

LEWES DISTRICT COUNCIL HOUSING SERVICES DEPARTMENT

ANTI-SOCIAL BEHAVIOUR COMPACT WORKING GROUP

**POLICY AND PROCEDURE FOR DEALING WITH
ANTI-SOCIAL BEHAVIOUR ON OUR HOUSING ESTATES**

DECEMBER 2004

Policy and procedure for dealing with Anti-social Behaviour on our Housing Estates

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POLICY

Policy Statement

Where a person's or groups behaviour unreasonably interferes with a tenant's right to quiet enjoyment of his or her home or adversely affects the quality of life of a local community, the council will have in place procedures to tackle the behaviour, take action against the offenders and support and protect the victims.

Introduction

Lewes District Council recognises that neighbour disputes, anti-social behaviour and harassment disrupt the lives of many people. The Housing Services Department's strategy encompasses a multi-agency approach with input from the police, social services, environmental health and other relevant agencies. Both tenants and residents have been involved in developing this strategy and will continue to be involved in the monitoring and evaluation.

This document includes a procedure for staff to use when tackling reports of neighbour disputes, anti-social behaviour and harassment, and a procedure for putting in place preventative measures that can reduce the factors that enable such behaviour to arise.

The policy and procedure are compliant with the Council's strategy for dealing with Nuisance and Anti-social behaviour on Council Estates (Report No216/97) that was formally adopted by the Housing Policy Committee on 10 April 1997.

Targets

Target response times are included within the body of the procedure.

Relevant Legislation & protocols

- The Housing Act 1985
- The Housing Act 1996 (England & Wales) – tenancy enforcement
- Crime & Disorder Act 1998 – ASBO, Parenting Order, sharing & access to information
- Protection from Harassment Act 1997
- Data Protection Act 1998 – storage of information & access
- Environmental protection Act 1990 – noise pollution
- Noise Act 1996 – (England, Wales and NI) – noise pollution
- Mental Health Act 1983 – vulnerable persons
- Town & Country Planning Act – untidy gardens
- Local Government Act 1972 – restraining injunction
- LDC Community Safety Strategy
- LDC Racial Harassment Procedure
- LDC Nuisance and Anti-Social Behaviour – Policy and Procedure (report 216/97)

Monitoring & Evaluation

- Preventative measures – the strategy will be evaluated annually to ensure it's continued relevance.
- Response procedure - a two stage monitoring system has been developed to provide both a qualitative and quantitative analysis of the nuisance behaviour complaints being dealt with by the housing department. In addition complainants will be sent a Customer Feedback Form for their comments on the process.
- The policy/procedure and performance will be regularly reviewed by the Compact Monitoring Group
- The Housing Services Department is committed to further developing the current process to ensure that tenants and other customers can be involved in the evaluation of the procedure.

Training

All Housing Services staff will receive training on the sections of this procedure relevant to their post as part of their induction.

PROCEDURES

Strategy for Prevention

The Housing Services Department will have in place mechanisms to reduce the incidence of anti-social behaviour. These are as follows:

General

- To participate in the Community Safety Partnership
- To liaise closely with tenants groups and the Tenants Federation
- To agree inter-departmental procedures for tackling nuisance
- To develop effective partnerships with other agencies and community organisations
- To negotiate multi-agency partnership agreements and joint working practises
- To meet regularly with designated police officers from the Community Problem Solving Teams
- To provide and promote a witness support scheme in conjunction with Victim Support
- To publicise successful legal actions

Rehousing & Transfer Applications

- To apply local lettings policies to achieve more stable communities
- To apply a sensitive letting policy to people with support needs who may be vulnerable to harassment
- To allocate properties taking into account the potential nuisance risk posed by the applicants

Advice for tenants on responsibilities and remedies

- To fully explain the nuisance clauses in the tenancy agreement during sign ups
- To provide advice and information on what constitutes nuisance behaviour
- To provide advice and information on what the tenant can do to combat nuisance
- To provide advice and information on what the council can and cannot do to combat nuisance
- To provide advice and information on issues such as crime prevention
- To provide information at our Fort Road reception on agencies that offer support, such as CAB and drugs projects

Physical measures

- Where possible to incorporate the principles of design-out-crime initiatives in planned and day to day works

Training

- To ensure that all staff are trained in the application of this policy/procedure

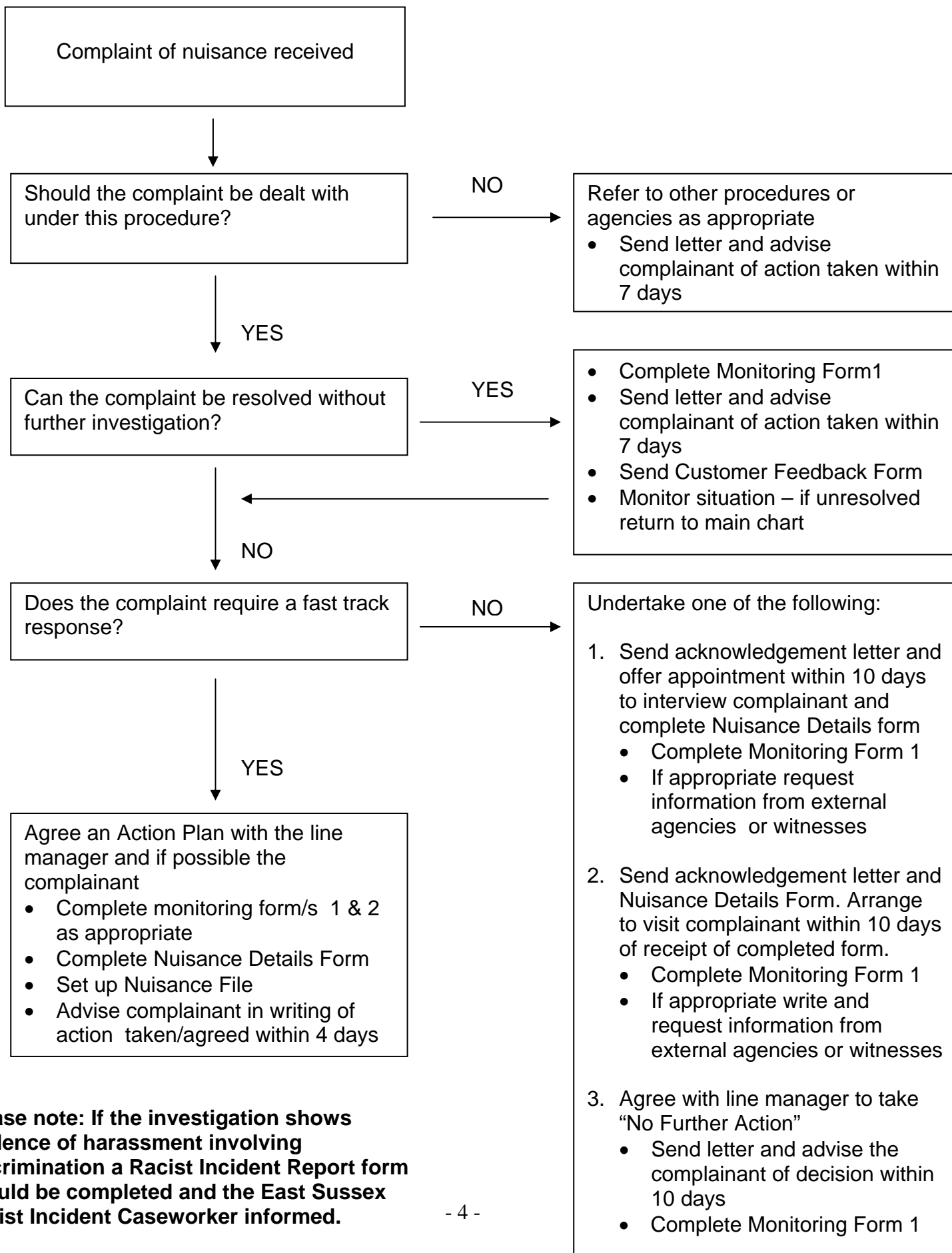
Monitoring

- To periodically collect data on behalf of partner agencies to measure the effectiveness of our joint working approaches

Procedure for Dealing with Reported Incidents

STAGE 1 – RECORD AND DEFINE

(Update Staff Security List if appropriate)



Please note: If the investigation shows evidence of harassment involving discrimination a Racist Incident Report form should be completed and the East Sussex Racist Incident Caseworker informed.

Procedure for Dealing with Reported Incidents
STAGE 2 – INVESTIGATE AND COLLECT EVIDENCE
(Please update Staff Security List if appropriate)

Complainant

- Interview complainant and complete a Nuisance Details Form if applicable
- Set up Nuisance File
- Agree Action Plan and confirm in writing
- If appropriate carry out site inspection

Perpetrator

- Within 5 days of the interview with the complainant to write to the perpetrator and arrange an interview

