SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

[2026] SC GLA 117

GLW-SD198-26

JUDGMENT OF SUMMARY SHERIFF COLLETTE GALLAGHER

in the cause

WHEATLEY HOMES GLASGOW LIMITED

Pursuer

against

MARK FERGUSON

Defender

Pursuer: Henderson; Wheatley Group Litigation Services
Defender: Borrer; Brown & Co Legal LLP

Glasgow 10 November 2026

The sheriff, having resumed consideration of the cause, finds the following facts to be admitted or proved:

Findings in Fact:

The Tenancy Agreement

1. The pursuer is the heritable proprietor and landlord of the property at Flat 0/2, 26 Dougrie Terrace, Castlemilk, Glasgow, G45 9BN (the property).

2. The defender occupies the property in terms of a Scottish Secure Tenancy Agreement (SSTA) which was entered into on 21 February 2023 (the Tenancy Agreement).

3. The property comprises a studio apartment on the ground floor of a two-storey building with two apartments on each landing. The property is part of a Livingwell

complex. There are around 50 properties in the complex. All of the residents are aged over 55. The age range of residents is between 55 and 90. All of the properties which form part of the Livingwell complex are tenanted. The pursuer is the heritable proprietor and landlord of all the properties which make up the Livingwell complex.

4. The defender agreed to observe the conditions of the Tenancy Agreement when he became the tenant of the property. In particular, the defender agreed not to harass or act in an antisocial manner to, or pursue a course of antisocial conduct against, any person in the neighbourhood or in the property. This includes residents, visitors, employees, agents or contractors on behalf of the pursuer and those in the defender's property (paragraph 3.1 of the Tenancy Agreement); not to make excessive noise (paragraph 3.3.1 of the Tenancy Agreement); and not to harass or assault anyone in the property, or neighbourhood, for whatever reason. This includes that person's race, colour or ethnic origin, nationality, gender, sexuality, disability, age, religion or other belief (paragraph 3.3.8 of the Tenancy Agreement).

The defender's circumstances

5. The defender's date of birth is 27 February 1963. He is 63 years of age.

6. The defender has a number of health conditions including heart failure for which he needs to take daily medication. He experiences back pain and requires pain medication for this regularly. His mobility is affected by his health conditions and he normally uses a walking stick.

7. The defender misuses alcohol. He has in the past refused support for his alcohol misuse and lacked insight into the need to address this. He currently attends addiction services but meetings are sporadic and he continues to consume alcohol. He previously

drank a bottle of vodka daily. Since in or around April 2026 he has reduced his alcohol intake to half a bottle of vodka 3 or 4 days per week. He continues to misuse alcohol regularly.

8. The defender is the sole tenant of the property and resides alone.

The defender's conduct

9. On or around 30 March 2024, at 26 Dougrie Terrace, Glasgow, the defender engaged in shouting, swearing and repeatedly striking the door of a neighbouring resident. The neighbouring resident was placed in a state of fear and alarm. On 19 September 2024 the defender was convicted of a contravention of section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (2010 Act) as a consequence of his conduct. The defender was sentenced to a Restriction of Liberty Order (ROLO) on 17 October 2024.

10. On or around 2 May 2024, in the communal garden at Dougrie Terrace, Glasgow the defender engaged in shouting and swearing, and using derogatory and offensive phrases relating to sexual orientation towards a neighbouring resident, DH. As a result of the defender's conduct DH was frightened. She has experienced ongoing anxiety and stress as a result of the defender's conduct. She now limits her use of the communal gardens due to fear of encountering the defender.

11. On or around 16 May 2024 at a neighbouring property in Dougrie Terrace, Glasgow, the defender engaged in shouting at DH and banging on her windows in the early hours of the morning. DH was extremely frightened as a result of the defender's conduct.

12. On or around 31 January 2025, at DH's address in Dougrie Terrace, Glasgow, the defender engaged in shouting and swearing at DH. He called her derogatory names. The defender was subject to special bail conditions at the time not to approach, contact or

communicate with DH in any way. On 4 March 2025 the defender was convicted of a contravention of section 38(1) of the 2010 Act. He was sentenced to a Community Payback Order (CPO).

13. On or around 31 May 2025, at 26 Dougrie Terrace, Glasgow, the defender entered into a neighbouring resident's property without permission. The resident of the property at the time was LS, a vulnerable 76 year old female with limited mobility who was restricted to her bed. The defender shouted and swore at LS and the care staff who were supporting her at the time. The conduct caused LS fear and alarm.

