

Date Tuesday, 28 April 2009

Your reference FOI Request: Noise pollution & anti social behaviour by council tenants

Our reference RFI/04271 Gardner

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Mr George Gardner
request-10185-419c295@x

Dear Mr Gardner

FREEDOM OF INFORMATION ACT 2000 – Noise pollution & anti social behaviour by council tenants

Thank you for your request for information received on 04 April 2009. Your request has now been considered.

You requested information on

i) The Council policy on dealing with council tenants who cause noise disturbance and anti social behaviour on council property towards either other council tenants and/or members of the public.

Please find the requested information attached.

ii) The number of successful prosecutions that the council has taken against such persons identified in question i) above during 2008

A list of the ASB and related Housing legislation that has been used successfully in relation to nuisance behaviour and ASB by people living in Camden during 2008 is:

- Number of ASB Related Notices of Seeking Possession (NOSPs) Issued – 22
- Number of Demoted Tenancies – 2 (note power was only introduced in October 2007).
- Number of ASB Injunctions – 6
- Number of ASB related evictions – 6
- Number of Crack House Closures – 8
- Number of Premises Closure Orders – 1 (note power was only introduced in December 2008).

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If you are still not satisfied following the Internal Review, you have a right to appeal to the Information Commissioner. He can be contacted at:



Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF
Telephone: 01625 545 700
www.informationcommissioner.gov.uk

Yours sincerely

Peter Williams
Freedom of Information & Data Protection Officer
Monday, Tuesday, Thursday & Friday
Housing Complaints Team

Nuisance Guidelines

April 2005



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GENERAL INTRODUCTION

The council is committed to tackling anti-social behaviour. We aim to deal with all forms of nuisance quickly, sensitively and effectively.

The emphasis of our work is to try and prevent activities that cause nuisance however, where it does occur we use a variety of methods and support agencies to assist us working with the perpetrators and complainants to solve the problem. Our overall aim is to reduce the need for legal action by offering support services when necessary and mediation services in all appropriate cases. But where very serious or persistent nuisance exists the Council will take injunctive action immediately to stop the nuisance.

There will be cases where legal action is required, as all the informal remedies have failed. These guidance notes aim to provide brief, clear procedural guidance to officers dealing with cases day to day. It also will provide background information, attached in the appendices on the various forms of nuisance, which will provide the additional support officers may require in complex cases. This document should be read and considered alongside the harassment procedures, in some cases the work may overlap and it is important for the borough and the complainants that we provide a consistent service.

This guidance note will cover:

- Noise
- Filthy or verminous premises
- Pests (Pigeons etc)
- Pets
- Disputes over gardens
- Vandalism/Graffiti/Youths
- Vehicles
- Crack House Closure

This is not an exhaustive guide to all forms of nuisance and the remedies. The legislation in this area changes fast, and policies and procedures do likewise. The Anti-Social Behaviour Group web-site has numerous links to associated items, and the Report of the Anti-Social Behaviour Scrutiny Panel (2004) is a very useful document in outlining Camden's overall strategy.

A selection of forms, standard letter and background information on the above topics are contained in the attached appendices. This document can also be accessed on the Intranet and on the ASBAG shared drive in the Nuisance folder. Quick links to other policies, procedures and websites will be included.

NOISE NUISANCE - INTRODUCTION

WHO SHOULD INVESTIGATE THE COMPLAINT AT THE FIRST STAGE?

- Tenant complaining about another tenant or tenanted property the investigation will be lead by Housing.
- Tenant complaining about noise coming from unknown perpetrators the investigation will be lead by Housing.
- If a tenant is complaining about a leaseholder it should be investigated, in the first instance by housing but may require a referral to the Environmental Health Team (EHT) for further investigation and action. [See 1. Leaseholders for further information.](#)
- If a leaseholder is complaining about tenant the investigation will be lead, initially at least by Housing.
- If a leaseholder is complaining about another leaseholder the investigation will be lead initially by Housing.

OPENING, INVESTIGATING AND CLOSING CASES

Estate Officers will get reports of noise nuisance from a variety of sources; a tenant, notification from a caretaker, notification from Weekend Noise Patrol or from some other independent source. The most important thing to do is to act quickly, follow an investigation/action plan, and explain clearly all the informal and formal remedies available to both parties if possible. The overall aim is to minimise the legal action required, however it is important to clearly explain what action can and will be taken in appropriate cases.

The emphasis of this guide is to prompt officers to the next stage of an investigation and to encourage the tight management of all cases, providing a clear framework to OPEN, INVESTIGATE and CLOSE cases.

CONFIDENTIALITY

Confidentiality must be safeguarded at all times; particular care will be required as both the complainant and an alleged perpetrator will normally be in contact with the same housing office. In general no details should be passed to either party without permission and all information should be considered beforehand to ensure that it is relevant to the case. If officers are in any doubt about whether they can disclose information, they should consult the Area Manager.

PERMISSION TO INFORM THE ALLEGED PERPETRATOR

At the initial interview explain that if the complainant does not authorise us to contact the alleged perpetrator about the incidences of noise, it may prove impossible to pursue. However, all of the above should be done and if checks reveal that others (council officers or other tenants) have reported noise, the complaint can be pursued.

In specific, exceptional cases, approved by the Area Manager or ASBAG Co-ordinator, perpetrators may be approached without the complainant's consent – these are more likely to be cases where the noise nuisance has become a question of serious anti-social behaviour and there is a possible threat to the safety of residents or council officers. Ensure, in these cases that the original complainant is told that this is the course of the investigation.

The council may consider the use of independent witnesses or even in some cases, usually serious harassment cases the use of surveillance equipment
[See 2. Surveillance](#)

CHECKLIST FOR INTERVIEW WITH COMPLAINANT

- Check the file/computer records of the complainant for any relevant history
- Is the complainant vulnerable in any way – [See 3 Vulnerability](#)
- Do they speak English as their first language – do they require an interpreter – [See 4 Interpretation Services](#)
- Encourage the tenant to put their complaint in writing, but do not insist on the complaint in writing before proceeding
- Is it the first report of noise nuisance in the area?
- Check the file/computer records of the alleged perpetrator for any relevant history – is the perpetrator vulnerable in any way?