Witnesses

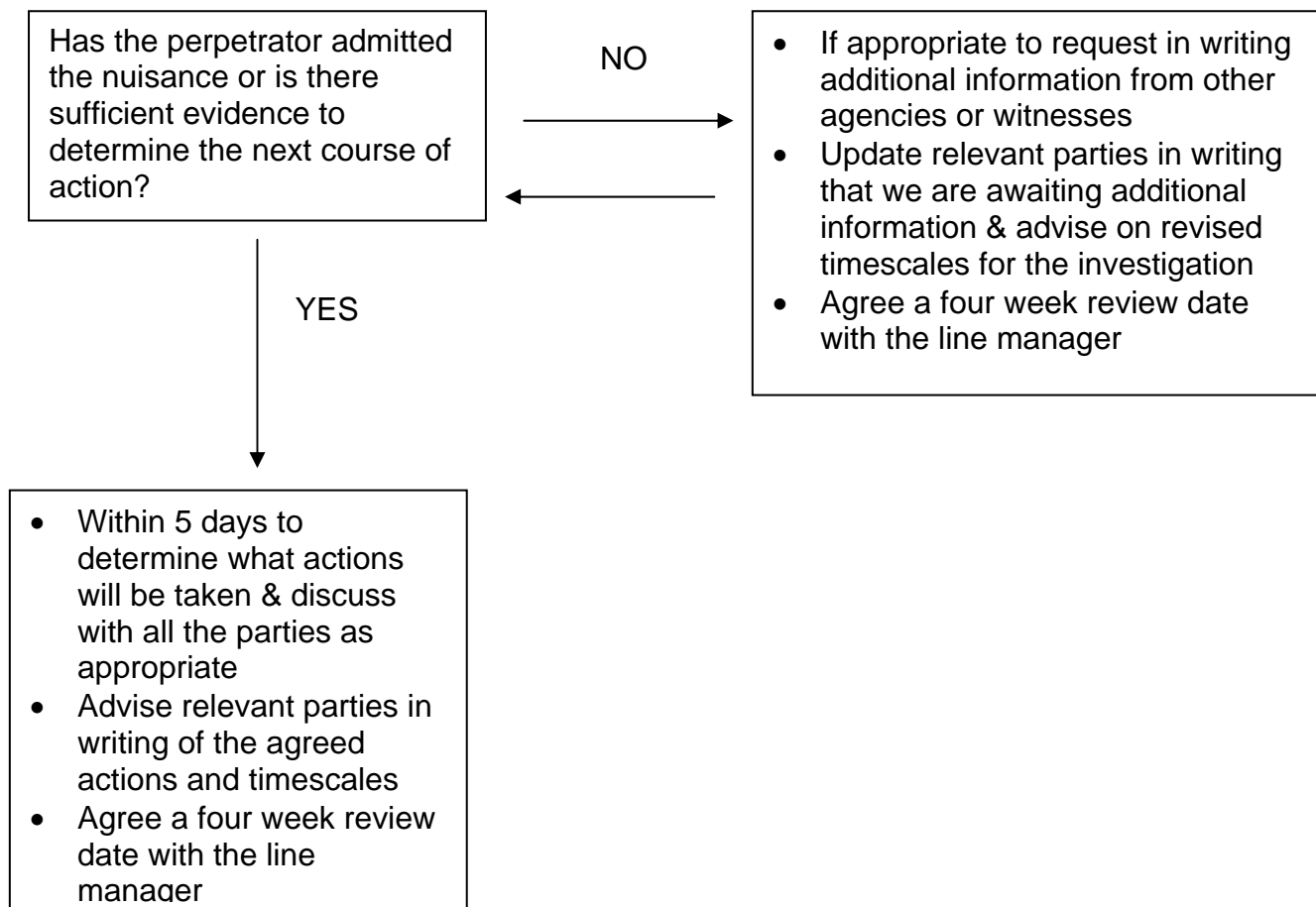
- If required, request the completion and return of a Nuisance Details Form and Nuisance Record Sheets

Other agencies

- If appropriate write and request information and/or the support of other agencies
- If appropriate convene a multi-agency meeting

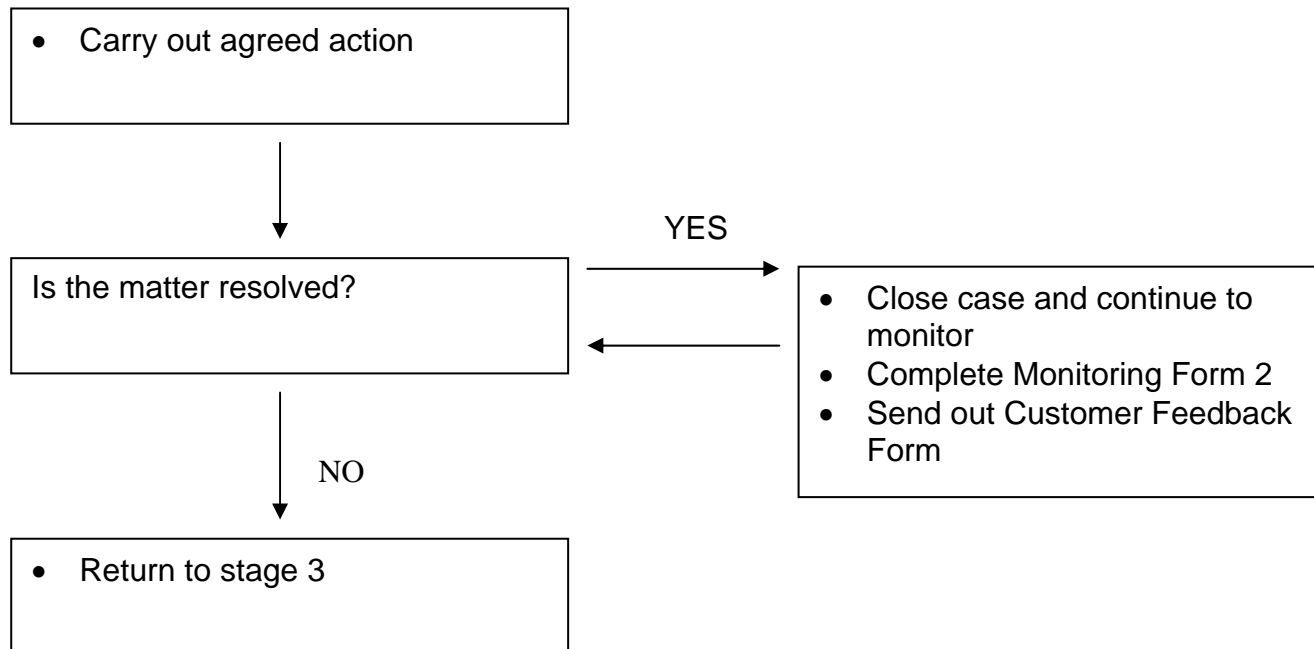
Please note: If the investigation shows evidence of harassment involving discrimination a Racist Incident Report form should be completed and the East Sussex Racist Incident Caseworker informed.

Procedure for Dealing with Reported Incidents
STAGE 3 – EVALUATE EVIDENCE AND AGREE ACTION
(Update Staff Security List if appropriate)



Please note: If the investigation shows evidence of harassment involving discrimination a Racist Incident Report form should be completed and the East Sussex Racist Incident Caseworker informed

Procedure for Dealing with Reported Incidents
STAGE 4 – TAKE AGREED ACTION AND MONITOR
(Update Staff Security list if appropriate)



Please note: If the investigation shows evidence of harassment involving discrimination a Racist Incident Report form should be completed and the East Sussex Racist Incident Caseworker informed

Procedure for dealing with Racial Harassment

This procedure defines racial harassment as the following:

“Violence both physical or verbal which is directed against property as well as persons, is suffered by individuals or groups because of their race or nationality, and where the victim or any other person believes the perpetrator was motivated by racism”.

Racial Harassment can include:

- Verbal or written abuse
- Attacks on property
- Physical attacks
- Behaviour designed to intimidate
- Graffiti

Lewes District Council's policy on racial harassment states that:

- We condemn all forms of harassment and will not tolerate such acts whether by tenants, employees, agents or third parties.
- Our tenancy agreement and contract of employment state that harassment is a serious breach of these conditions
- We will investigate all cases of racial harassment where the victim believes an act to be racially motivated
- We will remove offensive graffiti as soon as possible and recharge the people who carried it out with the cost of the damage
- Where there is physical injury or damage we will encourage the victim to report this to the police, and we will take positive action to encourage prosecution
- Where the victim of harassment requests it, and the Council believes it is in their best interests, a transfer of accommodation will be arranged as a matter of urgency, if other accommodation is available.

Where an allegation of racial harassment is made the Housing Officer should immediately alert their line manager. The police and the East Sussex Racist Incident Caseworker should also be informed.

The Housing Officer should send the East Sussex Racist Incident Caseworker the completed Racist Incident Report Form and place a copy on file. They should discuss the case and reach agreement on which agency will undertake the necessary actions where there is crossover of responsibility, for example who will convene the case conference. Where agreement cannot be reached the matter should be referred to the line manager. A letter outlining the agreed demarcation of tasks should be sent to the complainant and copied to the ESRIC.

The Housing Officer should be sensitive to the emotional support needs of the victim and discuss with them whether they would like to be referred to a specialist agency such as Sompriti or Victim Support.

Where investigations confirm the existence of racial harassment and where other housing stock is available the victim should be offered the option of rehousing either on a temporary or permanent basis.

Note: A copy of the Council's racial harassment leaflet should be included in the sign up pack and discussed during the sign up.

Note: Where a victim completes the Racist Incident Report Form they need not complete a Nuisance Details Form.

Appendix 1

DEFINITIONS OF NUISANCE BEHAVIOUR

“Where a person or groups behaviour unreasonably interferes with a tenant’s right to quiet enjoyment of his or her home or adversely affects the quality of life of a community”

In order to determine the most appropriate course of action it is important to ascertain the type and severity of the behaviour that is being complained about. The following illustrates the types of behaviour most commonly complained about, staff should also take into account the motivation behind the action/s and the impact on the complainant when making their determination.

Anti-social Behaviour

“Deliberate, continuous actions of an unreasonable nature with more than one party affected”

Harassment

“Violence both physical or verbal which is directed against property as well as persons, is suffered by individuals or groups because of their race or nationality, nationality, gender or sexual orientation, or any other reason where the victim or another person believes the perpetrator was motivated by prejudice”.

Racial Harassment

“Violence both physical or verbal which is directed against property as well as persons, is suffered by individuals or groups because of their race or nationality, and where the victim or any other person believes the perpetrator was motivated by racism”.

Neighbour Dispute

“A disagreement between neighbours that has escalated”

Nuisance

“Single or low level multiple actions either carried out or endorsed by an individual and not necessarily with intent to cause nuisance”

Examples of the behaviours listed above

- Excessive DIY and household noise particularly outside of reasonable hours
- Persistent loud music and parties
- Harassment and intimidation
- Racial abuse
- Threats of violence
- Arguing, shouting and the use of foul language
- Criminal behaviour such as drug dealing, arson, burglary, assault
- Disorderly conduct aggravated by drugs or alcohol
- Dogs barking or fouling
- Dangerous dogs
- Children not under parental control
- Vandalism
- Filthy or verminous premises
- Untidy gardens
- Accumulations of rubbish
- Abuse of communal areas such as commercial repair or storage of unlicensed cars in car park

Appendix 2

CORRESPONDANCE

Due to the diversity of nuisance cases it is not practicable to provide standard response letters, therefore staff will be required to draft their own correspondence to complainants, perpetrators, solicitors and any other involved parties.

Please refer to the attached examples of nuisance correspondence.

