Crime and Disorder Act 1998. Only Local Authorities and Registered Social Landlords have the power to apply for ASBOs. The Act also allows for ASBOs for anyone aged over 12. In the case of a person under 16 a children's hearing must be held before a Sheriff can grant an ASBO.

Part 3

Allows for the Police to disperse groups where anti-social behaviour has been an issue in the area. This power is available where a senior officer has designated an area for dispersal.

Part 4

Allows for the closure of premises. The Police have the power to close any premises, including residential, where anti-social behaviour has been a persistent issue. The Police can close the premises by issuing a closure notice. This must then be ratified by the Court leading to a closure order which can close the premises for up to 3 months, with a possible extension to 6 months.

Part 5

Deals with noise nuisance. It allows Local Authorities to apply noise controls in specific areas and at specific times. A Local Authority or the Police must then investigate any complaints of noise in these areas and have the power to issue fixed penalty fines or to seize equipment.

Part 6

Deals with the environment. It outlines Local Authority powers in terms of litter, fly-tipping and removal of graffiti.

Part 7

Covers anti-social behaviour notices for private landlords. Local Authorities have the power to act against private landlords who are not controlling the behaviour of their tenants. They are able to serve an anti-social behaviour notice requiring the landlord to take certain actions to address the issues. If the landlord does not act they can be fined up to £5,000, have rental payments suspended and the Local Authority can take over the management of the property.

Part 8

Covers the registration of private landlords. Local Authorities keep a register of all private landlords in their areas. Private landlords must apply to be on the register and the Local Authority must be satisfied that they and any agent acting for them is a “fit and proper person” to be a landlord before entering them on the register. If they fail the test then they may not act as a landlord. It will be an offence to act as an unregistered landlord, with the penalties being a fine of up to £5,000, a notice stopping rent being payable and the stopping of any Housing Benefit payments.

Part 9

Covers Parenting Orders. A Parenting Order can be made when a child has been involved in anti-social behaviour or crime. It is intended to target parents who are seen as failing their children and are intended to ensure the parent properly supports their children.

Part 10

Covers a number of measures:

- Community Reparation Orders – Aimed at people aged 12 and over who have been convicted of an offence involving anti-social behaviour, and can require them to give something back to the community
- Restriction of Liberty Orders – allows for remote monitoring arrangements (“tagging”) to people under 16 who are in secure accommodation
- Spray Paint Ban – Ban on selling spray paints to people under 16.

Part 11

Allows for fixed penalty notices for a range of anti-social actions such as drunk and disorderly behaviour, vandalism and noise.

Part 12

Allows a Children's Hearing to require children being supervised by Local Authorities, who are at risk, to be subjected to remote monitoring arrangements ("tagging").