- Listen to the complainant, offer to pop round and witness the noise if the complainant is agreeable. (Care should be taken to risk assess the situation first for personal safety)
- What outcomes is the complainant seeking? Discuss what the possible outcomes are, actively promote where appropriate the mediation service – [See 5 Camden Mediation Service](#)
- Explain that if the nature of the complaint is low level domestic noise, which is more due to the structure of the building than unreasonableness of the alleged perpetrator, that the council will be unable to take action and that possibly the best way forward is with mediation services and any other relevant support agencies. Again, in these cases offer to go round to the property with a colleague to hear the noise or do a test, to ensure that the noise is reasonable domestic noise. Confirm the results of any tests to all parties in writing.
- Is the complainant happy for the council to contact the alleged perpetrator?
- Fill in a Noise Incident Form (NIF) – [See 6 Noise Incident Form](#) All new cases should be logged on I-World, reviewed and updated regularly, and closed as soon as practicably possible.
- Make sure that full and accurate notes are taken of any interviews and telephone calls. These should be kept on the complainants and perpetrators files, but care must be taken at all times when storing information. Refer to the Housing Procedure Manual 11.03 Access to Personal Files, and in any doubt speak to Legal or the Data Protection Officer.
- Give the complainant diary sheets and information leaflets and advise about reducing noise – [See 7 Noise Diary Sheets](#)

CHECKLIST FOR INTERVIEW WITH ALLEGED PERPETRATOR

- Don't forget to check if English is the alleged perpetrators language and if not offer to provide an interpreter and wherever possible send leaflets in relevant language.
- If complainant authorises contact with alleged perpetrator, write to alleged perpetrator within 2 working days explaining the allegation and inviting them into office to discuss it further. Include information leaflets and advice about reducing noise, mediation services and any other relevant support agencies.
- Having already checked for any risk assessments on I-World or with another section, and the files/caution list /vulnerability lists kept by the District Office, it may be advisable to interview the alleged perpetrator with another officer or invite a relevant support officer who is already working with the tenant. In some cases the Police may need to be informed.

- Explain the allegations making sure not too reveal the name/address of complainant – this may be difficult sometimes due to the nature of the complaint (e.g. noise from upstairs) however, if the complaint is to be pursued in such cases the complainant will have to be prepared to be identified.
- Give full opportunity for the alleged perpetrator to respond – make full notes, if there are two officers present, one should take the notes.
- Explain that an investigation will take place and what the possible outcomes are. Wherever possible promote the Mediation Service.

INVESTIGATION PLAN

- In most cases the Estate Officer will have to initiate the investigation by carrying out the following basic steps:
- Following the interviews confirm in writing (within 2 working days if possible) to the complainant the notes from your initial meeting, confirming what action has agreed and the date you have agreed to either meet or have contact again to review the situation. Make sure that this is done even if the meeting with the alleged perpetrator does not happen because they refuse to attend.
- Liaise with the caretaker, patch manager, Weekend Noise Patrol and Housing Patrol and the police (Ward Officer): to ask if they are aware of any noise related problems in the vicinity of the complaint. Ask them to monitor in the course of their duties and inform the office if further incidents occur.
- The Estate Officer needs to take a view on the kind of noise nuisance being complained about; e.g. domestic noise – [See 8 Sound Insulation and the Environmental Protection Act 1990](#)
- Does the noise constitute “a Statutory nuisance” – [See 9 Statutory Nuisance](#)
- Serious and deliberate noise – referrals to Environmental Health should be a last resort, and all efforts need to be made to resolve the problem at a local level. Imaginative solutions may need to be considered, such as referring a tenant to the Welfare Rights Officer to see if they might qualify for a loan or a grant to buy carpets, or certain repairs or improvements may need to be considered – [See 10 Service Level Agreement with Environment](#)
- Contact support agencies if relevant.
- Diarise next meeting or review date with the complainant.
- Complex cases should be formally reviewed with Area Managers monthly or at supervision sessions, whichever are more frequent. Liaison with Legal services should be discussed at these meetings.

- Where Police have information that will assist in conflict resolution or Court action, formal requests for disclosure should be made in writing. If information is not forthcoming in a reasonable time scale raise the issue with the local Police Inspector.

CASE CLOSURE

- It is not possible to predict how long a noise nuisance case will last, however, if after monitoring the situation regularly for 3 months, either no evidence is forthcoming or there have not been any further incidences the case should be closed. [See 11 Case Closure](#)
- The complainant should be visited to explain the decision and that the case will be re-opened if any further incidences occur in the future. The Estate Officer should offer the complainant the opportunity to appeal against this decision to the Area Manager – this would not constitute part of the complaints procedure. If the complainant is unhappy with the decision of the Area Manager an appeal should then be made to the District Manager. Great care must be taken when reaching decisions and all areas of any complaints should be addressed.
- In cases where the Council does not consider there are adequate grounds or evidence to take action the complainant should be advised, in writing, of their right to take independent action against the alleged perpetrator, in certain circumstances, under section 82 of the Environment Protection Act 1990. [See 12 Section 82: EPA 1990](#)

COUNTER ALLEGATIONS

One of the most common problems with noise nuisance cases is that the alleged perpetrator makes a counter allegation and the case can become bogged down and drift with no clear focus. These are exactly the kind of cases that may be suitable for mediation – indeed the only possible positive outcome is a negotiated agreement or understanding between the tenants.

However, some tenants may refuse mediation, in these cases, the Estate Officer should follow the same procedure for the counter allegation. In order to prove the problem one way or another may require independent witnesses and or hard evidence such as tapes of the nuisance. Close monitoring of these cases is advised and officers should consider the possible other issues, such as harassment, vexatious complaints etc.

The Estate Officer will need to make an assessment of the nature of the problem following the initial interview with the complainant and alleged perpetrator and consider the following options:

INFORMAL REMEDIES

- One off or a couple of isolated incidents/noise from a birthday party etc, following notification from the DHO in the form of a letter or interview, the perpetrator agrees to stop making the noise.
- If the noise complained about is as a result of reasonable domestic life, provide advice to the perpetrator to help reduce the noise and look to see if any other reasonable measures can be taken.
- If agreement has been reached between complainant and perpetrator either following your interviews or a referral to the Mediation Service - close the case (including on I-World), making sure the notes on both files are updated.
- In certain circumstances the perpetrator may agree to sign an Acceptable Behaviour Agreement (ABA). In these cases a copy should be sent to Ann Bell in ASBAG and the Police (if appropriate). Any ABA should be carefully worded, subject to review and achievable. For young people [See 15 Anti-Social behaviour Orders](#).