Writing a letter

When drafting a letter staff should take into account the following:

- That correspondence should comply with the “Plain English” guidance in the LDC handbook and be formatted on the standard letter template
- That correspondence should comply with the letter response times as indicated in the procedure for dealing with reported incidents and the Council’s Customer Care Standards
- That correspondence to third parties should be agreed by a designated senior line manager prior to being sent
- Confidentiality – see below
- That the correspondence may be used as evidence in future legal action

Staff must, as far as possible, distinguish between facts and judgements or opinions. They should be seen to be unbiased during the investigation stage and ensure that the word “alleged” precedes the action that has been complained of if the allegation has not been proven or admitted to, for example

“I have received a complaint which **alleges** that you regularly shout abuse from your bedroom window”

“During our meeting you **alleged** that your neighbour regularly shouts abuse from her bedroom window”

Letters written to complainants, perpetrators and witnesses should include the following:

- The date and type of contact made - if by letter also include the date letter received in office
- A named officer to contact
- An outline of or reference to the allegation/s
- A reference to the tenancy agreement and relevant legislation relating to the breach
- Any actions taken/or to be carried out and target dates
- When the recipient should next expect contact from the named officer
- Any actions expected of the recipient of the letter
- An invitation to contact the officer to discuss the matter further
- If relevant advise that they are welcome to have a friend or representative attend a meeting with them
- Where the matter is sufficiently serious the perpetrator should be advised to seek independent legal advice

Where a nuisance case is ongoing the complainants and witnesses should be informed immediately of any changes in the situation or when LDC has taken action. They should not go for more than four weeks without contact from their named officer, even if there is no fresh information to provide. The perpetrator should also be kept fully updated as to what actions will be taken and when.

Where LDC decides to take no (further) action, the Housing Officer should write to the complainant and witnesses explaining why no (further) action is possible and that the case is closed. If it is appropriate they should be advised of other agencies that may be able to help. If appropriate they should be asked to assist the Housing Officer in monitoring the situation. They should be informed of their right to appeal

the decision and asked to make contact again should the situation worsen. The perpetrator should also be informed in writing when no further action is to be taken.

Confidentiality & Exchange of Information

Multi-agency exchange of information

The "Joint Agreement on the Exchange of Information for Reducing Crime and Disorder in the Lewes District Area" and the Housing Services Policy on Confidentiality establish the principles for the sharing of personal information between agencies. These are as follows:

- Information should be obtained and processed fairly and lawfully; it should be accurate, relevant and kept up to date and only disclosed in appropriate circumstances
- Information from another agency should not be disclosed without their permission
- Correspondence should be kept in such a way that they can be subject to audit
- Staff disclosing personal information must have regard to both common and statute law, for example defamation, the common law duty of confidence and the Data protection principles, if in doubt they should discuss the matter with their line manager

It is worth noting that many of the data protection issues surrounding disclosure can be avoided if consent is obtained. Where this is possible consent should be given in writing using the consent form see appendix 3. The Nuisance Details Form also has a consent section.

Where information is sought or disclosed it is good practise to inform the individual concerned. It is recognised that this is not always appropriate and where a decision is reached not to advise the individual (eg where there is likelihood of harm to the subject or a third party) a note to this effect should be placed on file. Where there is doubt any decision should be referred to a senior manager.

All letters to other agencies should always include the following statement at the bottom of each page:

The information contained within this letter and any accompanying paperwork is confidential to Lewes District Council Housing Services Department and should not be disclosed without reference to the named council officer.

Exchange of information between the complainant, perpetrator and witnesses

During the investigation process the details of the complainant must not be disclosed to the perpetrator or witnesses unless they have previously given their written consent. Details of the witnesses should also be kept confidential unless they too have given their written consent. The complainant and witnesses should be advised that their details may be disclosed if the council takes certain types of legal action against the perpetrator.

The complainant and witnesses may be advised of the range of options available to the council in tackling the nuisance behaviour but should not be informed of any specific action taken against an individual. They should be informed that action has been taken and asked to comment on whether the action has been effective.

EXAMPLE OF FIRST RESPONSE TO COMPLAINANT

Mr Ronald Jones
2 East Kent Lane
Seaford
East Sussex
BN25 2ST

extension 4221
my ref BR
your ref
date 21 February 2002

Dear Mr Jones

Re: Your Complaint of Noise Nuisance

Thank you for your letter dated 16 February 2002 which was received in this office on the 18 February 2002.

Following our telephone conversation, I confirm I am awaiting contact from the Council's Environmental Services Department for advice on how best to determine the level of noise coming from your upstairs neighbours flat after which I will be able to proceed with investigating your allegations. In the meanwhile I would be grateful if you could keep a record of any further noise on the enclosed Nuisance Record Sheets.

I have also enclosed a Nuisance Details Form, which you should complete and return to me using the attached pre paid, self-addressed envelope. Once I receive your completed form I will contact you so we can arrange to meet to discuss your complaint. If the nuisance increases over this period please contact me as a matter of urgency.

Please do not hesitate to contact me if you wish to discuss the matter further or would like help completing the forms.

Yours sincerely

Ms Beth Rowe
Area Housing Officer

Enc.

EXAMPLE OF FIRST LETTER TO ALLEGED PERPETRATOR

Mrs Brigitte Murray
2a East Kent Lane
Seaford
East Sussex
BN25 2ST

extension 4221
my ref BR
your ref
date 21 February 2002

Dear Mrs Murray

Re: Allegations of Noise Nuisance

I have received a complaint that alleges that you regularly play loud music late at night.

I would like to draw your attention to your Tenancy Agreement and the following condition:

Section 7 Your Responsibilities to your Neighbours

You must not do the following:

- **Annoy or cause nuisance to anyone who is living in or visiting the local area**

Although I appreciate that the allegation may be unfounded the Council takes all such complaints seriously and I would be grateful if you could meet with me at 20 Fort Road, Newhaven on Wednesday 27 February at 10.30am to discuss the complaint.

For your information I enclose a specimen copy of the Council's Tenancy Agreement.

Please do not hesitate to contact me at the above address or telephone number if you wish to discuss this matter prior to our meeting.

Yours sincerely

Ms Beth Rowe
Area Housing Officer

Enc.

EXAMPLE OF LETTER FOLLOWING INTERVIEW

Mrs Brigitte Murray
2a East Kent Lane
Seaford
East Sussex
BN25 2ST

extension 4221
my ref BR
your ref
date 28 February 2002

Dear Mrs Murray

Re: Complaints of Noise Nuisance

Thank you for meeting with me on Wednesday 27 February 2001 to discuss the allegations that you regularly play loud music late at night.

During the meeting you admitted the following:

- That both you and your daughter regularly play loud music late at night
- That your daughter holds parties in the flat when you are staying at your partners house

You explained that you were suffering from depression had difficulty coping with your daughter and her friends and that you had tended to stay away rather than tackle the problems they were causing to your neighbours. You explained that the police had recently found a small quantity of drugs on the premises and that you had been charged with possession. You expressed shock when I informed you that you had substantial rent arrears.

I explained that as you had admitted to the nuisance the Council would have to decide what action to take to prevent the nuisance happening again. You gave an undertaking that no further nuisance would reoccur however you also accepted that you would find this difficult to sustain in the long term given your difficulty in controlling your daughter and her friends.

I drew your attention to Section 7 of your Tenancy Agreement which states that you must not:

- ***Annoy or cause nuisance to anyone who is living in or visiting the local area***

I explained that if you failed to comply with this condition the Council would have no option but to apply to the Court for possession, which could mean you losing your home. However given your undertaking to address the problems of nuisance and reduce your rent arrears I informed you that the council would arrange a multi-agency meeting to discuss your situation prior to deciding our next course of action. You agreed to attend for part of the meeting.

I will contact you within the next five days to invite you to the multi-agency meeting. Please do not hesitate to contact me at the above address or telephone number if you wish to discuss this matter with me prior to our next meeting.

Yours sincerely

Ms Beth Rowe
Area Housing Officer

EXAMPLE OF INVITE TO MULTI-AGENCY MEETING

Sonia Jones
Senior Social Worker
East Sussex Social Services Department
20 High Road
Seaford
East Sussex
BN25 9RT

extension 4271

my ref SS

your ref

date 28 February 2002

Dear Ms Jones

Re: Brigitte Murray (D.O.B 30.11.92) and Sonia Brown (D.O.B 05.01.88) of 2a East Kent Lane, Seaford BN25 2ST

Following our telephone conversation, I would like to invite you to a multi-agency meeting to discuss concerns that have arisen regarding Mrs Brigitte Murray, a tenant of Lewes District Council, and her daughter Sonia Brown.

Mrs Murray met with Ms Beth Rowe (Area Housing Officer) on Wednesday 27 February 2001 following complaints of nuisance from a neighbour. Mrs Murray admitted the nuisance and explained that she was having great difficulty coping and could not control her daughter's behaviour. The police have advised us that the property was recently searched and a quantity of controlled substances found. Mrs Murray has subsequently been charged with possession. She also has substantial arrears on her rent account.

Mrs Murray informs us that her daughter has previously had contact with social services although she cannot remember the name of the social worker.

The Council now has to consider the most appropriate course of action to deal with the ongoing nuisance.

The meeting will be held at the council offices at 20 Fort Road on Monday 11 March at 10.30am. The Police and the Education Welfare Department have also been invited to attend.

Please do not hesitate to contact either Ms Rowe or myself if you wish to discuss this matter prior to our meeting.

I look forward to meeting you.
Yours sincerely

Mrs Sharon Smith

Estates Manager

Cc Beth Rowe – Area Housing Officer
Karen Russell – H.O.M

The information contained within this letter and any accompanying paperwork is confidential to Lewes District Council Housing Services Department and should not be disclosed without reference to the named council officer

EXAMPLE OF LETTER FOLLOWING MULTI-AGENCY MEETING

Mrs Brigitte Murray
2a East Kent Lane
Seaford
East Sussex
BN25 2ST

extension 4221
my ref BR
your ref
date 13 March 2002

Dear Mrs Murray

Re: Complaints of Noise Nuisance

I am writing to you following the multi-agency meeting held on the 11 March 2001 which you attended.

The purpose of the meeting was to discuss your situation with other relevant agencies and to agree an appropriate course of action to prevent the nuisance reoccurring.