14. On a number of occasions between 31 May 2025 and 3 July 2025, at 26 Dougrie Terrace, Glasgow, the defender behaved in a threatening or abusive manner towards a neighbouring resident, LS, in that he did enter her dwelling house uninvited. She was at times in a state of undress and being cared for by care assistants. The defender approached LS, refused to leave when requested to do so, did shout, swear, adopt an aggressive demeanour towards her, and repeatedly refer to her in an abusive and derogatory manner. On occasions he would repeatedly strike the front door and the windows and in doing so placed LS in a state of fear. This behaviour persisted despite the defender being subject to bail conditions. On 4 July 2025 the defender was convicted of a contravention of section 38(1) of the 2010 Act as a result of this conduct. He was sentenced to a period of imprisonment.

15. On or around 29 August 2025 at an address in Dougrie Terrace, Glasgow, the defender engaged in shouting and swearing and assaulted a neighbouring resident by striking them with his walking stick. As a result, alarm and distress was caused to the neighbouring resident. The defender was subject to a number of bail orders when this incident occurred. On 19 May 2026 the defender was convicted of assault, a contravention

of section 38(1) of the 2010 Act and a contravention of section 27(1)(b) of the Criminal Procedure (Scotland) Act 1995 (1995 Act) as a result of this incident. He was sentenced to a ROLO.

16. On or around 3 October 2025 at 26 Dougrie Terrace, Glasgow, the defender engaged in threatening and abusive behaviour towards a neighbouring resident, LS. The defender repeatedly attended her home address. He demanded entry, prevented the front door from being closed and repeatedly attempted to push the door open to gain entry. As a result, LS was placed in a state of fear and alarm. The defender was subject to eight bail orders at the time including special conditions of bail not to enter or seek to enter the neighbouring resident's address. On 6 October 2025 he was convicted of a contravention of section 38(1) of the 2010 Act as a result of his conduct. He was sentenced to a period of imprisonment.

17. Since on or around January 2026 LS no longer resides at 26 Dougrie Terrace, Glasgow, having died. The property is tenanted by a husband and wife. One of the two residents is receiving palliative care.

18. On or around 2 December 2025, at the property, the defender engaged in conduct which caused a disturbance. The defender was subject to special bail conditions not to enter or seek to enter Dougrie Terrace, Glasgow at the time. On 3 December 2025 the defender was convicted of a contravention of section 27(1)(b) of the 1995 Act and sentenced to a period of imprisonment.

19. On or around 29 January 2026, at the property, the defender engaged in shouting, swearing and causing a noise disturbance. The defender was subject to bail conditions at the time not to enter or seek to enter Dougrie Terrace, Glasgow. On 30 January 2026 the defender was convicted of a contravention of section 27(1)(b) of the 1995 Act.

20. On or around 31 January 2026 the defender was present at the property in breach of his bail conditions not to enter or seek to enter Dougrie Terrace, Glasgow. On 4 February 2026 the defender was convicted of a contravention of section 27(1)(b) of the 1995 Act. He was sentenced to a period of imprisonment.

21. On or around 9 April 2026, at Dougrie Terrace, Glasgow, the defender engaged in shouting, swearing, using derogatory phrases, as well as waving his walking stick and being threatening and abusive towards DH. During this incident SC, who was visiting his mother, a neigbouring resident, sought to intervene. The defender continued to shout and was verbally abusive to SC. As a result, alarm and distress was caused to DH and SC.

22. On or around 31 July 2026, in the early hours of the morning, at around 2.30am and again at 6.00am, at 26 Dougrie Terrace, Glasgow, the defender engaged in pressing the intercom system and banging his walking stick against the window of a neighbouring resident. The defender thereafter attended at another neighbouring property and was banging at the door with his walking stick. As a result of the defender's behaviour the neighbouring residents were frightened.

23. On or around 24 August 2026, outside a neighbouring property in Dougrie Terrace, Glasgow, the defender engaged in shouting and swearing at SC's daughter who was visiting her grandmother, a neighbouring resident. The defender attempted to strike her with his walking stick. SC attended and the defender attempted to strike him with his walking stick. The defender thereafter made inappropriate sexual remarks to SC. As a result, alarm and distress was caused to the neighbouring resident, her family and other neighbouring residents.

24. On or around 25 August 2026 the defender engaged in banging on the windows of a neighbouring property. He tried to hit the neighbouring resident's son with his walking stick and was abusive.

25. On 14 October 2026 the defender attended at the door of the neighbouring residents at 26 Dougrie Terrace, Glasgow where he repeatedly struck the door causing alarm and distress. He then attended at the door of another resident within 26 Dougrie Terrace, where he forced access into the property by pushing the resident backwards, he then struck the resident with his walking stick.

26. The defender's anti-social behaviour has resulted in a number of convictions in and around his property and within the Livingwell complex. In total the defender has thirteen convictions for behaviour in and around the property. As a result, the defender has been sentenced to a range of disposals including a CPO, ROLO and periods of imprisonment. The defender's behaviour has not ceased despite the imposition of these sentences.