FORMAL REMEDIES

To successfully pursue any kind of formal action against an alleged perpetrator, consistent, well-recorded evidence will be required. [See 13 Gathering Evidence](#)

- Formal action can be in the form of action against a tenant for breaking conditions in the tenancy agreement; the consequences of this kind of action should be an injunction, for further advice see – [14 Injunctions and Undertakings](#)
- Possession proceedings could be considered in serious cases, it is possible that these cases will have become cases of harassment and the Council will consider serving an anti-social behaviour order – [See the Harassment Procedure for advice on serving anti-social behaviour orders 5.Entire Harassment Procedure \(.pdf updated March 2002\)](#)
- Courts are more likely to grant injunctions, undertakings or an anti-social behaviour order to deal with the nuisance than to grant possession of the property in the first instance.
- Or action taken under the Environmental Health Act (EPA)1990 i.e. serving of abatement notices and or seizures of equipment. This is appropriate if the noise nuisance is very serious, persistent or the perpetrator is not a council tenant. Where Environmental Health have already taken action, the Estate Officer should consider taking further action where appropriate.

The tenancy related action will be taken by the Housing Department and managed by the Estate Officer and Area Manager, the action under the EPA will be taken by the Environmental Health Team, in these cases, following a referral and joint work with Estate Officers.

REFERRAL TO ENVIRONMENTAL HEALTH TEAM

Officers should consider a referral to the Environment department if the nuisance reported is serious and/ or ongoing. The Estate Officer will have initiated the investigation, interviewed the complainant and if possible the alleged perpetrator, given the complainant the noise diary, and offered to visit the complainant in their home to witness the noise and/or carried out sound tests. If it is clear that the problem is purely down to poor sound-proofing no referral should be made to Environmental Health. If in any doubt, speak to the appropriate officer in Environmental Health before referring.

If following an investigation as described above, the complainant continues to allege nuisance a referral to Environmental Health Department (EHD) - [see 10 Service Level Agreement](#) for criteria for the referral.



1 LEASEHOLDERS

LEASEHOLDERS

The Housing Department can take action on behalf of other residents against leaseholders, because the council still retains an interest in the property.

Generally the ultimate action available is injunctions, ASBO, action under the EPA 1990, or action under the public health act 1936.

In most extreme cases of nuisance it is possible to seek forfeiture of the lease without compensation, but seek Legal advice early in these cases. The court will require compelling evidence to turn people out of their home for which they have paid a sum of money.

All council leaseholders are bound by the terms of the lease and includes

- Not to use the premises for any illegal or immoral purposes
- Not to do or permit to be done upon or in connection with the flat or the building anything which shall be or tend to be a nuisance annoyance or cause of damage to the landlord or its tenants or any of them or to any neighbouring or adjacent property or owner/occupiers
- To keep the floors of the flat including the passage thereof substantially covered with carpets except in the kitchen and bathroom, a cork or rubber covering or other suitable material for avoiding the transmission of noise may be used instead of carpets

Injunctions, undertakings and ASBO's are probably the best source of action, although in certain situations the threat of letters with forfeiture may stop the nuisance.

Where a leaseholder has sublet a flat and the tenant is causing anti social behaviour in some serious cases it might be appropriate to approach the mortgage lender, (who have an interest in the property)

Leasehold Management will be able to advise who the mortgage lender is or a land charge will reveal the lender.

If the nuisance is noise and cannot be solved by alternative methods and interviews then the case can be referred to EHT to take action under the EPA 1990.

The risk of forfeiture should not be seen as a reason to "put off" action in very serious cases.

RIGHT TO BUY APPLICATIONS

Where the tenant(s) are pursuing their right to buy application, they lose this right to buy, if a full possession order has been granted or a suspended possession order has been breached. If the tenant(s) are in the process of buying their property under the Right to Buy, we can serve a NOSP for nuisance and proceed with the court proceedings up until the point of completion. It will be up to the judge to decide whether to accept our application or grant the tenant their Right To Buy.

2 SURVEILLANCE (RIPA)

RIPA (REGULATION OF INVESTIGATOR POWERS ACT 2000)

The RIPA came into force in 2000 to address human rights issues due to the increase in 'communication technology'. The rights and freedom set down in the European Convention on Human rights became incorporated into RIPA.

The RIPA 2000 requires all covert surveillance to be authorised before commencing.

- Directed surveillance is - covert surveillance undertaken by a person or a recording device off the premises (not inside the premises) of the person causing the nuisance. So for example an investigating officer listening to noise nuisance from inside the premises of the complainant. Or a listening device placed inside of the complainants flat would be direct surveillance.
- Covert surveillance carried out inside the premises of a person. So for example in noise cases it would be an investigating officer listening to the noise nuisance from inside the alleged perpetrators flat, without their knowledge. This type of surveillance is not allowed by local authorities, and if the court finds out the evidence would be inadmissible

So for example when investigating noise nuisance we may use direct surveillance,

- Using mobile patrol officers to witness nuisance
- Using noise monitoring equipment
- EHO witnessing from complainants premises
- Housing officers/caretakers flat sittings etc.

It was not the intention of parliament that every time a mobile patrol officer attends a routine call out for Noise nuisance RIPA authorisation is required. However, there has been a debate in the environmental health arena about this. There is legal thinking that suggests that one can get around the problem of authorisation by being overtly covert. So suppose you tell the alleged perpetrator that surveillance will be taking place and how, but don't tell them when.

If, when we receive a complaint about noise nuisance, we write to the alleged perpetrator and mention in the initial warning letter that if the nuisance continues we may investigate the case further and this may involve installation of noise monitoring equipment in the complainants property or other method of monitoring such as by mobile patrol that can be carried out at any time of the day or night, RIPA may not be necessary.

Then the alleged perpetrator cannot complain that the surveillance was covert, since not only do they know it will be taking place they also know how. All they do not know is when. Therefore this will remove the need for authorisation. However this has not been tested in courts yet.

What is important is we all follow the procedure for RIPA authorisation and that is when ever we are carrying out surveillance such as

- Flat sitting,
- Special surveillance by mobile patrol
- Use of Covert CCTV
- Using professional witnesses. We should always seek RIPA authorisation beforehand.

It is unlikely that RIPA authorisation will be required for a routine callout of mobile patrol officers or a complainant contacting the EO to witness a noise nuisance immediately. However if the EO's are planning to carry out a flat sitting where a proposed date has been scheduled or are asking mobile patrol to carry out surveillance, they should always seek RIPA authorisation beforehand. The same applies for using 'Professional Witnesses'.

If the EO's are unsure check with ASBAG and if still in doubt, then it is best practice to seek RIPA authorisation before commencing the surveillance.

THE RIPA AUTHORISATION

- The form has to be forwarded to ASBAG, who will forward the form to Ian Walker who is the RIPA authorisation officer for Housing Management Section
- A written authorisation will last for 3 months
- A verbal authorisation is only valid for 72 hours
- If surveillance is no longer necessary to gather the evidence the authorisation form should be cancelled by the authorising officer.
- The cancellation form must be placed on the investigating file and a copy sent to audit manager.
- There may be circumstances where the investigating officers require the surveillance to be more then 3 months. In such circumstances, a renewal form must be submitted to the authorising officer.