I thought it would be useful to confirm in writing the outcomes of the meeting.

- You agreed that within the next 10 days you and your daughter will sign an Acceptable Behaviour Contract
- You were informed that Lewes District Council will serve a Notice of Seeking Possession within the next 3 days although this will not be actioned unless the nuisance reoccurs
- You agreed that a Rent Officer will visit you within the next 3 days to discuss your rent arrears
- You welcomed the suggestion that social services will contact you within 7 days to arrange an appointment to discuss the support available for yourself and your daughter (including parenting classes)

I am sure that you are now fully aware of how seriously the Council views breaches of the Tenancy Agreement and I trust that in future you will pay particular regard to your responsibilities to your neighbours. I should advise you that if the nuisance behaviour continues the Council will have no option but to apply to the Court for possession of your home.

I will contact you within the next three days to arrange an appointment for you visit the office and sign the Acceptable Behaviour Contract.

Please do not hesitate to contact me if you wish to discuss this matter further.

Yours sincerely

Ms Beth Rowe
Area Housing Officer

EXAMPLE OF LETTER TO COMPLAINANT AFTER ACTION IS TAKEN

Mr Ron Jones
2 East Kent Lane
Seaford
East Sussex
BN25 2ST

extension 4221
my ref BR
your ref
date 14 March 2002

Dear Mr Jones

Re: Your Complaint of Noise Nuisance

As I explained during our telephone conversation the Council has now taken action against your neighbour to prevent the nuisance behaviour you complained of reoccurring. I am afraid that the Council's policy on confidentiality prevents me from detailing the specific nature of the action we have taken however I am able to inform you that we shall continue to monitor the situation closely. Should you find that the nuisance reoccurs please do not hesitate to contact me.

I have enclosed a customer feedback form for your comments on how you feel we dealt with your complaint and I would be grateful if you could complete and return it to me in the prepaid envelope provided.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely

Ms Beth Rowe
Area Housing Officer

Enc.

Appendix 3 – Standard Forms

NUISANCE DETAILS FORM

Serial Number:

This form should be used for reporting instances of nuisance behaviour which are causing distress or annoyance to people living within your area. There are several different approaches we can make to address problems of this nature. However to enable us to decide which is the best in this case, please give as much information as possible. Once we have received your completed form your Housing Officer will contact you within 10 working days to discuss the matter. If you need any help filling in this form, please contact your Housing Officer..... Tel:..... for assistance.

1. Your name/s

Are you a complainant or witness (please delete as appropriate)

2. Your address

3. Your telephone number/s

4. What is your residential status

Council tenant Private tenant Owner Occupier Housing Association
Other *Please specify*

.....

5. Who is causing the problem?

6. What is their address?

7. Do you know their residential status

Council tenant Private tenant Owner Occupier Housing Association
Other *Please specify*

.....

8. Is this person known to you e.g. neighbour, ex partner

9. What are you complaining of? Please state dates, times etc

10. Do you think the complaint involves discrimination?

Yes **No**

If yes, please detail

11. Have you spoken to the person/s concerned? If yes what was their response?

12. Have other incidents of a similar nature taken place over a period of time?

Yes **No**

13. Have you reported similar problems to us in the past? If yes, what did we do?

14. Have you previously completed diary sheets?

Yes

No

15. Have you complained of this matter or similar matters to any other authority such as the police or other council department? If yes, when did you make the report and what was the response? Please include details such as crime numbers etc.

16. Are other people in the area experiencing the same problem? If they are and you know their details please tell us below. Please include their names, addresses and telephone numbers if you know them.

17. How would you like the council to deal with this problem?

As there are many different ways to deal with nuisance behaviour we need to look at the best way to proceed with your complaint. To help us, please tell us the following:

	Yes	No	Not sure
Would you consider appearing as a witness in court?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would you be happy for us to use the information you have supplied in any legal action that might arise?		<input type="checkbox"/>	<input type="checkbox"/>
May we use the information to make joint enquires with other agencies such as the Police and social services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would you consider using a mediation service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18. The council is striving to provide a housing service that eliminates discrimination and promotes equal opportunities. To help us, please tell us the following. All information will be treated in the strictest confidence.

Declined

Are you? Male Female

Do you have a disability? Yes No

If yes, please state

What is your ethnicity?

Tick		Tick	
<input type="checkbox"/>	White	<input type="checkbox"/>	Asian
<input type="checkbox"/>	British	<input type="checkbox"/>	Indian
<input type="checkbox"/>	Irish	<input type="checkbox"/>	Pakistani
<input type="checkbox"/>	Any other white background	<input type="checkbox"/>	Bangladeshi
<input type="checkbox"/>	<i>Specify</i>	<input type="checkbox"/>	Any other Asian background
<input type="checkbox"/>	Mixed	<input type="checkbox"/>	<i>Specify</i>
<input type="checkbox"/>	White and Black Caribbean	<input type="checkbox"/>	Black
<input type="checkbox"/>	White and Black African	<input type="checkbox"/>	Caribbean
<input type="checkbox"/>	White and Asian	<input type="checkbox"/>	African
<input type="checkbox"/>	Any other mixed background	<input type="checkbox"/>	Any other Black background
<input type="checkbox"/>	<i>Specify</i>	<input type="checkbox"/>	<i>Specify</i>
<input type="checkbox"/>		<input type="checkbox"/>	Other
<input type="checkbox"/>		<input type="checkbox"/>	Chinese
<input type="checkbox"/>		<input type="checkbox"/>	Any other ethnic group
<input type="checkbox"/>		<input type="checkbox"/>	<i>Specify</i>

19. Please sign and date below

The information supplied on this form will be used by Lewes District Council to investigate your complaint. In certain circumstances this may involve sharing the information with other authorities, agencies and organisations who work with the council. There are strict rules on how and when we may share this information, if you would like further information please contact your Area Housing Officer.

Office use only

Date form received

Allocated housing officer

Checked complainant & perpetrator files Yes No

Is Local Councillor or MP involved Yes No
If yes, advise Estates Manager

Consent form signed Yes No

Please place original on complainant/witnesses file and attach copy to Monitoring Form 1 in central monitoring file

**Appendix 3
MONITORING FORM 1**

RECORD & DEFINE

Serial Number:

Date of complaint:

Name of complainant/s:

Address:

Telephone numbers:

Form of tenure (delete non applicable) council tenant/leaseholder/owner occupier/private rented/RSL

If available

Name of Perpetrator:

Address:

Telephone numbers:

Form of tenure (delete non applicable) council tenant/leaseholder/owner occupier/private rented/RSL

Perpetrators relationship with complainant

Third party involvement
YES/NO

Complaint received	By telephone	
	By letter	
	In person	
	Via third party (please detail)	

Brief outline of complaint

Has previous action been taken against the perpetrator

YES/NO
Has the complainant contacted other agencies (specify)
YES/NO

Please categorise complaint

Neighbour dispute		Harassment		Anti social behaviour		Nuisance	
Minor breach		Consistent minor breach		Serious breach		Very serious	

Does the Complainant allege harassment involving discrimination
YES/NO

Can the complaint be resolved without further investigation (if yes please detail)
YES/NO

Customer Feedback Form sent
YES/NO

Other Action taken

NFA – detail	
Fast track	
Request amicable resolution	
Send Nuisance Details Form to complainant	
Send Nuisance Details form to witnesses	
Arrange to visit complainant to complete Nuisance Details form and discuss complaint	
Send Nuisance record sheets	
Request information other agencies – state	
Request involvement other agencies – state	
Refer to other agency – state	
Arrange to visit witnesses	
Arrange to visit to complete Racist Incident Reporting Form	
Other please specify	

Are responses within target times
YES/NO

Dealing with Anti-social Behaviour on our Housing Estates

Has a four week review date been agreed (give date)
YES/NO

Office details

Completed by:

Date:

Page 3 of

4

Data input by:

Date:

Fast Track Response
YES/NO

Place original on file and copy to Admin Clerk

Appendix 3

GUIDANCE NOTES FOR COMPLETEING MONITORING FORMS

Purpose – This two stage monitoring system has been designed to provide both a qualitative and quantitative analysis of the nuisance behaviour complaints that are dealt with by the Housing Services Department.

The Supported Housing Manager and Estates Manager will use the forms to monitor the progress and outcome of nuisance complaints during staff supervision. The Housing Operations Manager will receive a consolidated monthly summary. The Team Clerks will process the data collection and administer the system

Monitoring Form 1 – The Housing Officer should complete this form after stage 1 of the procedure has been carried out.

- A copy of the completed form should be passed to the Team Clerk who will allocate a serial number to the complaint, place a copy in the monitoring file and input the data.
- The serial number should be entered onto the form and placed on the property file. The form can be used in place of a file note.
- If the complaint can be resolved without further investigation the HO should send a Customer Feedback Form to the complainant. When this is received back it should be passed to the Team Clerk so the monitoring forms can be updated.

Monitoring Form 2 – The Housing Officer should complete this form after stages 2,3 & 4 of the procedure have been completed.

- Write the allocated serial number in the serial number box (same as Monitoring Form 1).
- Attach form 2 to form 1 and place in the property or nuisance file.
- A copy of the completed form should be passed to the Team Clerk who will attach it to form 1 in the central monitoring file and input the data.