27. The defender has been subject to bail and undertaking conditions in relation to a number of incidents, preventing him from approaching or contacting certain neighbours involved in various incidents and from entering or seeking to enter Dougrie Terrace, Glasgow. The defender has breached special conditions of bail on 2 April 2024, 7 June 2025, 3 October 2025, 6 October 2025, 31 January 2026 and 29 January 2026.

28. The defender was under the influence of alcohol during each of the incidents of anti-social behaviour. The defender continues to use alcohol and will continue to do so.

29. The defender's antisocial behaviour, which has persisted since March 2024, is causing annoyance, alarm and distress to neighbouring residents. The conduct has exposed the neighbouring residents and their visitors to frightening, humiliating and degrading treatment by the defender. The neighbouring residents have experienced persistent anxiety

and stress as a result of the course of conduct engaged in by the defender. The impact on the neighbouring residents and their ability to enjoy their homes is significant.

30. The defender has failed to desist from anti-social behaviour within the locality of Dougrie Terrace, Glasgow despite repeated warnings from the pursuer, the imposition of various sentences including imprisonment, and bail conditions being in place to prevent him from entering Dougrie Terrace, Glasgow.

31. The defender's anti-social behaviour will continue to persist.

The pursuer's conduct

32. The pursuer moved the defender from a sheltered housing complex where he was a tenant. The pursuer manages that complex. Within the sheltered housing complex the defender had his own room within the building and use of communal areas. The pursuer had received complaints of anti-social behaviour by the defender whilst he was a resident there.

33. The pursuer transferred the defender to the property so that he would have his own front door in order that this would reduce complaints in relation to anti-social behaviour.

34. The pursuer continued to receive complaints of anti-social behaviour following the defenders move to the property.

35. The pursuer's housing officer spoke to the defender on 17 May 2024 about continued incidents of anti-social behaviour and explained the negative impact on other residents.

36. The pursuer's Antisocial Behaviour Officer has spoken to the defender about continued incidents of anti-social behaviour and explained the negative impact on other residents on multiple occasions.

37. The pursuer has served the defender with written warnings in relation to the continued incidents of anti-social behaviour on 18 April 2024, 14 June 2024, 7 February 2025, 14 March 2025, 26 June 2025, 12 September 2025, 16 October 2025, 8 December 2025, 3 February 2026, 10 August 2026, 27 August 2026 and 22 October 2026.

38. The pursuer has repeatedly warned the defender that continued incidents of anti-social behaviour would result in the pursuer raising an action to recover the property.

39. The pursuer has offered the defender support and assistance in relation to his alcohol misuse. The defender has declined that offer of assistance.

40. The pursuer served a notice of proceedings for recovery of possession upon the defender on 22 December 2025.

41. The pursuer raised the action for recovery of possession of the property on 20 March 2026.

Findings in fact and law:

1. The pursuer has a ground for recovery of possession of the subjects in terms of paragraph 1 of schedule 2 to the Housing (Scotland) Act 2001 (the 2001 Act), in respect that the defender has acted in breach of paragraph 3.1, 3.3.1 and 3.3.8 of his Tenancy Agreement by virtue of his anti-social behaviour, which has included making excessive noise by shouting and swearing, striking doors and windows, assaulting a resident and a neighbouring resident's visitor in the neighbourhood, and making derogatory comments in relation to sexuality.

2. The pursuer has a ground for recovery of possession of the subjects in terms of paragraph 7 of schedule 2 to the 2001 Act, in respect that the defender has acted in an

anti-social manner in relation to people residing in, visiting or otherwise engaged in lawful activity in the locality.

3. The pursuer duly served upon the defender a notice of proceedings for recovery of possession of the property, and timeously commenced the present proceedings, in compliance with section 14 of the 2001 Act.

4. In all the circumstances it is not reasonable that the pursuer should be required to make other accommodation available to the defender.

5. In all the circumstances it is reasonable for decree to be granted in terms of section 16(2)(a)(ii) of the 2001 Act.

Findings in Law:

1. The pursuer being entitled to an order for recovery of possession of the property in terms of the 2001 Act, section 16(2)(a), decree should be granted;

THEREFORE, Grants decree in terms of the pursuer's crave, that the defender remove himself and his family, sub-tenants and dependents with his goods and possessions from the property on or before 8 December 2026; Refuses the pursuer's crave for immediate extract of the decree for ejection; Grants the pursuer's crave to dispense with service of a Charge and Notice of Removal; and finds the defender liable to the pursuer for expenses of the cause these being modified to nil.

NOTE:

Introduction

[1] The defender is the tenant of the pursuer, a public sector landlord. The pursuer seeks an order for the defender's eviction on the basis of anti-social behaviour by the defender in the locality of the property. It is not disputed that the grounds for eviction relied upon by the pursuer exist, namely those specified in Part 1 of Schedule 2 to the 2001 Act at paragraphs 1 and 7 as amended. The only issue was whether, in the circumstances of the case, it is reasonable to evict the defender.