What is important is that all surveillance is appropriately authorised in accordance with the procedure, since all investigations that involve surveillance are open to scrutiny by the Office of Surveillance Commissioners, who will highlight inconsistency and bad practice.

The RIPA forms can be obtained from ASBAG

3 DEALING WITH VULNERABLE TENANTS

Complaints of nuisance may be received about or from tenants who are vulnerable, for example having mental health problems, learning difficulties, alcohol/drug related problems or young people leaving care. Officers should always refer to “start to finish forms on tenancy files where they exist, or risk assessments on I-World and the Caution list.

While it is important to have regard to this in considering what action to take, it is not sufficient to dismiss action against a tenant just because they have such a problem.

When considering appropriate remedies vulnerability is a priority. The Social Services Department consider potential vulnerable people as those with mental health problems, depression, eccentric behaviour, people with alcohol or drug dependency, young people leaving care or children at risk.

LIAISON WITH SUPPORT AGENCIES

Close liaison should be established with any agencies currently working with the tenant to ensure all options are explored. This may include statutory agencies such as Community Psychiatric Nurse, or voluntary agencies such as Alcohol Recovery Project.

One of the most important elements in preventing nuisance from vulnerable tenants is to ensure that the various agencies are involved in providing services and support, work effectively together and take joint responsibility for the client.

Early interventions with the relevant agencies will often help to resolve the matter before it gets out of hand.

The EO should make it clear to any agencies involved that if no intervention is made to resolve the nuisance, then legal action will be considered.

Keep accurate records of contact workers such as social workers in both the files and on computer.

If the EO suspects a complaint of nuisance is as a result of vulnerability, the EO should be able to identify what services a tenant is linked to. Once this is established the EO should liaise with the relevant agencies to ensure they are actively involved in resolving the matter.

If there are no support services providing support to the perpetrator the EO should liaise with appropriate agencies to ensure that adequate support is provided to the perpetrator that might enable the tenant to remain in the accommodation. A list of the main support agencies is shown in the next section.

INTERVIEWING VULNERABLE TENANTS

Any interviews with the perpetrator or the vulnerable complainant should be conducted with their support worker present – or under their guidance. If there is no support involved, referrals; should be discussed, if appropriate, during the interview. Agreement should be sought from the vulnerable person to the referral.

KEEP CONFIDENTIALITY

Officers should take great care not to disclose sensitive or confidential information. If officers are in any doubt, they should consult with the Area Manager.

CONTACTING SOCIAL SERVICES

When contacting social services the issue of confidentiality may need to be overcome. The EO and Social workers/support workers need to work together and this includes the disclosure of relevant information. Social Services should be involved as early as possible and joint working between the Social Services and EO are essential to avoid clashes of interests.

The Social Services department have a duty under the NHS and Community Care Act 1990 to assess the needs of vulnerable adults and based on this assessment can provide; advice and social work support or information regarding other relevant agencies.

Social Services have powers under the Mental Health Act to compulsorily remove people from their homes if it is considered that the resident is a danger to themselves or others. Such powers do not terminate the tenancy and removal from property is likely to be a temporary measure with the right to return to the tenancy.

LEGAL ACTION AGAINST VULNERABLE TENANTS

If any legal action is proposed against a vulnerable tenant the vulnerability panel must be referred to for advice and a referral should be made to social services or tenancy support for an assessment to be carried out.

TENANTS WITH MENTAL HEALTH PROBLEMS

If legal action is proposed against tenants who have a mental illness, the courts will need to be satisfied that the person is capable of conducting their own affairs. If the person is unable to conduct his or her own affairs then a litigation friend needs to be appointed. It is vital that Legal advice is sought before proceeding further.

INFORMAL ACTION –INVOLVING OTHER AGENCIES

A large number of nuisance cases involve tenants with community care needs. There may already be support systems in operation, such as family, friends, home carer, social worker, G.P., health workers, neighbours, etc. The tenancy file should be checked to identify these. In such cases the preferred action is to provide as much of a supportive role as possible. It is acknowledged that this may take a little longer than simply initiating legal proceedings. However, this must not give rise to any allegation of unreasonable delay being substantiated, where the nuisance is serious and there is a clear need to protect the neighbours.

Sometimes the person causing the nuisance may suffer from illness or vulnerability that is causing nuisance to others. In other cases the complainant may be suffering from mental illness that may be causing them to make fictitious complaints or exaggerated complaints against their neighbours.

In such cases, it may be appropriate to involve other agencies in order to tackle the incidents of nuisance. Consider a referral where the agency is then able to take action or, more usually, where multi-agency work can jointly bring about a solution.

A comprehensive list of services available in Camden can be found on the Cindex database (<http://cindex.camden.gov.uk/cgi/Search.cgi>.)

THE TENANCY SUPPORT TEAM

There are two Tenancy Support Team, North and South Team, providing help to single council tenants who have mental health problems and who need support to maintain their tenancies. Support may be short term to deal with a one off problem or longer term for tenants who have more complex needs and require on-going support. They can co-ordinate support with a range of agencies and can take referrals from the DHO.

Referrals: made using referrals form on the intranet.

Telephone: Tenancy Support Team (South Team) 0207 974 8888
Tenancy Support North (North Team) 0207 941 1652

FLOATING SUPPORT TEAM

Provide services for vulnerable council tenants including help for people to maintain their tenancy, assistance to gain access to appropriate health and social services, help with budgeting, help to find work, education or training opportunities, support to resolve conflicts with neighbours. Services are for people with a variety of needs and vulnerabilities including mental health issues, physical health problems, substance misuse problems, and disabilities and learning difficulties. Any Housing Officer or agency can refer people. Tenants whose primary needs are Mental Health should be referred to The Tenancy Support Service see above.

Tenants whose needs are primarily alcohol and substance misuse problems can be referred to Alcohol Recovery Project 020 7837 0063:

SERVICES PROVIDED BY THE SOCIAL SERVICES DEPARTMENT.

The Social Services Department may already be working on behalf of the perpetrator and can assist in ensuring that the person is aware of the problem and its effects and can therefore work with them to minimise the nuisance. If you need to contact Social Services but are not sure which section would be dealing with the client phone Duty on 6666.