Please note:

- The copy of the complainants completed Nuisance Report Form should be attached to monitoring form 1 and placed in the central monitoring file
- A customer alleging racial harassment should only be asked to complete the Racist Incident Reporting Form. A copy of the completed form should be attached to Monitoring Form 1 and placed in the central monitoring file

Appendix 3**MONITORING FORM 2**

Serial number:

INVESTIGATE, EVALUATE & TAKE AGREED ACTION

Actions taken

Tick

Fast Track Response	
Tenancy enforcement – written warning	
Tenancy enforcement – formal verbal warning	
Tenancy movement – transfer/exchange – applications completed	
Tenancy movements – transfer request for management points	
Tenancy movements – offer temp accommodation	
Referral to Environmental Health Department	
Liase with other agencies	
Referral to other agencies	
Convene multi agency meeting	
Offer witnesses support	
Refer to Legal Department – apply remedies against homeowners	
Refer to Legal Department – serve Notice	
Refer to Legal Department – apply for injunction	
Refer to Legal Department – apply for ASBO	
Refer to Legal Department – apply for Parenting Order	
Refer to Legal Department – implementation of ABC	
Refer to Mediation	
Undertake environmental modifications	
Other, please specify	

Outcomes

Tick

Situation resolved amicably	
Perpetrator/s ceased behaviour	
Perpetrator moved voluntarily away	
Complainant moved voluntarily away	
Possession granted	
Suspended possession granted	
ASBO granted	
ABC signed	
Injunction granted	
Management points awarded for transfer	
Transfer offered/on list (delete as applicable)	
Exchange completed/on list (delete as applicable)	
Environmental modification carried out	

Is there a returned customer feedback form on file YES/NO
--

Is the complainant satisfied with the outcome YES/NO

Is the department satisfied with the outcome YES/NO
--

Does the investigation show evidence of harassment involving discrimination YES/NO

Racist Incident Report form completed YES/NO

Did the complainant appeal against any part of the process YES/NO
--

Has the complainant registered a formal complaint regarding the outcome or the process YES/NO
--

Has the perpetrator registered a formal complaint regarding the outcome or the process YES/NO
--

Third Party Involvement

Tick

Local Councillor	
Member of Parliament	
Solicitor	
Advocacy project (eg CAB) please state	
Social Services	
Doctor	
Police	
Health Visitor	
Community Psychiatric Team	
Environmental Health Department	
Education Welfare Department	

Equal Opportunities Monitoring - Complainant

Declined

Yes

Gender

Male

female

Does the complainant have a disability

Yes

No

If yes please specify

Ethnicity of complainant

Tick

Tick

	White	British		Asian	Indian
		Irish			Pakistani
		Any other white background			Bangladeshi
		Specify			Any other Asian

Dealing with Anti-social Behaviour on our Housing Estates

					background
	Mixed	White and Black Caribbean			<i>Specify</i>
		White and Black African		Black	Caribbean
		White and Asian			African
		Any other mixed background			Any other Black background
		<i>Specify</i>			<i>Specify</i>
				Other	Chinese
					Any other ethnic group
					<i>Specify</i>

Are responses within target times
YES/NO

Were the reviews carried out within target times
YES/NO

Completed by:

Date:

Data input by:

Date:

Place original on file and copy to Admin Clerk

Appendix 3

GUIDANCE NOTES FOR COMPLETEING MONITORING FORMS

Purpose – This two stage monitoring system has been designed to provide both a qualitative and quantitative analysis of the allegations of nuisance behaviour that are routinely dealt with by the Housing Services Department.

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Please note:

- The copy of the complainants completed Nuisance Report Form should be attached to monitoring form 1 and placed in the central monitoring file
- A customer alleging racial harassment should only be asked to complete the Racist Incident Reporting Form. A copy of the completed form should be attached to Monitoring Form 1 and placed in the central monitoring file

NUISANCE RECORD SHEET

Name

Address:

Tel/Home:..... **Work:**..... **Mobiles:**.....

Address of source of nuisance

Date	Start time	Finish time	Description of nuisance behaviour	Describe how nuisance affected you	Were there any witnesses	Action taken

CONSENT FORM

I of agree that any information I supply in connection with this matter may be used by the Council in any subsequent action that may arise. This may also include sharing information both internally within the Council and with other authorities, agencies and organisations who work with the Council.

Signed Date

Appendix 3

Serial number

CUSTOMER FEEDBACK FORM

We are continually trying to improve our service to tenants and other customers and would very much welcome your comments on how we manage incidents of nuisance behaviour. Please complete and return this form in the attached prepaid envelope.

Name

Address

.....

Tel

Are you the complainant? Yes
No

Are you a witness? Yes
No

Are you someone who has had a complaint made about you? Yes
No

Did we take action during the agreed time limits? Yes
No

Did you feel you were kept adequately informed? Yes
No

Did you receive advice on support agencies? Yes
No

If you appeared as a council witness did you feel supported? Yes
No

Is there any thing we could have done differently to improve our service for dealing with nuisance behaviours?

Many thanks for your assistance – Mike Keeping, Housing Services Manager

Appendix 4

LEGAL AND MANAGEMENT OPTIONS

The following is a synopsis of the various legal and management options currently available to housing staff to tackle Anti-Social Behaviour, Nuisance and Harassment. Further information on the options can be found in the Housing Services Reference Library. Please note that the list is not exhaustive and more than one option can be used at the same time.

The main legal powers are as follows:

- Possession order for breach of a clause in the tenancy agreement
- Possession order on nuisance grounds in the Housing Acts
- Injunction to enforce a tenancy condition
- Injunction to prohibit nuisance in the locality of council housing
- Injunction against a leaseholder or freehold owner
- Injunction to prohibit anti-social behaviour that amounts to trespass, public nuisance or likely breach of criminal law
- Summary proceedings under the Environmental Protection Act 1990 to abate statutory nuisance
- Orders under the Crime and Disorder Act 1998
- Prosecutions under byelaws

Amicable Resolution

In many cases the person causing the nuisance is not aware that their actions are causing another party distress. In the first instance, providing the Housing Officer considers it reasonable and safe, the complainant should be asked to approach the person causing the nuisance and attempt to amicably resolve the problem. It may be appropriate to discuss different lifestyle expectations and the need for compromise with the complainant. It might also be helpful to coach the complainant in how best to approach the other party. The complainant should be reassured that the Housing Officer will take up the issue should their approach prove unsuccessful. The Housing Officer should follow up the complaint to ensure that the problem has been resolved.

Mediation

Mediation is a means of conflict resolution that has been found to be particularly effective in diffusing conflicts between tenants and other residents. A neutral facilitator and conciliator helps the parties explore the reasons behind the conflict and consider possible remedies. It is appropriate when all parties voluntarily choose it, they are willing to be reasonable and they are able to communicate honestly with each other. LDC does not have a mediation scheme but in certain instances may be able to purchase the service from another authority. If a Housing Officer feels that this approach would be beneficial they should discuss the option with their line manager.

Environmental Modifications

The Housing Officer should consider whether there are any environmental factors present that either exacerbate or cause the problem. Where this is found to be the case the Housing Officer should consider whether it is appropriate to undertake environmental modifications, for example erecting fencing, correcting poor sound insulation, using design-out crime initiatives. When considering this option it is important to also seek the advice of other departments/teams and interface with the relevant procedures. The relevant budgets will need to be taken into account before any decisions can be made. In certain circumstances the Housing Officer should consider whether it might be appropriate to involve other agencies or residents groups in an attempt to identify and access funds from other sources. Any such initiative should first be discussed with the line manager.

Tenancy Enforcement

The tenancy agreement is potentially the Council's strongest tool for dealing with anti-social behaviour, neighbour nuisance and harassment. The agreement covers the conduct of the tenant, other residents or a visitor to the property and clearly outlines the type of behaviour that is unacceptable. The responsibilities of the tenant are further reinforced during the sign up process. If a tenant fails to respond to an informal approach, or if the matter is sufficiently serious, the Housing Officer should consider using the following actions to enforce the obligations of the tenancy. As breaches of the tenancy may result in the Council applying to the court for a possession order, it is important that any tenancy enforcement actions include clear and accurate reference to the relevant legislation (Grounds 2, 2A, and 3 of the 1985 Housing Act). The Housing Officer should also highlight that failure to stop the breaches could result in the tenant losing his or her home. Every effort should be made to encourage the perpetrator to stop the behaviour and where appropriate other agencies should be involved. Where the matter is becoming increasingly serious it is also good practise to advise the tenant to seek independent advice. Copies of all correspondence and a record of every contact should be kept on file.

For a possession action to be successful the Council will need to:

- Show that warnings have been given prior to legal action and the perpetrators have been given every opportunity to explain their position and to stop causing a nuisance.
- Show that housing officers have taken all reasonable steps to stop the nuisance.
- Provide substantial evidence to show that clear breach/s of the tenancy agreement have taken place. Witnesses will usually be required to attend court to give their evidence in person and will be cross-examined. Accurate diary evidence is also essential
- Show that it is reasonable for the court to make the order for possession.

Tenancy Enforcement – Written Warning

A written warning is a formal request to a tenant to stop breaching their tenancy or risk losing their home. The Housing Officer should detail the breach of the tenancy and request that the perpetrator attend an interview to discuss their view of the situation. In cases where a letter is written following a serious complaint that have yet to be investigated it is important that the letter contains the words "alleged complaint". See Writing Letters – Appendix 1

Tenancy Enforcement – Formal Verbal Warning

A formal verbal warning should be considered where the problem persists and the Council is considering applying to the court for possession. The perpetrator should be asked to attend an interview at the Council offices with the Housing Officer and line manager. The interview should be formal and minuted. The tenant should be asked to explain why the problem is still ongoing and to give their views on the situation. Depending on their response the line manager will advise the tenant as to whether the council will proceed to court. If it is not possible to determine the next step at that time the tenant should be informed as to when they can expect a decision to be reached. If appropriate the tenant should be asked to sign a written undertaking to cease the behaviour immediately. The tenant should be sent a copy of the minutes and the signed undertaking.

The following caution should be handed to the perpetrator and read out at the start of the interview:

“ This is a formal interview concerning alleged breaches of your tenancy agreement. I will be making notes during the interview which may be used in evidence should Lewes District Council decide to proceed with action against your tenancy, or any other form of legal action, now or in the future.”

The Chair of the interview should ensure that the perpetrator understands the purpose of the caution. If they have concerns they should halt the interview and seek further advice.

Tenancy Enforcement – Serve Notice of Seeking Possession

If the problem is serious and there is sufficient evidence to show that a breach of the tenancy has occurred and the Housing Officer considers that serving an NOSP is the most appropriate course of action they should present the case to their line manager. If the line manager is in agreement a meeting will be held with the legal department to discuss the case. If the legal department are satisfied that there is sufficient evidence to support an application to the court they will serve a NOSP. It is the legal department's responsibility to co-ordinate the possession proceedings. If the Council decide not to proceed to court following the service of a NOSP the NOSP will remain valid for one year. The complainant should be written to and advised that as the problem has stopped no further action will be taken and that the case is closed. They should be advised that if further problems arise they should report it immediately and resume keeping diary sheets. The perpetrator should be informed that their behaviour is being monitored. During the period that the NOSP remains valid the HO will again need to satisfy their line manager and the legal department that possession proceedings are the most appropriate option available should the breach reoccur.