The evidence

[2] I heard evidence from three witnesses for the pursuer and from the defender himself on 28 October 2026. In this judgement I have anonymised some of the names of witnesses and the names of those who have been victims of anti-social behaviour in order to protect the privacy of the victims and witnesses. I have also sought to limit references to personal details such as addresses wherever possible. In addition to the evidence led parties also tendered a joint minute agreeing uncontroversial evidence, and the provenance of various documentary productions. A summary of the evidence I heard is contained below.

Anne Boyle, Anti-social Behaviour Officer

[3] Anne Boyle gave evidence. She is employed by the pursuer as an Antisocial Behaviour Officer. She has been employed in that role for 22 years. Her role involves receipt and investigation of antisocial behaviour complaints which can range from serious crimes to noise complaints. She is aware of the defender. The local housing office has received a number of complaints regarding anti-social behaviour. These were escalated up

to her for investigation. As part of her investigation of complaints received in relation to the defender she spoke with his neighbours who she named. She described many of the neighbours as being too frightened to come to court due to the defender's erratic behaviours.

[4] She described the locality within which the defender resided. He lives in a property which is described as part of a Livingwell complex at Dougrie Terrace, Glasgow. This was previously sheltered housing. It is restricted to adults over the age of 55. The age range of adults in the complex is between 55 and 90. Many of the residents have vulnerabilities. There are around 30 – 40 individual flatted properties in a square. All of these are tenanted. The pursuer is the landlord for all of these tenants. There are closes which have two lower flats and two upper flats. In the middle of the square is a community hub where residents can participate in activities and do their laundry.

[5] The neighbours that Ms Boyle spoke to have been affected by the anti-social behaviour of the defender. A number are terrified of the defender due to the behaviour they have been subjected to with some frightened to leave the house or to go to the community hub for fear that they will encounter the defender. One of the residents affected, LS, has now passed away. She died in early 2026. She had lived in the same close as the defender. Prior to her death this resident had made complaints directly to her. The neighbour was particularly vulnerable owing to physical disabilities. She had no mobility and was restricted to her bed. She required carers to attend three to four times daily. She was petrified in her own home due to the defender's conduct towards her. He had attempted at various times to get into her property by force and had banged on her windows. On one occasion, whilst the neighbour was in a state of undress and being hoisted by carers who were washing her, the defender had banged on the door and forced his way in after the door was answered by a carer. He was shouting, "is she not dead yet". This caused the

neighbour extreme distress particularly as she was in such a vulnerable position. Due to the defender's behaviour the care providers increased the level of support so that carers were not alone at any time. They had shared with her that there were occasions when the defender would try to block their access. There was one occasion the co-ordinator of the care provider had to attend to ensure the carers could safely get out of the building.

[6] Another neighbour had been impacted by the defender's behaviour. She had complained about this. She was frightened of the defender and would panic when he was around. The defender would regularly press her intercom and bang on her windows at various hours of the day. There was an incident where this neighbouring resident's son had been visiting her property on 25 August 2026 when the defender had been banging on the windows with his walking stick, shouting and swearing. He had tried to hit him with his stick through the window. This was similar to another incident involving visitors to another neighbour on 24 August 2026 where the defender was being aggressive and trying to smash a window and hit people with his walking stick.

[7] There was a specific occasion on 31 July 2026 where the neighbour who had moved into the property previously occupied by LS reported the defender banging on her windows in the early hours of the morning causing her to be frightened in her own home. He attended at 2.30am and reattended at 6.00am. On the same date he had attended another neighbouring resident's property and was banging on their front door with his walking stick. This particular neighbour was petrified residing at the property and her mental health had been affected. Her husband was receiving palliative care, and she was worried about living alone in the property to the extent that she wished to move.

[8] She had spoken to the defender on multiple occasions and offered him support. He said to her that he did not want support. There had been previous referrals for alcohol

support but he had failed to engage. She had also directed him to AA but he refused to attend. At one point when she spoke to him in September 2025 he was subject to a court order which required him to engage in alcohol counselling. He said he didn't engage before because he didn't need support and he was only engaging because it was court ordered. More recently she spoke to him on 6 August 2026 when she asked if he was engaging with support for his alcohol use, he had said he did not need support. She had sent numerous warning letters to the defender. None of the warning letters were effective. The defender's behaviour persisted. Eventually it was decided by the local housing director that eviction proceedings should commence, this was due to the defender's persistent behaviour, non-engagement and the impact on surrounding residents. Since notice was given to the defender of the eviction proceedings there have been further incidents.

[9] She received a complaint from the new neighbour in the defender's close. She had heard loud banging on her door on 14 October 2026 and later a commotion coming from the property above. She was frightened and called the police. When investigating this incident Ms Boyle had spoken to the neighbour in the property above. He described what had happened. He had heard a noise in the close at his door. He had gone out to find the defender. The defender had pushed him to access the property, come into his property and struck him with his walking stick to the head. She issued a further warning letter as a result. There were further reports of an incident over the weekend.