SERVICES PROVIDED BY THE VOLUNTARY SERVICES

ALCOHOL RECOVERY PROJECT

Schemes to support people who are Camden council tenants and whose alcohol problems are negatively impacting on their tenancy. Provides home visits, advocacy, advice, practical assistance and referrals by EO or self-referrals.

Tel 020 7837 0063

CAMDEN VICTIM SUPPORT

Camden Victim Support offer counselling services for complainants where they have been subject to criminal acts.

Tel 020 7388 9550

4 HOW TO USE THE LANGUAGE SERVICE

INTRODUCTION

Camden is an extraordinarily vibrant borough with an incredible diversity of people where more than 120 languages are spoken in the borough's schools. At the time of the 2001 Census, 53,124 people or 27% of the total population of the Borough were from black and minority ethnic communities. In the future as the number of people from black and minority ethnic communities rises, they will account for almost a third of Camden's total population.

THE SERVICE PROVIDED

Interpreting - Interpreters work 'in person' communicating back and forth between two or more people. Interpreting can be done face to face but can also be done via the telephone through conferencing facilities.

Translations – Translations change written text from one language (source language) into another language (target language).

We can also arrange for a community language text to be translated back into English.

Phone calls – We do not provide telephone interpreting. But we can arrange for an interpreter to make a very short call to the client to inform him/her that an appointment has been arranged for them where an interpreter will also be present.

A phone call can be arranged if you have not had time to send your client a letter about the appointment.

Braille - Braille converts text into a series of raised dots that can be read with the fingers by people who are blind or whose eyesight is not sufficient for reading printed material.

Requests for Braille are commissioned to an external agency.

Audio-taping – This records written text onto an audiotape/audio cassette for use by communities where the literacy levels are low or for use by people who are visually impaired or blind.

Requests for audio taping are commissioned to an external agency.

Fluency testing of staff interpreters – The Service organises and tests staff on language fluency for those joining the Staff Interpreters Scheme in the Housing Department.

Advice – We can provide advice on languages, statistics of language provision, on when it is best to translate and advise you on other options better suited to your needs.

Sign Language and other communication support for deaf/deafened/deaf blind people and people with hearing impairments

There is a range of communication support, which can be booked on request. Staff needing to book sign language or other communication support should be clear about the particular support required by the person/people concerned.

British Sign Language - This is a method of communication that is used for and by hearing impaired or deaf people. It is a language in its own right, not a translation of English. BSL has its own grammar and instead of using sounds to make words, it uses handshapes that move in a defined space, facial expression and body language.

Sign Supported English (SSE): SSE is a combination of signs from BSL together with English grammar

Hands-on signing: this method of communication is based on BSL and may be used by deaf blind people who do not retain enough sight to be able to use systems used by deaf people, e.g. lip reading, BSL or the Deaf Alphabet

Lipspeakers: a lipspeaker will repeat your speech without voice to assist the deaf person with lipreading

Palantype: speech to text reporting to make meetings accessible to deaf or hard of hearing people who read English

1. Who the service is for

We provide a service to officers in all Departments of the Council including Councillors. However external commercial organisations and voluntary sector groups also use our services. Organisations do not have to be based in the Borough to be able to use our services.

Please note our services are not directly available to individual members of the public but they can be accessed through a council officer from the appropriate department or through an officer from an external agency/organisation.

4. How to contact us

The Language Service is based in the Chief Executive's Department.

Our address is:

Language Service

London Borough of Camden
Room 303
Town Hall
Judd Street
London WC1H 9JE

You can also contact us by:

Phone: 020 7974 5731
Fax: 020 7974 1981
Textphone: 020 7974 5891
E-mail: xxxxxxxx@xxxxxx.xxx.uk

The service is open:

9.00 a.m. – 5.00 p.m. Monday – Thursday
9.00 a.m. – 12.00 noon on Friday

Friday afternoons are set aside for us to specifically do finance and payroll work and therefore no booking requests are taken unless it is for an emergency. An emergency is either an urgent booking for that afternoon or for Monday morning or a cancellation of a booking for Friday afternoon or for Monday morning.

The Languages Provided

Currently we are able to provide language services in the following languages:

Albanian	Amharic	Arabic	Bengali
Braille	British Sign Language	Bulgarian	Cantonese
Chinese	Czech	Dinka	Farsi
French	German	Greek	Gujarati
Hindi	Hungarian	Igbo	Italian
Kurdish	Mandarin	Punjabi	Polish
Portuguese	Pushtu	Romanes	Romanian
Russian	Serbo-Croat	Slovak	Slovenian
Somali	Spanish	Swahili	Sylheti
Tigrigna	Turkish	Urdu	Yoruba
Turkish	Urdu	Yoruba	



5 CAMDEN MEDIATION SERVICE

EO's should explore all opportunities for resolving nuisance and neighbour disputes before resorting to legal action. Mediation has proved to be effective in many disputes between neighbours.

Mediation is the councils preferred way of dealing with neighbour disputes and antisocial behaviour. The council believes mediation should be available to all its tenants/leaseholders as a first option and not as a last resort. Experience has shown that Mediation has the best chance of a successful outcome if offered at an early stage, before any legal proceedings commence. However, it can be successful in any situation, sometimes without even involving the alleged perpetrator.

Mediation is a step-by-step process in which an independent third party helps people in a dispute to arrive at a solution identified or, decided on any alternatives that may be available to them, chosen and agreed by themselves. The aim of mediation is not necessarily to turn disputants into friends, but to find ways to work together and to manage their conflict. Its different from other means used to tackle nuisance as it seeks to secure long term and lasting ways of resolving conflicts by mutual agreement.

It helps to reduce the feeling people have that the only way out of their problem is to move from their home, and the subsequent frustration. Mediation is less stressful for residents than pursuing formal (legal) action.

Mediation can be defined as a process that seeks to address conflicts by:

- Treating people fairly
- Being confidential and impartial
- Allowing parties to express their concern
- Assisting parties to achieve realistic and desired outcomes.
- Enabling the problem to be discussed in a non-aggressive and non-violent manner.

Mediation allows the disputants to air their grievances in the presence of a trained independent mediator. The mediators role is to ease the discussion and help both parties to understand each other's point of view and work out mutually agreed solutions. They make sure that discussions take place in a way that is safe for everyone involved.

The volunteer mediators are drawn from a wide range of backgrounds (including mediators who are Sylhetti speakers or speak other languages) and reflect the diverse nature of the local community.

MEDIATION IS SUITABLE IF FOLLOWING APPLIES

- Both parties agree to mediation (although in some cases one party mediation can be beneficial)
- There is a need to build understanding between parties
- There is counter allegation.
- Insufficient evidence for other action by council
- All parties to dispute are willing to discuss the situation (although one party mediation is possible)
- In some cases of harassment.