Tenancy Movement – transfer/exchange

Whilst it is important to stress that our aim is to resolve incidents of anti-social behaviour, neighbour nuisance and harassment it may also be appropriate to explain that in certain circumstances a speedy resolution is not always possible. Where this is thought to be the case the option of a transfer or exchange should be discussed with the complainant. For further details please refer to the Transfer and Exchange Policy.

Tenancy Movement – offer of temporary accommodation

In serious circumstances of harassment where the complainant is felt to be at risk and it is "not reasonable for them to return to the property" they should be made an offer of temporary accommodation for the duration of the investigation. After the investigation if it is found that it is not reasonable for them to return to the property their case should be referred to Housing Needs.

Tenancy Movement – request for management points

Where a Housing Officer feels there is sufficient justification to support a transfer they should make a written representation to their line manager requesting management points. This report should include a synopsis of the background details and wherever possible should also include submissions from other agencies supporting the need to move. The Housing Officer may be required to present their request to the allocations panel.

Injunctions

Injunctions can be sought by LDC or a tenant and are made at the court's discretion. LDC will actively support tenants to take out injunctions for themselves. LDC can seek an injunction against the following persons:

- Tenants to restrain a breach of the tenancy agreement
- Freeholders and lessees to restrain a breach of nuisance to LDC property or services
- Trespassers on LDC land or anyone who damages or interferes with our property
- Other occupiers if they have entered into a legally binding agreement with the landlord about their future conduct
- Any person who is responsible for nuisance in the locality of our housing or homeless accommodation (nuisance must involve use of or threat of violence, and there must be a risk of harm)

An injunction can be used to prohibit an activity, for example to restrain a tenant from carrying out acts of nuisance, to have no contact with a victim or to stay away from an area. Injunctions can be temporary (interim or interlocutory injunction), permanent (final or substantive injunction) and in serious cases can be granted without notifying the defendant (ex parte).

In an emergency an injunction can be granted within hours. An application for an injunction can be made in possession proceedings and is advisable to prevent the continuation of serious nuisance acts whilst waiting for the possession hearing. *In some instances this may avoid the need for eviction if the injunction is sufficient to halt the nuisance.*

Should there be a real threat of violence a power of arrest can be attached to the injunction and a person reasonably suspected of breaching the injunction can be arrested and taken to court (powers in the 1996 Housing Act, yet to be brought into force, will allow the court to remand people in custody or on bail or to hospital for a psychiatric assessment).

If the Housing Officer believes that the situation is serious enough to warrant an application for an injunction and that such an approach is appropriate they should immediately speak to their line manager (a speedy response is essential if an application is to be successful). If the manager is in agreement an appointment should be made with the council's legal department to discuss the application. The legal department will determine the strength of the case and advise the manager accordingly.

When considering the use of an injunction the Housing Officer should also discuss with their line manager which other agencies it might be appropriate to involve.

Anti-Social Behaviour Orders

The Crime and Disorder Act 1998 defines anti-social behaviour as behaviour which caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as the perpetrator. An Anti-Social Behaviour Order (ASBO) is a civil order, however a breach of an ASBO is a criminal offence which carries a maximum prison sentence of 5 years. LDC can seek an ASBO from the magistrates court against anyone over 10 who has acted in an anti-social manner. The person does not need to be an LDC tenant. The ASBO lasts for a minimum of two years unless the police or the council agree to vary it. As an ASBO is a civil order hearsay evidence can be accepted which means that victim's do not have to give evidence in court.

Although ASBO's are not only granted as a last resort, it is LDC practise to ensure that all other reasonable options have previously been explored in an attempt to resolve the problem. It is necessary for LDC to call a meeting under the broad auspices of the Responsible Authority Partnership and invite representatives of appropriate agencies who may help in the process. The Council's legal department will need to be fully involved.

As the level of proof required for a civil order is "on the balance of probabilities" the Housing Officer should consider whether the actions of the individual actually caused "harassment, alarm or distress" and on the balance of probabilities can it be proved that the behaviour is still continuing.

Any consideration of this option must take full account of the Sussex Police and Lewes District Council Inter-Agency Protocol on Anti-Social Behaviour Orders (Section 1, Crime and Disorder Act 1998) – see appendix 6

Parenting Orders

The police or the council can obtain a Parenting Order from the magistrates court against a parent where an ASBO is made against a child aged 10-17, or a child convicted of an offence, if the parent is convicted of failing to secure school attendance or if a child safety order is made. Requirements can be imposed on parents for up to twelve months.

A Housing Officer interested in exploring this option further should discuss the matter with their line manager and the Council's legal department. It is unlikely that an application would be successful without the support of the police and social services therefore a multi-agency approach should be considered.

The Housing Officer may also wish to explore the use of Child Safety Orders (children under 10) and Cerfews – see reference library

Acceptable Behaviour Contracts (ABC's)

An ABC is an individual written agreement between a person and LDC which although not legally binding a breach can be sited in proceedings, for example applications for possession or Anti-Social Behaviour Orders. The person signs to agree not to carry on with certain identifiable acts which could be construed as anti-social behaviour. Although the contract has been specifically designed for person's aged 10 – 18 years, LDC has extended this age range to include any person for whom this approach is considered appropriate.

The Housing Officer should consider an ABC as a useful alternative to an ASBO where the latter is not considered justified. The ABC is drafted by the council's legal department and can be put into effect within days and at little cost. The ABC should normally be effective for up to six months and can be reviewed. The Housing Officer will need to make arrangements to monitor the ABC's effectiveness and to keep its terms under review, this can be done in collaboration with other involved agencies such as the police. The contract will be signed by the person/s on Council premises following a formal interview with a representative from the council's legal department, the Estates Manager and the Housing Officer. If appropriate a police officer should also be asked to attend. If the person is under 10, the parents, guardian or other appropriate adult could be asked to sign a parental responsibility contract thereby accepting full responsibility for the child's behaviour.

A Housing Officer interested in exploring this option further should discuss the matter with their line manager and thereafter the Council's legal department. A multi-agency approach will need to be considered.

Referral to other agencies and/or departments

In certain circumstances the Housing Officer may consider it appropriate to refer individuals or families to other agencies or departments, such as environmental health, social services or the police. Referrals can be made for a broad range of issues as diverse as requests for sound monitoring support from environmental health to lodging concerns with social services concerning the welfare of a child or requesting supporting intervention from the police. Given this the Housing Officer should carefully consider the nature and circumstances of a referral to ensure that any disclosure of personal or third party information included in a referral has regard to both common and statute law, Data Protection principles and LDC policy and procedures on exchange of information. In the majority of cases a referral is straight forward and following a discussion with the relevant party a note detailing the contact and a copy of any supporting paperwork should be placed on file.

Where there are concerns regarding child protection or vulnerable persons at risk the Housing Officer should immediately discuss the matter with their line manager. They may also wish to seek the advice of the Special Needs Housing Officer. After careful consideration of the facts the line manager will determine whether a referral is appropriate and what form of action this should take.

If a senior operational manager is not available and the Housing Officer is sufficiently concerned they should contact a duty social worker to discuss the situation. The Housing Officer should place a note on file and advise their line manager at the earliest available opportunity of any actions that have been taken – see Appendix 6 - Vulnerable Persons and Child Protection

Monitoring the situation using a Nuisance Record Sheet

Gathering and recording accurate information about nuisance incidents are crucial for successful court action. The nuisance record sheet is particularly useful in cases of persistent low level nuisance as it illustrates the ongoing nature of the problem and the effect on the perpetrator. The sheets with prepaid envelopes should be sent to the witnesses at the earliest opportunity. If the case is particularly active the sheets should be returned on a weekly basis so that the Housing Officer can monitor the situation. Serious incidents should be looked at to determine whether there has been any intervention from other agencies/departments, for example the police or environmental health. It may also be necessary to take more detailed statements from the witness. It is important that witnesses do not collaborate when filling out nuisance record sheets so the Housing Officer should stress the importance of the collection of “unique” or “individual” evidence.

The Housing Officer may consider using nuisance record sheets as a tool to monitor or review an ABC or ASBO.

Remedies against homeowners

Lewes District Council has included a restrictive covenant in freehold transfers and leases to prevent nuisance – for copies of documentation see Appendix 7

Freehold covenants are enforceable through injunctions obtained against the owner (with or without claim for damages) -see injunctions

Covenants in leases are enforceable under section 146 of the Law of Property Act 1925. The councils legal department should be asked to serve a notice on the leaseholder informing him or her of the breach. If the nuisance reoccurs another notice should be served and LDC can request that the county court order forfeiture of the lease, or grant relief (the equivalent of a suspended possession order) on condition that the terms of the covenant are met, or grant an injunction restraining any further breach.

No Further Action

The Housing Officer may decide that NFA is necessary. Where this is the case the decision should be discussed with their line manager and a note placed on file. A letter should be sent to all relevant parties outlining the basis of the decision and advising on any other relevant details, for example how to appeal the decision and what to do if the nuisance reoccurs.