[10] She did not consider there were any other steps which the pursuer could have taken. She explained that the defender had previously been resident in another complex, a sheltered housing complex, but had been moved to the current property to try to reduce his anti-social behaviour after complaints had been received. He had not had his own front door in the sheltered housing complex, having a room in the main building and access to

communal areas. It was considered that having his own front door may reduce the risk of anti-social behaviour in the future. This had not been effective. She did not consider that a Short Scottish Secure Tenancy (SSST) would be of assistance given there was no evidence of any meaningful change and instead there was an escalation in behaviour. Despite a significant number of warnings, the defender's behaviour had persisted. She was aware the defender had health difficulties and had considered the effect of eviction on him but had to balance this against their obligations to the other tenants. She was not aware of the defender currently being engaged with addiction services and surmised these may be court ordered.

SC

[11] SC gave evidence that he is a full-time carer for his mother, who resides in Dougrie Terrace, Glasgow. His mother is in poor health. He is aware of the defender due to having been involved in a number of incidents. Most recently there was an incident where the defender was verbally aggressive to his daughter. The defender was under the influence. The defender was attacking the neighbour who resided at a nearby property. He described the defender trying to smash her windows and that he "tried to go for" his daughter and partner with his walking stick. He had stood in front of him to prevent him smashing the window. The police then came and arrested him. He didn't recall the exact date but around July 2026. He had asked the defender why he was behaving in that way and in response the defender used sexually explicit language which he found extremely offensive and distressing. On another occasion he had observed the defender on the street trying to go into the garden of another resident, DH. The defender was under the influence. He was shouting and bawling at DH. DH appeared frozen. He had intervened by putting his foot on the gate to prevent the defender getting access. The defender was calling DH abusive

names. She had not said anything at all to provoke the defender. He accepted the gardens were interlinked but explained the gate in question was for DH's property and not the defender's.

DH

[12] DH gave evidence in chief by way of Affidavit and was thereafter cross examined. She resides at Dougrie Terrace in Glasgow. She moved there in March 2024. She has a number of physical health difficulties. She recalled a number of incidents where the defender had come towards her and shouted abusive and derogatory comments at her. The first time this happened was in May 2024. The incident left her frightened. On another occasion in May 2024 she was in bed when she could hear the defender banging at her front window with what sounded like a stick. She was frightened. He then buzzed her buzzer and went to her back window and proceeded to bang on the glass. She was terrified. She has contacted the police on a number of occasions resulting in the defender being arrested. In particular she reported an incident in the summer of 2024 where the defender came running towards her shouting abuse at her. In January 2025 there was another incident of abusive behaviour. On this occasion the defender had bail conditions to stay away from her. The day after he returned home and shouted abuse at her.

[13] There was an incident in August 2026 when she was outside in the garden area. She was speaking to the granddaughter of a neighbouring resident. The defender came down and tried to hit her with a walking stick. He was shouting and swearing as well. SC came out and the defender tried to hit him with his walking stick. He then made sexually explicit comments to him. She was asked whether the defender was under the influence of alcohol

during the incidents she had disclosed. She agreed he was under the influence of substances but could not say whether this was alcohol or not.

[14] She described the effect the defender's behaviour was having on her. She is fearful and terrified. She feels targeted by him and is always on edge. The behaviour has had an impact on her mental health. She feels constantly anxious and stressed. She is scared to go out if no one is with her as she worries about encountering the defender.

[15] She was asked whether it was the case that she simply didn't like the defender and wanted him evicted. She responded that she didn't know him as a person or particularly dislike him but felt as if he was targeting her.

Mark Ferguson

[16] The defender gave evidence. He is 63 years of age and lives alone at Flat 0/2, 26 Dougrie Terrace, Glasgow. He has a number of health conditions including heart failure for which he needs to take daily medication. He also experiences back pain and requires pain killers for this although he can have a few days at a time with no issues. His mobility is affected by his health conditions, and he normally uses a walking stick. He is slower at walking as a result.

[17] He was asked whether he accepted the allegations which Anne Boyle spoke to in her evidence. He accepted these in part but felt that she was exaggerating to some extent. He has "some difficulties with some neighbours" but would not say there were "ongoing issues". He tries his best not to engage. He did accept that issues arise when he is under the influence of alcohol, but he had cut back. He had become dependent on alcohol due to his back pain. He knew he shouldn't be using alcohol but it would distract him from his back pain. His difficulty with alcohol had been over the past 5 years or so. He

previously would drink a bottle of vodka a day but this was not financially sustainable and he had cut back. He now drinks on average a half bottle of vodka "every other day, one week three days, the other four days". He has been engaging with addiction services in the Gorbals. He has attended around six meetings however they "are not regular, they crop up irregularly". He is also engaging with his criminal justice social worker.