Until recently we had advised officers that cases involving alcohol or drug abuse were not suitable for mediation, however, as the council's relationship has developed with the Mediation Service we have agreed that officers can consider a referral if it considered useful. In these case support workers may be involved in the process to enable the tenant to participate.

If in doubt whether mediation is appropriate for a case the EO can always contact the Camden Mediation Service for advise on 0207 383 0733

Before officers make a referral they should explain mediation to both parties:

- Mediation is the option most suitable to their case
- Mediation sessions are arranged in a neutral territory
- Mediation is the Councils preferred method of dealing with nuisance cases and is very successful
- Mediation is voluntary for both parties and it does not affect any rights they have including their rights as a tenant.
- The service is free and confidential.
- The mediators are trained and supervised to a professional standard.
- It is an independent service.
- The first step does not require the disputants to immediately agree to face-to-face mediation. The individual disputant needs to agree to be referred to mediation where the mediators will talk to each party separately.
- Mediation is the step-by-step process in which an impartial third helps the disputing to arrive at an agreement.
- Because the tenants have to remain in their present accommodation, mediation could be of particular benefit. Since the early use of mediation can prevent the situation escalating to a point where people retaliate and the council has no option but to take action under tenancy conditions. Legal action is costly and takes time, and there is no guarantee of a realistic solution or that it will satisfy both parties.

It must be noted that complainants cannot be forced to participate in mediation nor can other action be conditional when mediation is being tried first. Mediation can only work where parties to a dispute consent. A tenant should never be referred to CMS unless their express consent has been obtained. Camden Mediation service is contracted by the Council to provide Mediation services to all council tenants/leaseholders or in disputes where one party is either a council tenant or leaseholder.

REFERRING TO MEDIATION.

Having agreed with the tenant/leaseholders that mediation is the most appropriate way forward; the request for Mediation form should be completed and sent either by fax or internal mail to the address below.

- CMS is based at 11/17 The Marr, Camden Street, NW1 0HE Tel: 0171 383 0733. More information is available on the following website www.camdenmediation.org.uk
- The CMS will confirm that they have received a referral in writing and allocate a case number.
- CMS will allocate mediators most suitable for the case to listen separately to both sides. The caseworkers will write to them with details of CMS and will arrange the meetings of the mediators with each of the disputants. These meetings are usually at CMS' offices but in some circumstances the mediators will meet the parties at home.
- The mediators will explain to the neighbours the process of mediation and what is likely to happen in case they decide to get together for a mediation session on a mutual ground and work out the best way to resolve their differences. Mediators encourage people to understand and take some account of the other sides views. Often people feel better, more able to deal with the situation, because the mediators were prepared to listen and took them seriously.
- Any agreements reached may be written down and each party may sign it. Each party keeps a copy. These agreements are voluntary and are not legally binding. Most of the times, each party is happy with a verbal agreement as it is the improved communication between parties and their greater understanding of the situation that counts.

The CMS will write to the EO to confirm the case has been closed, the number of parties spoken to and whether any agreement has been made or there has been any improvement.

CMS always welcomes the opportunity to attend team meetings with Housing Management Teams on a regular basis, to update on service development and encourage referrals.



6 NOISE INCIDENT FORM

NAME OF COMPLAINANT (IN FULL):

CASE NUMBER

ADDRESS:

NAME OF INTERVIEWER:

TENANT / LEASEHOLDER / OTHER (SPECIFY)

INTERVIEW TOOK PLACE IN :

DHO

COMPLAINANTS HOME

DATE OF INTERVIEW:

TEL: MOBILE:

NAME OF OCCUPANTS

NAME	M/F	D.O.B	RELATIONSHIP	HEALTH ISSUES?

LANGUAGE(S) SPOKEN:

INTERPRETER REQUIRED? YES NO

ADVICE LEAFLETS GIVEN:

NOISE PACK

MEDIATION LEAFLET

OTHER (LIST)

ETHNIC ORIGIN DETAILS – PROVIDE STANDARD LIST

INCIDENT SUMMARY

WHERE WAS THE NOISE COMING FROM – ADDRESS IF KNOWN/ NAME OF ALLEGED PERPETRATOR IF KNOWN

DOES THE COMPLAINANT AGREE TO BE IDENTIFIED TO PERPETRATOR ?

IF SPECIFIC ADDRESS NOT KNOWN – WHICH HOUSE/FLAT/BLOCK/ESTATE

PREVIOUS SITUATION

IS THERE ANY HISTORY OF PREVIOUS NOISE NUISANCE:

FREQUENCY AND DATE OF INCIDENTS:

ANY OTHER WITNESSES:

WEEKEND NOISE SERVICE

CARETAKER

MOBILE PATROL

EHT

POLICE

HAS THE COMPLAINANT TAKEN ANY ACTION ALREADY

EXPECTATIONS OF COMPLAINANT AND WILL THEY GIVE A STATEMENT

SUITABLE FOR REFERRAL TO CAMDEN MEDIATION?

IS LEGAL ADVICE NEEDED AT THIS STAGE ?

READ THIS FORM BACK TO THE COMPLAINANT AND CONFIRM ALL THE DETAILS BEFORE SIGNING

SIGNATURE OF COMPLAINANT

DATE

SIGNATURE OF INTERVIEWER

DATE



7 NOISE DIARY

Guidance on filling in noise diaries

If you are going to take legal action to prevent a noise becoming a nuisance, it is possible that the matter will have to be heard in court. Whether you or we take the action, the court will want to know which residents have been affected by noise and will ask for details of incidents. You must keep an accurate, detailed record of the noise. If there are any inaccuracies in the record the court will challenge whether the whole diary is valid.

Over the page is an example of a completed form and below are notes on each column of the diary.

Date the noise happens

Enter the date the noise happens.

Time the noise started and finished

Use either am or p.m. or the 24-hour clock time to describe the time.

Where you heard the noise

Write in which room you were in when you heard the noise.

Address the noise is from

It is very important to see which address the noise is coming from. This can be difficult when the noise is in a flat, as sound may travel through several floors. You must find the source of the noise.

Description of noise

For example, loud music, drums, shouting and machinery.

Disturbance caused or level of noise

You must give the level of noise and the disturbance it causes you.

For example for rock music and so on include: "I could hear the words of the song;

There was a loud thumping bass;

The noise was so loud I could not hold a conversation without raising my voice;

Could not hear my television or the noise disturbed my sleep". Anything that in your own words would give an idea as to the level. (Please do not exaggerate the level as this will not help your case.)