TABLE OF POWERS OF LEWES DISTRICT COUNCIL AND OTHER AUTHORITIES

Problem	Agency	Remedy	Legal power or duty
Breach of an obligation of the tenancy Conduct by the tenant or visitor likely to cause nuisance or using the property for immoral or illegal purposes Causing damage to, or neglect of the property or common parts	LDC Housing Services	Application to the court for possession	Section 84 and Schedule 2 of the Housing Act 1985 as amended by Sections 144 and 147 of the Housing Act 1996
Public nuisance (affecting a section of the public)	LDC Housing Services	Restraining Injunction	Section 222 Local Gov Act 1972
Nuisance constituting a criminal offence	LDC Housing Services	Take criminal proceedings to promote or protect resident's interests	Section 222 Local Gov Act 1972
Nuisance affecting a council property	LDC Housing Services	Create and enforce management rules relating to the use of its land and buildings	Section 111 Local Gov Act 1972
Racial harassment, racially aggravated crime	LDC Housing Services Police	Criminal offence Anti-social behaviour order	Section 4 Public Order Act Sections 33 and 96 Crime and Disorder Act 1998
Anti-social behaviour (could include nuisances above)	LDC Housing Services/police	Anti-social behaviour order	Crime and Disorder Act 1998
Offensive, indecent etc telephone calls	BT, police	Criminal offence	Section 43 Telecommunications Act 1984
Malicious Letters and other articles	Police	Criminal offence	Section 11(1) Post Office Act 1953, Malicious Communications Act 1988
Abandoned and unlicensed vehicles Parking of heavy goods vehicles on verges or footways; leaving vehicles in a dangerous position; driving motor vehicles elsewhere than on roads	LDC Housing Services (council land) LDC Community Services Police	Remove and dispose of vehicles unlawfully abandoned or unlicensed Traffic offences	Section 3 Refuse Disposal (Amenity) Act 1978 Sections 19,22 and 34 Road Traffic Act 1988

Dealing with nuisance behaviour

Obstruction of the highway on council land; nuisance , harassment on the highway on council land	LDC Housing Services	Prosecute or seek a restraining injunction	Highways Act 1980
Dog nuisance on LDC land	LDC Community Warden	Council byelaws to keep dogs on leads, not to foul public areas	Section 235 Local Gov Act 1972
Dangerous dogs	Police	Crime to allow animal to endanger or injure	Dangerous Dogs Act 1991
Stray dogs	LDC Community Warden	Duty to seize and dispose if stray dogs	Section 149 Environmental Protection Act 1990
Incessant barking, dog fouling, insanitary conditions	LDC Environmental Health, Police	Abate statutory nuisance, Crime for dogs to foul public areas	Section 80, 86-87 Environmental Protection Act 1990
Noise Pollution	LDC Environmental Health	Abate statutory nuisance	Section 80 Environmental protection act 1990 Noise Act 1996
	LDC Environmental Health	Disconnect car and burglar alarms	Noise and Statutory Nuisance Act 1993
Accumulations of rubbish	LDC Environmental Health	Abate statutory nuisance	Section 34 Public Health Act 1961
Filthy or verminous premises	LDC Environmental Health	Abate statutory nuisance	Section 80 Environmental Protection Act 1990
Accumulations harbouring rats or mice	LDC Environmental Health	Remove rodents	Section 4 Prevention of Damage by Pests Act 1949
Untidy gardens whose condition affects the amenity of the area	LDC Planning	Enforce planning controls	Town and Country Planning Act 1990
Use of domestic premises for business purposes without permission	LDC Housing services	Enforce tenancy agreement	Section 84 and Schedule 2 of the Housing Act 1985 as amended by Sections 144 and 147 of the Housing Act 1996
Children not under parental control	County Council – social services department Police	Provide support; make care or supervision orders Child safety order; parenting order	Children Act 1989 Crime and Disorder Act 1998
People with mental health problems and other vulnerable persons	County Council – social services department	Arrange care and support	Mental Health Act 1985

Appendix 6

GUIDANCE NOTES

Confidentiality, Information Sharing and Storage

Please refer to correspondence section.

Fast Track Procedure

The fast track response should be used in cases that require swift and urgent action. This is most likely to be the case where there is real potential for physical harm against a person or their property. In this type of situation the need is for a responsive and flexible approach and as such the process and time targets stipulated in the procedure may prove too restrictive.

The line manager should always be informed if a fast track response is being considered.

An action plan that considers all the appropriate available options should be agreed with the line manager and where possible the complainant. The plan should stipulate actions to be taken and time targets. The line manager should regularly review the actions and the effectiveness of the plan.

The legal department should be advised at an early stage if it is likely that a legal remedy may be required.

The personal safety of all individuals is paramount and if the investigating officer has any concerns they should contact the police or other emergency services. The complainant should be kept fully apprised of any developments that may affect their personal safety or the safety of their property.

A Nuisance File should always be set up where a fast track response is used.

The appropriate monitoring forms should be completed throughout the process.

Setting up a Nuisance File

The property file is not an appropriate tool for the management of a serious or ongoing nuisance case as the information contained on file is stored chronologically with no system by which to separate it into distinct categories.

Where it is not appropriate to use the property file a nuisance file should be set up using an A4 ring binder and card index. A note should be placed on the inside of the property file stating that a Nuisance File is in operation. Headings relevant to the case should be listed on the contents page and should always include the following:

- Nuisance Details Form
- List of Contacts
- Record of Contacts
- File Notes
- Correspondence
- Minutes of Meetings
- Copy of Tenancy
- Monitoring Forms

Nuisance files should be kept in the office confidential cabinet. Once a nuisance has been resolved the papers should be transferred to the property file.

Writing an Action Plan

An action plan specifies actions and timescales that have been agreed between the Housing Officer and the complainant, and sanctioned by the line manager.

At the earliest opportunity the Housing Officer should discuss the various options available with the complainant and explain what actions may be required of them. They should also explain whether other agencies will need to be contacted and outline the process of referral. The Housing Officer and the complainant will then agree the desired course of action, identify who is responsible and agree the timescales. They will also agree how the Action Plan will be reviewed and how and when contact is next to be made. It should be explained to the complainant that the line manager will also need to agree to the plan.

The Housing Officer should ask the complainant to sign an information disclosure consent form.

The Action Plan should be written down and a copy sent to the complainant. The plan should be flexible and where possible changes should be previously agreed with the complainant. Any changes should also be agreed with the line manager.

Case Conferencing

Internal Case Conference

The purpose of an internal case conference is to:

- Share and discuss relevant information with other departments
- Clarify each departments role and legal and financial responsibilities
- Consider the involvement of other external agencies
- Agree a course of action

With the agreement of their line manager the Housing Officer should convene and chair the meeting. Attendance at the meeting should be discussed and agreed with the line manager. If appropriate the complainant and/or the alleged perpetrator may be invited to attend parts of the meeting. Minutes should be taken and circulated to all participants and copied to the Housing Operations Manager. A date for the next meeting should be included in the minutes. The Housing Officer should ensure that the meeting is conducted in accordance to the department's policy on confidentiality, information sharing and storage.

External case Conference

The purpose of an external case conference is to:

- Share and discuss relevant information and concerns with other agencies
- Clarify each organisations role and legal and financial responsibilities
- Consider the involvement of other agencies
- Agree a course of action

A senior manager should convene and chair the meeting and should ensure that the meeting is conducted in accordance with the department's policy on confidentiality, information sharing and storage and any other relevant protocol. Minutes should be taken and circulated to all participants and copied to the Housing Operations Manager. A date for the next meeting should be included in the minutes.

Interviewing the complainant

The Housing Officer should first determine the most appropriate setting for the interview, for example the complainants home or in the office. If the meeting is to be held in the office an interview room should be booked. The Housing Officer should arrange for translation or other support services if required.

The Housing Officer should use the Nuisance Details Form to structure the interview. They should begin by outlining LDC's procedure and what will be expected of the complainant. If a completed Nuisance Details Form has already been received, the Housing Officer should check through the details with the complainant. Additional information should be carefully recorded and attached to the form. If a form has not been completed the Housing Officer should assist the complainant in completing the form. The Housing Officer should be sensitive to the fact that some people have issues with literacy.

It is important to ascertain the type of behaviour that is being complained of, for example is it a dispute between two neighbours or anti-social behaviour. Generally disputes are caused by an accidental action which is then exacerbated by both parties, whereas anti-social behaviour usually involves deliberate continuous actions with more than one party affected.

During the interview the Housing Officer should:

- Be objective
- Take careful notes
- Probe to determine consistency
- Try to establish whether there is an underlying reason for the complaint, for example a dispute between families, discrimination, the wish to transfer
- Ask the complainant what action they would like LDC to take
- Be honest and realistic as to the extent of the action LDC can take, the timescales involved and what will be expected of the complainant
- Explain that the information will be disclosed to the person/s complained about and they may guess who has complained.
- Inform the complainant if another agency or organisation needs to be involved
- On the basis of the information advise the complainant of the next course of action
- If appropriate advise the complainant on agencies that can offer independent support or advice

Some useful questions to ask:

- What is the problem?
- Who is affected?
- Where does it happen?
- When does it happen?
- Why does it happen?
- What action would you like to see taken?

Interviewing the alleged perpetrator

The Housing Officer should first determine the most appropriate setting for the interview, for example the alleged perpetrators home or in the office. If the meeting is to be held in the office an interview room should be booked. If there is potential for risk or if the complaint is sufficiently serious a senior manager should also attend. The Housing Officer should arrange for translation or other support services if required.

The purpose of the interview is to inform the alleged perpetrator of the complaint that has been made against them, to draw to their attention the conditions of their tenancy and the potential consequences of their actions, and reinforce LDC's proactive stance on tackling nuisance. The interview should be presented as a positive opportunity for the alleged perpetrator to offer their perspective on the allegations and if appropriate for them to suggest ways in which to resolve the situation. The primary objective is to prevent further complaints arising.

If the matter is sufficiently serious or at the start of a “formal verbal warning” interview the following caution should be handed to the alleged perpetrator and read out loud:

“ This is a formal interview concerning alleged breaches of your tenancy agreement. I will be making notes during the interview which may be used in evidence should Lewes District Council decide to proceed with legal action, now or in the future.”

The Housing Officer should ensure that the alleged perpetrator understands the purpose of the caution. If they have concerns they should halt the interview and seek guidance from their line manager.

During the interview the Housing Officer should:

- Be objective
- Outline the allegations giving dates and times where possible
- Take comprehensive and accurate notes of responses
- Probe to determine that responses are consistent
- Try to establish whether there is an underlying reason for the allegations
- Inform the alleged perpetrator if other agencies have or will be contacted
- On the basis of the evidence advise the alleged perpetrator of the next course of action
- Reinforce the conditions of the tenancy

If appropriate offer advice on agencies that can offer independent legal advice or support

Possible outcomes:

- *Person denies the nuisance* – if there is no evidence or supporting witnesses to prove otherwise, the alleged perpetrator should be advised of the need to comply with the conditions of their tenancy. They should also be advised of the action that would be taken if the nuisance were to continue. A letter should be sent to the tenant outlining the complaint and their response, it should also state that LDC will continue to monitor the situation. Where there is sufficient evidence to support the allegations, the alleged perpetrator should be informed as to what action LDC will take. This will depend on the type and seriousness of the nuisance. A letter should be sent to the perpetrator outlining the complaint, the response and the actions LDC will be taking. It should include reference to the tenancy agreement and any relevant legislation. The alleged perpetrator should be advised of the consequences of their actions should the nuisance continue. Copies of all letters should be placed on file.
- *Person accepts the allegations* – the perpetrator should be informed that they are in breach of their tenancy and advised of the action LDC propose to take. The perpetrator should be asked to sign an undertaking to stop the behaviour immediately and if appropriate asked to make restitution. They should be advised of the consequences of their actions if the nuisance continues. A letter should be sent to the perpetrator outlining the complaint, the response and the actions LDC will be taking. It should include reference to the tenancy agreement and any relevant legislation. A copy of the signed undertaking should be attached.
- *Counter allegations are made* – counter allegations are often raised in cases of neighbour disputes or where a nuisance situation has escalated over a period of time. Counter allegations should be investigated as and taken account of when considering what action to take. It may also be necessary to gather evidence from other individuals to support either parties claim. If there is no evidence to support either claim the Housing officer should recommend to the line manager that the case be closed. Both parties should be advised of the outcome in writing and if appropriate offered mediation.