[18] He was asked specifically about the interaction with SC and asked if he took exception to anything he recollected. He responded, "no, we have went through that all the gardens are interconnected, all the entrances are connected so it was a pointless gesture to make". He later confirmed he had no reason to doubt what SC had told the court. He was also asked specifically about the evidence of DH and in particular if he had "chased" her. He said he could not run. He accepted that he had difficulties recalling events because he had been under the influence of alcohol at the time.

[19] He accepted he had been convicted a number of times for incidents involving his neighbours between 2024 and 2026. It was put to him in cross examination that several of the convictions were in relation to threatening and abusive behaviour. In response he replied, "I don't think I was threatening, I was responding to what they said to me". He accepted that his neighbours would feel alarm by someone shouting and swearing at them. He also accepted repeatedly banging on doors and windows would cause concern. He said that the reason for this was that he did not have a phone and thought he required an ambulance, he wanted the neighbour to call an ambulance. When asked when that was, he said this was 6 months ago. He was asked about a conviction on 29 August 2025 for assaulting a neighbour. He said he would "not call them a neighbour, he lives in Dougrie Terrace but not close by". It was put to him that the defences submitted by his solicitor on

his instruction said that this was self-defence. He accepted his conviction but said he "didn't hit him, he walked into his walking stick".

[20] He accepted that Anne Boyle had spoken to him numerous times and he had received warning letters. He knew that eviction would be considered and despite this engaged in further incidents. He accepted that on more than one occasion he breached bail conditions and undertaking conditions not to approach certain neighbours or enter locations. He accepted he had convictions for breaching bail. He accepted incidents had continued since April 2026 despite the reduction in his alcohol use. He did not accept that he had ever refused support and said that any time he had been offered help he had accepted it.

[21] He felt being evicted was "heavy handed". He felt that some of the neighbours in particular DH wanted him evicted. He believed she had "hatched a scheme" to have him evicted. The reason for this was so her friend could be given his property. He did not know how likely it was to work but he thought this was in her mind. If he was evicted this would have an impact on him. He would likely be confused. He is in a routine now, he knows "where the shops and buses are". If he was to move he would "lose his bearings" but said that now he has a bus pass relocating would not be as much of a problem as it was in the past. In order to avoid any further conflict he intends to limit engagement with his neighbours. It was put to him that he refused to accept the impact of his behaviour on his neighbours. He responded, "well I am not privy to what goes through their minds, it is not my intention to cause problems, if they have problems they are of their own making". His view was they had "manipulated events to make out he had caused them problems, when it was of their own volition".

Submissions

[22] Both parties gave oral submissions at the conclusion of the proof and subsequently lodged a written version of the oral submissions with the court. I do not intend to rehearse the submissions in this note in detail. The written submissions are lodged in process, and parties have access to them. However, where material, I have referred to them in my assessment of the evidence and analysis.

Reasons for decision

Assessment of the evidence

[23] The evidence that Ms Boyle provided to the court was both credible and reliable. Her evidence was internally and externally consistent. Her parole evidence was bolstered by relevant recordings she had made in housing records following interactions with both neighbours of the defender when investigating allegations of anti-social behaviour and with the defender himself. Her evidence was also consistent with the nature of the convictions the defender had received, and the true copy extract convictions contained within the productions.

[24] Evidence was led from Ms Boyle in relation to an incident on 14 October 2026. Although that incident was not incorporated into the pursuer's statement of claim, it occurred shortly before the diet of proof. This evidence was admitted without objection. The defender had been served a written warning about the conduct alleged by the pursuer on 22 October 2026. This was included in the Sixth Inventory of Productions lodged by the pursuer lodged in advance of the diet of proof. Therefore, the defender had fair notice of this. The defender had a full opportunity to challenge that evidence and to respond to it in his own evidence. In these circumstances I considered it appropriate to take the incident

into account when assessing reasonableness. Similarly, evidence was led without objection that the defender had previously been transferred by the pursuer from another retirement housing complex following complaints of anti-social behaviour, despite this not being explicitly set out in the pursuer's statement of claim, I am satisfied that it may properly be taken into account.

[25] I considered SC's evidence to be both credible and reliable. His evidence was in the main consistent internally and externally, any consistencies that did arise were minor and did not give rise to concern. He was fair and balanced in his evidence and made appropriate concessions. His evidence was consistent with that of DH whose evidence I also considered to be credible and reliable. Neither SC nor DH came across as people with "an axe to grind". Both were fair and balanced in their evidence. The course of behaviour which DH and SC described the defender as engaging in bore a number of similarities to the behaviour which Ms Boyle spoke to and which featured in the true copy extracts of the defender's convictions. This further bolstered their credibility and reliability.