Person responsible for the noise

If you know the name of the person causing the noise please write their name.

Names of other witnesses

If anyone else heard the noise and is willing to give support to your case, please write their name and address. They must make a separate record at the time of the noise of what they heard, as it is difficult to remember dates and times some months after an event.

Signature

You must sign the diary sheets to reduce the possibility of complaints which are made only out of spite.

Diary Types

On the next pages an example of a noise nuisance diary is attached. In cases of persistent anti-social behaviour, where the Housing Department and/or the Police are gathering evidence to address issues in a neighbourhood, the Camden Community Safety Partnership have produced an Incident Diary, copy's of which are available to the District Office – and can be viewed at <http://www.camden.gov.uk/asbag> then Incident Diary.

Diary of noise disturbances

Name: JANE BARTON

Your full address:

FLAT 2
5 BARTON HOUSE
1PEAL ROAD LONDON NW1 2ET

Age: OVER 18 (If over 18, write iOver 18f)

Your occupation: ENGINEER

Telephone:

Home 0171 222 2345
Work 01976 543 210

Date noise occurs	Time noise		Listener location	Address noise from	Describe the noise	How does noise affect you	Who was responsible	Name of witness
	started	ended						
MONDAY 21 MAY 95	11.15pm	2.00am	Front bedroom Flat 2, Barton House	7 Barton House Flat directly above	Loud music from hi-fi Clearly audible	Could hear words of each song made it impossible to sleep	Mr Peter Smith	Mr John Brown 2 Fish Hill, Thame
WEDNESDAY 25 MAY 95	10pm	1.50am	Lounge Flat 2, Barton House	7 Barton House	Loud music, repetitive	Could hear music clearly Difficult to hear TV	Mr Peter Smith	None
SUNDAY 11 JUNE 95	1am	2.30am	Front bedroom Barton House	7 Barton House	Banging doors and shouting	I was awoken by the noise which only stopped when police called	Mr P Smith Ms D Jones	Mr F. Idd Flat 3 and PCs GRaham 622 Took 88

I confirm that the details given above are true and accurate **Jane Barton**

(Sign)

Diary of noise disturbances

Name: _____ Your full address: _____

Age: OVER 18 (If over 18, write iOver 18)
 Your occupation: _____ Telephone: _____ Home _____

Date noise occurs	Time noise		Listener location	Address noise from	Describe the noise	How does noise affect you	Who was responsible	Name of witness
	started	ended						

I confirm that the details given above are true and accurate **Jane Barton** _____ (Sign)

8 SOUND INSULATION AND THE ENVIRONMENTAL PROTECTION ACT 1990

Experiences of investigating noise complaints in the borough suggest that many noise problems are actually caused by poor sound insulation often compounded by poor stacking arrangements e.g. kitchens on top of bedrooms. The problems exist in all dwelling types from purpose built flats to Victorian conversions. A building with poor sound insulation will often fail to protect the occupier of the dwelling from both external and internal noise. Where necessary EO's should make a referral to the Repairs Section for a report on the nature of the problem and any possible technical solutions. Some solutions may be prohibitively expensive and at no time should residents be given the impression that a technical solution may be the answer.

Officers should offer to carry out a test in these cases, two officers should attend, one in the complainants property and the other in the property where the noise is coming from. The circumstances should be recreated, if the noise can be heard but the behaviour is no more than reasonable domestic activity, suggest mediation the neighbours to assist them coming to an acceptable agreement, that may reduce the noise. Officers should ensure that they have mobile phones with them during the tests to allow communication at all times.

One way of reducing noise at source is to provide sufficient insulation when constructing buildings. The Building Regulation Act 1984 requires that sound insulation is provided in certain instances in the construction of separating dwellings from each other. These instances are:

- New buildings
- Conversion of existing buildings to flats
- Refurbishment work in existing flats, where existing construction is replaced or is adversely affected in respect of structural or fire safety.

Many council properties that were converted or were built before the 1984 building regulation came into force may have inadequate sound insulation and will therefore fail to protect its inhabitants against noise.

The 1984 Building Regulation Act cannot be enforced on any building that was built or converted before the legislation came into effect, or where the work has been completed for more than 12 months. So in reality, in this borough this legislation cannot be used very often.

Officers should refer to "A Study of Noise Nuisance in Camden" produced in June 2002 for further information, in particular details of Baxter V LBC 1998. This case confirmed the definition of "quiet enjoyment" to mean free from harassment by landlord and the right to peace and quiet. <http://www.camden.gov.uk/asbag>

In reality fitting carpets and underlay may be the best solution for addressing sound insulation problems and where residents are on a low income the Welfare Rights Officer can advise on grants/loans.



9 STATUTORY NUISANCE

WHAT IS A STATUTORY NUISANCE?

Most people would describe the noise they are hearing as a nuisance, it is annoying and it disturbs them. But in legal terms that may not be enough for the noise to be considered what is known as a statutory nuisance.

The law of nuisance is contained in the Environmental Protection Act 1990. Section 79 of the Act says that for a noise to be a statutory nuisance it must either be a nuisance or prejudicial (injurious or likely to cause injury)

The law of nuisance is based within the common law and a set of guiding principles has developed over time. When assessing nuisance the main principles that have to be considered are as follows.

- The law is based on the right of owners/occupiers to enjoy their property, without materially interfering with the rights of neighbouring owners/occupiers in the enjoyment of their property.
- The person affected must have an ownership interest in the premises; they must either be the tenant or the owner and cannot be a guest.
- To be a nuisance the noise must cross a boundary. The source of the interference must come from a different property or piece of land.
- The interference complained of must be unreasonable and substantial; the law implies a degree of give and take between neighbours – between the right of one occupier to use his land as he likes and the right of the neighbour to live in peace.
- Mere annoyance is not enough to be a nuisance, and nor do questions of personal taste come into it.
- The nuisance assessment is based on the opinions and the effect it would have on the ordinary reasonable person (the man on the Clapham Omnibus). We must ignore undue sensitivities, such as ill health, shift work or vulnerability.
- The assessment of nuisance is not about mere volume, it is also concerned with the nature, frequency, and duration of the nuisance.
- Nature of the area where the nuisance is occurring is important too; something that is a nuisance in a rural area may not be a nuisance in an urban area.

As noise nuisance has been legislated for in Statute, the matter is criminal in nature and as such the standard of proof that the Council works towards at all times, is beyond a reasonable doubt. If it were a civil matter the standard of proof would be lower and would be on the balance of probabilities.