Interviewing persons who witness nuisance behaviour

For the purposes of this section a witness is a person in addition to the complainant or perpetrator and the same guidance as for interviewing the complainant.

Interviewing witnesses for legal proceedings

For the purposes of legal proceedings the term witness applies to both the complainant and the person who witnessed the nuisance behaviour (Lewes District Council is the claimant)

Gathering and recording accurate information and encouraging witnesses to give evidence are crucial for a successful court action. Once a decision has been reached to proceed to court the council's legal team will contact the witnesses to meet with them and prepare their statements. Other supporting evidence such as Nuisance Record Sheets, photographs, file notes and correspondence from other agencies will be attached as appropriate.

Using professional witnesses

Victims of nuisance behaviour may be reluctant to give evidence for fear of reprisals. The Housing Act 1996 and the Crime and Disorder Act 1998 has facilitated the use of professional witnesses who can observe and record incidents and give evidence in court. These professional witnesses can give evidence of conduct they have observed without tenants having to give evidence of experiencing the nuisance. This role can be performed by LDC staff, persons engaged by the landlord for this specific purpose or police officers. However, although the law enables professional witnesses to be used, a judge is more likely to favour evidence directly from the victims.

Support and protection for witnesses

To be advised - links to be made with Victim Support

Collecting and collating evidence

To be advised

Vulnerable Persons and Child Protection

Where the Housing Officer suspects there are issues of child protection or that vulnerable persons are involved in the complaint they should immediately discuss the matter with their line manager. They should also consider seeking the advice of the Special Needs Housing Officer.

Where abuse is suspected the Housing Officer should discuss the matter with their line manager prior to contacting the relevant social services department and reporting their suspicions. A note of the conversation should be placed on file and followed up with a letter.

Where the matter is felt to be sufficiently serious the line manager may contact the social services and/or the police to request that a planning meeting be held under the Adult Protection or Child Protection Guidelines.

If a senior operational manager is not available and the Housing Officer is sufficiently concerned they should contact a duty social worker to discuss the situation. The Housing Officer should place a note on file and advise their line manager at the earliest available opportunity of any actions that have been taken

Where the Housing Officer considers that a vulnerable person would benefit from the support or intervention of another agency they should contact the agency and make a referral. A note of the conversation should be placed on file and followed up with a letter.

Nuisance caused by children

In many cases the tenant can be held responsible for the behaviour of their child/ren, additionally there are actions that can be taken against the child – see Legal & Management options

Anonymous Complaints

The Housing Officer should investigate the complaint to ascertain whether there are any grounds to take action. No further action should be taken unless additional evidence is found to support the complaint. Actions should be noted and placed on file and the F1 monitoring Form should be completed.

One off incidents

There is little action that can be taken with regard to one off incidents, such as a noisy party, although the Housing Officer may choose to send the perpetrator a letter outlining their responsibilities with regard to their tenancy agreement and request that the nuisance behaviour is not repeated. The Housing Officer should complete monitoring form F1.

Abandoned and unlicensed Vehicles on LDC land

Do not deal with this nuisance under this procedure please refer to abandoned and unlicensed vehicles policy.

Nuisance caused by dogs

LDC has no policy on keeping dogs in properties let under general needs. Supported Housing do not allow dogs in their properties. Where a dog is causing nuisance, for example persistently fouling in a communal area, the Housing Officer should take action under Ground 1 (*Rent arrears or other breach of tenancy*) and Ground 2 (Nuisance) of the Housing Act 1985. The Housing Officer should contact the Community Warden or the police if the complaint involves a dangerous dog. LDC can order the destruction of a dangerous dog if there is sufficient evidence. For more specific guidance please refer to the Dangerous Dogs/General Dog Issues procedural note – Appendix 11

Appendix 9

GROUNDS FOR POSSESSION THAT RELATE TO NUISANCE

The following grounds are found in the Housing Act 1985, as amended, Schedule 2 - "Grounds for Possession of Dwelling-Houses let under Secure Tenancies

Ground 1: Rent arrears or other breach of tenancy

Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed

Ground 2: Nuisance

The tenant or person residing in or visiting the dwelling-house:

- (a) Has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or*
- (b) has been convicted of-*

- i. using the dwelling-house or allowing it to be used for immoral or illegal purposes*

or

- ii. an arrestable offence committed in, or in the locality of, the dwelling-house*

Ground 2A: Domestic Violence

The dwelling- house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and –

- (a) one or both of the partners is a tenant of the dwelling house'*
- (b) one partner has left because of domestic violence or threats of violence by the other towards-*

- i. that partner; or*

- ii. a member of the family of that partner left, and*

- (c) the court is satisfied that the partner who has left is unlikely to return*

Ground 3: Waste and Neglect

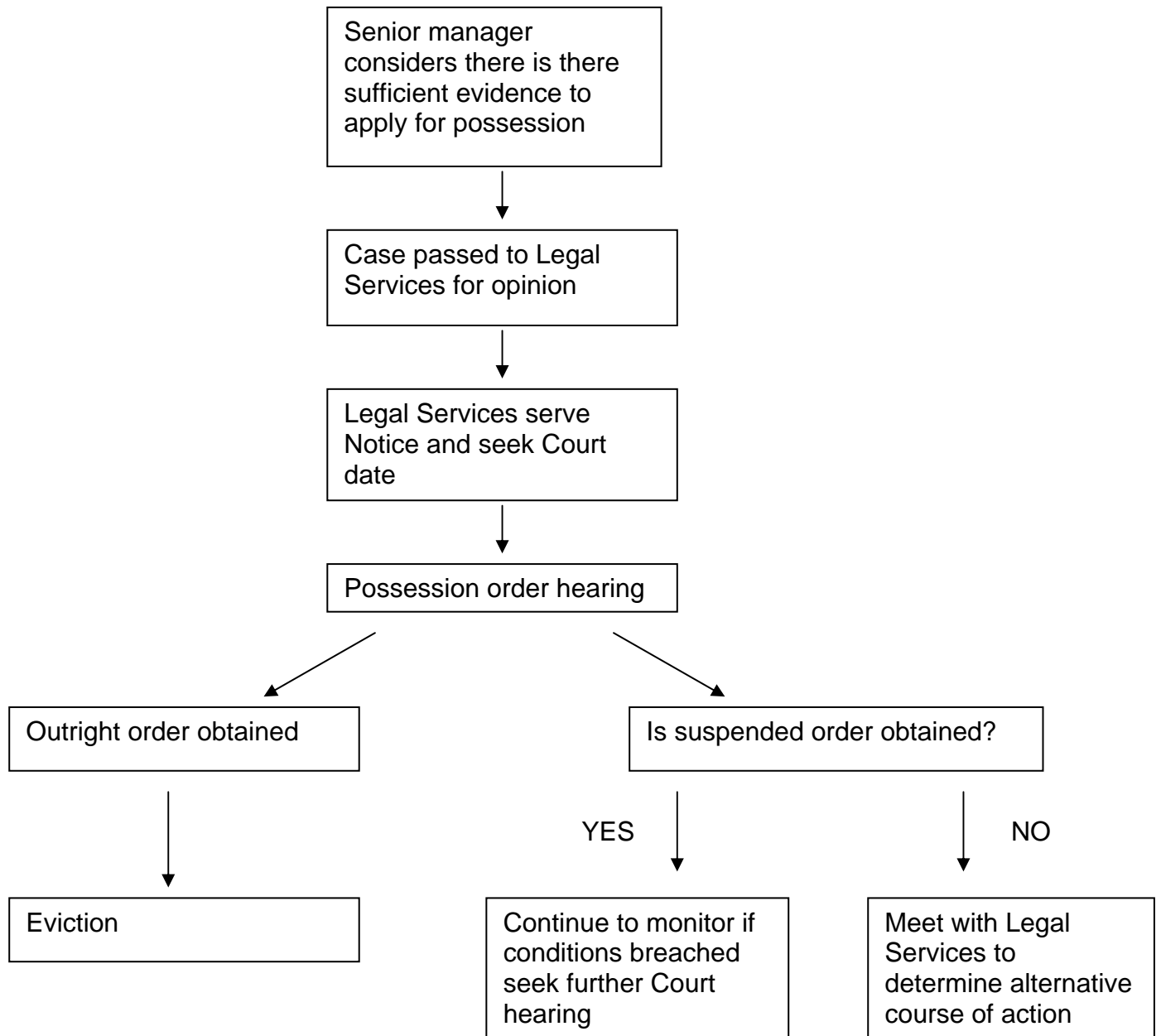
The condition of the dwelling-house or any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or a person residing in the dwelling-house and, in the case of the act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his the tenant has not taken such steps as he ought reasonably to have taken for the removal of the tenant or sub-tenant.

Ground 4: Damage to furniture

The condition of the furniture provided by the landlord for use under the tenancy, or for use in the common parts, has deteriorated owing to ill treatment by the tenant or a person residing in the dwelling-house and, in the case of ill treatment by a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

Appendix 7

Flow Chart -The legal process for possession



Appendix 8

Appeals Procedure

To appeal a decision the person should first contact the officer dealing with the matter and explain why they are not satisfied. The officer will discuss the appeal with their manager and inform the person in writing of the outcome. If the person is still not satisfied they should write to the manager outlining their grievance. If the person still considers the matter unresolved after the manager has investigated their grievance they should be referred to Council's Complaints Procedure. The complaint should be directed to the Housing Operations Manager.