[26] Mr Ferguson gave evidence on his own behalf. Mr Ferguson himself accepts that his memory of events and recall is negatively impacted by his alcohol use at the time. Where his evidence differed from that of the pursuer's witnesses, I preferred their evidence which was not impaired by being under the influence of alcohol. Further I considered that there were significant inconsistencies in the defender's evidence. When challenged with contrary evidence he was not able to provide a satisfactory explanation. My impression was that he was seeking to minimise his own behaviour. He sought to deflect responsibility for his behaviour onto others. For example, he denied having been threatening and abusive despite convictions for contraventions of section 38 of the 2010 Act being put to him. His position that DH was seeking to have him evicted so her friend could obtain his tenancy was

completely without foundation and lacked credibility, not least because DH was not the only neighbour to complain about the defender's behaviour, there were a number of neighbours who had been impacted by his behaviour. Where his evidence differed to that of the pursuer's witnesses, I preferred the evidence of Ms Boyle, DH and SC.

[27] The defender had lodged a medical report and a follow up email by Dr Genelle Harkins both dated 8 September 2026. Dr Harkins did not attend court and was not called as a witness. The pursuer had entered into a joint minute admitting the report and follow up email into evidence without the need for the author to attend to speak to them. The pursuer stated in submissions this agreement was limited and did not extend to the content of the letter. In any event neither the medical report nor the follow-up email explained the basis for the doctor's opinion that homelessness will exacerbate the defender's health condition. In the absence of the doctor's reasoning and given how scant the information provided by the doctor was no weight could be placed on the opinion statements.

The statutory framework

[28] There is no dispute in relation to the applicable statutory framework or relevant case law. The defender occupies the property in terms of a SSTA as defined by section 11 of the 2001 Act. The landlord under a SSTA may raise proceedings for recovery of possession of the property in terms of section 14 of the 2001 Act.

[29] The powers of the court in recovery of possession proceedings are prescribed by section 16, which provides:

> "**16 Powers of court in possession proceedings**
>
> (1) The court may, as it thinks fit, adjourn proceedings under section 14 on a ground set out in any of paragraphs 1 to 7, 15 and 15A of schedule 2 for a

period or periods, with or without imposing conditions as to payment of outstanding rent or otherwise.

(2) Subject to subsection (1), in proceedings under section 14 the court must make an order for recovery of possession if it appears to the court—
  (a) that—
    (i) the landlord has a ground for recovery of possession set out in any of paragraphs 1 to 7 of that schedule and specified in the notice required by section 14, and
    (ii) it is reasonable to make the order,
  (aa) whether or not paragraph (a) applies, that—
    (i) the landlord has a ground for recovery of possession set out in paragraph 2 of that schedule and so specified, and
    (ii) the landlord served the notice under section 14(2) before the day which is 12 months after—
      (A) the day on which the person was convicted of the offence forming the ground for recovery of possession, or
      (B) where that conviction was appealed, the day on which the appeal is dismissed or abandoned.

(3) For the purposes of subsection (2)(a)(ii) the court is to have regard, in particular, to—
  (a) the nature, frequency and duration of—
    (i) where the ground for recovery of possession is one set out in any of paragraphs 1 and 3 to 7 of schedule 2, the conduct taken into account by the court in concluding that the ground is established,
    (ii) where the ground for recovery of possession is that set out in paragraph 2 of that schedule, the conduct in respect of which the person in question was convicted,
  (b) the extent to which that conduct is or was conduct of, or a consequence of acts or omissions of, persons other than the tenant,
  (c) the effect which that conduct has had, is having and is likely to have on any person other than the tenant, and
  (d) any action taken by the landlord, before raising the proceedings, with a view to securing the cessation of that conduct.

(3A) Subsection (2) does not affect any other rights that the tenant may have by virtue of any other enactment or rule of law."

Ground for recovery of possession

[30] The grounds for recovery of possession relied upon by the pursuer as set out in schedule 2 of the Act include: breach of any obligation of the tenancy (paragraph 1); and acting in an anti-social manner in relation to a person residing in, visiting or otherwise

engaged in lawful activity in the locality, or pursuing a course of conduct amounting to harassment of such a person, or a course of conduct which is otherwise anti-social conduct in relation to such a person (paragraph 7).

[31] The defender admits the grounds for recovery of possession. The requirements of section 14 of the 2001 Act have been adhered to. Subject to the power to adjourn the case to monitor the conduct of the defender, which is discretionary, I am required to grant an order for recovery of possession if grounds are established and it is reasonable to make that order. In determining whether it is reasonable to grant eviction the legislation obliges me to have regard to the non-exhaustive list of factors set out in section 16(3) of the 2001 Act. These include: the nature, frequency and duration of the conduct established in an anti-social behaviour case, the extent to which the defender alone is responsible for the conduct established; the impact the conduct has had and continues to have on others and the steps taken by the landlord in advance of raising proceedings to try to stop the behaviour complained of.

Reasonableness

[32] Having assessed the evidence presented to me, and applied the statutory framework, I have reached the conclusion that it is reasonable to grant the order for recovery of possession for a number of reasons, notwithstanding the arguments to the contrary by the defender. The factors I have considered in my decision are as follows:

(i) The parties to the Tenancy Agreement agreed that anti-social behaviour was prohibited and could result in eviction. Therefore, the defender knew of the

likely consequences of such conduct and agreed to that condition. The defender has breached the terms of the Tenancy Agreement.

(ii) The conduct of the defender is of a serious nature. It involves repeated incidents of anti-social behaviour including shouting, swearing, using offensive language, threatening and abusive behaviour, assaults and attempted assaults. The defender has thirteen convictions for offences in and around the property. He has been sentenced to a range of disposals including imprisonment.

(iii) The conduct in the current property and within the locality has persisted since March 2024. It has continued despite numerous warning letters, the raising of these proceedings and the imposition of various sentences including imprisonment. It represents a sustained and prolonged pattern of anti-social behaviour by the defender. He is solely responsible for the conduct. Although the defender stated he would desist from further anti-social behaviour I did not consider this credible in light of the frequency and duration of the anti-social behaviour, the lack of insight on the part of the defender and the fact that the defender continues to consume alcohol, albeit at lesser levels than he did previously. The continuation of incidents after service of the section 14 notice and after commencement of these proceedings is of particular significance. In my assessment the defender's anti-social behaviour is likely to continue to persist.

(iv) The conduct has had a significant impact on the wellbeing of other tenants within the locality. They have experienced disruption in the early hours of the morning, persistent anxiety, stress and an inability to enjoy their homes. They

have been subject to frightening, humiliating and degrading treatment by the defender. In some cases, they have been the victims of a sustained course of conduct. A number of the neighbours did not wish to give evidence from which I inferred they were afraid of the defender and his behaviour. The impact has been substantial. Given my assessment at (iii) above the other tenants within the locality are likely to continue to be impacted by the defender's behaviour.

(v) The pursuer has taken extensive steps to stop the defender's conduct. The pursuer has previously provided the defender with alternative housing in an attempt to prevent further anti-social behaviour. Since March 2024 they have given the defender multiple warnings, attempted discussions with the defender, conducted home visits and offered the defender referrals to support services. None of those steps brought about any improvement and the anti-social behaviour persisted. It is not reasonable in the circumstances where the anti-social behaviour is likely to continue for the pursuer to be required to offer alternative accommodation for the defender. This would result in another of the landlord's neighbourhoods being affected by the defender's anti-social behaviour.

[33] Taking all these factors together, and having particular regard to the nature, duration and impact of the defender's conduct and my assessment the conduct is likely to continue, I consider it reasonable to grant the order requested. I have taken the personal circumstances of the defender into account when assessing whether it is reasonable to grant the order in all the circumstances. Undoubtedly being evicted will impact on the defender adversely as he

will need to present as homeless to the local authority but in my opinion that does not make it unreasonable to grant the order sought by the pursuer. The pursuer has done all that could reasonably be expected of a social landlord in the circumstances. Given the conduct has not abated and is not likely to, taken together with the substantial impact it is having on the defender's neighbours, it is reasonable to grant an order for recovery of possession.

[34] The defender submitted that the defender should have been given a final opportunity to address his alcohol misuse by being offered a SSST which would give the pursuer security of knowing any further adverse behaviour would result in eviction without the need for any further procedure. However, as was articulated in *East Lothian Council* v *Duffy* 2021 SLT (Sh Ct) 113, "A reasonable course of action does not cease to be reasonable simply because there are other actions which might be equally, or more reasonable." I was not persuaded that the fact that the pursuer did not take this course of action meant it was unreasonable to grant the order sought in the circumstances of the case. In any event I cannot see how offering to convert the basis of the tenancy would make any difference in the circumstances of this case. Accordingly, I grant the order for removal as craved.

Date for recovery of possession

[35] In terms of section 16(5) of the 2001 Act I must appoint a date for recovery of possession which has the effect of terminating the tenancy and gives the landlord the right to recover possession of the property at that date. The pursuer asked that I appoint as early date as possible and allow immediate extract. The summons craves that I dispense with service of a Charge and Notice of Removal. The defender asked for as lengthy a period as possible. I shall appoint 8 December 2026 as the date for repossession to allow time for homeless rehousing. I shall refuse the crave for immediate extract given the date for

recovery of possession to allow for the appeal period. However, I will dispense with service of a Charge and Notice of Removal. It is reasonable to do so in all the circumstances.

Expenses

[36] The pursuer sought expenses against the defender. The defender is an assisted person with the benefit of a legal aid certificate. I will grant the pursuer's motion on expenses but will modify the expenses to nil.