ABATEMENT NOTICES

If an Officer is satisfied of the existence or likely existence of a Statutory Nuisance then they are legally obliged to serve what is known as an Abatement Notice. The Abatement Notice is served under the provisions of Section 80 of the Environmental Protection Act 1990.

The wording on the notice can vary depending on what its being served for. Most notices are usually served for amplified music and wording is 'Prevent the production of amplified sound and / or noise from social activity, which is audible outside the confines of the dwelling including any yards and gardens.'

Environmental Health Officers should inform the relevant Estate Officer within 48 hours of serving an abatement notice and send the EO a copy of the order.

APPEALING AGAINST A NOTICE?

From the date of service, a person has 21 days in which to appeal the notice. The perpetrator must contact the local magistrates court to lodge an appeal. The Court will issue a hearing date and inform the Council. The matter is then decided on in the Magistrates Court.

It is important to note that in most cases the requirements of the notice still stand until the appeal is decided by the court or abandoned. This means that if a person appeals the notice, and then loses the appeal, they can be prosecuted for any breach of the notice that occurred in the time they were waiting from the Court to hear their appeal.

NOISE PROSECUTIONS

If a person on whom an Abatement Notice has been served fails to comply with the requirements of the notice, they can be taken to Court and prosecuted. For each offence a person can be fined up to £5000. If a business, trade or industrial premise fails to comply with the offence then the fine rises to £20,000 per offence.

SEIZURE OF NOISE MAKING EQUIPMENT

The council has powers to take away (seize) noise-making equipment if a person on whom an Abatement Notice has been served, fails to stop causing a nuisance. The idea being that if you will not stop the noise yourself, then the Council will do it for you by taking away your equipment. In practice after breaching the notice, warning letters are sent to the perpetrator and if they refuse to change their behaviour, a warrant is applied for in court to seize the equipment. Estate Officers must be kept informed of any such action taken.

10 WORKING WITH ENVIRONMENTAL SERVICES – SERVICE LEVEL AGREEMENT

Each year EHT and Housing will agree a certain number of referrals that EHT can accept from Housing.

The referral should be sent to the SERVICE DEVELOPMENT OFFICER responsible for monitoring the SLA. If the referral is suitable the SDO will send the referral to the TEAM MANAGER of the INITIAL RESPONSE TEAM, who will distribute cases to officers in the team.

In most cases a referral to the EHT will follow a thorough investigation by Housing. Referrals should only be made in the last resort, and only where the role of EHT can be clearly identified.

WHAT EHT WILL EXPECT TO SEE CONTAINED IN THE REFERRAL PAPERS

- The complainant has been interviewed and informal remedies, such as Mediation have been explored and discounted or tried and failed.
- Interview with alleged perpetrator at least two attempts/letters inviting the alleged perpetrator to meet and discuss the allegations.
- Full notes case notes and any relevant history concerning vulnerability of either party.
- Copy of the Noise Incident Form (NIF)
- Noise dairies have been kept or alternatives if complainant has been unable to complete dairies
- If possible some independent evidence has been gathered, this can be a report for the WNS service, caretaker, Housing Patrol or other council office, other neighbours.
- A detailed account of what actions/remedies have been tried by the DHO, including sound tests, assisting people with purchasing carpets through referrals to the Welfare Rights Officer in certain cases etc.
- The referral form should be sent to the SLA Monitoring Officer (SDO).

The only exceptions to the above will be if a leaseholder is complaining about another leaseholder or a resident is complaining about commercial premises. In these cases a referral directly to EHT may be appropriate, but there may still be a role for the DHO.

WHAT HOUSING CAN EXPECT FROM EHT

- Notification within 5 days of the named allocated officer dealing with the case.
- Contact will be made with the complainant and or the alleged perpetrator within 10 days.
- Case conference meeting at the beginning of a case, to be convened by EHT within 15 days of the referral. All relevant officers to be invited to that meeting – in the case of vulnerable complainants or perpetrators, it may be useful to invite the Support Workers involved.
- Agreement from the above meeting to constitute EHT course of action i.e. installation of sound recording equipment, collection of further evidence leading to Service of Noise Abatement Notice if nuisance does not cease.
- Regular feedback on the case, via email every 21 days.
- Aim to resolve or take action on cases referred within the shortest time limits possible to avoid cases hanging dormant for months and leading to further frustration on the complainant's part.
- Monitoring meetings will be held quarterly between the Team Manager of the Initial response Team in EHT and the Service Development Officer.
The meeting will:
 - Review the number of cases referred
 - The quality of the referrals
 - Time taken on cases
 - Numbers of cases closed
 - Numbers of cases action taken
 - Types of action
 - Feedback from either service and or residents
 - Disputes about referrals will be resolved at these meetings

11 CASE CLOSURE

All cases of nuisance must be closed at some stage, this could be.

- Nuisance cases which; after investigation establishes that the tenancy conditions have not been breached should be closed off, and the parties should be encouraged to take up mediation.
- Cases where nuisance is monitored and no further complaints has been received for 3 months, the complainants should be contacted and the case should be closed off.
- Cases where a reasonable investigation has been carried out for example in cases of noise nuisance where the case has been referred to the Environmental Health Team and they have made reasonable attempts to witness the nuisance i.e. at least 3 attempts, either visits or monitoring equipment and all occasions no statutory nuisance was witnessed. Complainants should be advised to take their own action under section 82 of EPA 1990.
- Cases where the complainant does not want us to take any action – should be monitored for 3 months and closed off.
- Cases where after investigation reveals other motives such as dislikes of someone's lifestyles and a breach of tenancy has not occurred.
- Following an investigation, where the cause of the problem is due to poor sound insulation and not unreasonable behaviour.
- Officers should note that EHD have a policy of generally not investigating the same complaint for 6 months after the close of the case.
- Officers should be aware that some complainants may be malicious and/or complaints are based on a dislike of other people's religion, race or sexuality, rather than any real nuisance. Officers should take advice from the Area Manager if they have any reason to believe that this maybe the case.



12 EPA 1990 SECTION 82 – TAKING PRIVATE ACTION

In certain circumstances it may be more appropriate for the complainant to be advised to take their own action such as in cases of noise complaints when a case is closed because of insufficient evidence.

A complainant may not have raised their concerns directly with the alleged perpetrator before reporting the matter to the Council.

For example, a complainant can take action themselves in the Magistrates Court under Section 82 of the Environmental Protection Act 1990.

In considering whether or not to advise a complainant to take their own action particular regard shall be had to their ability to do so, the likelihood of a positive outcome and their vulnerability.

Section 82 of the Environmental Protection Act 1990 allows individuals to take legal action in the Magistrates Court where a case of noise nuisance exists.

Before deciding whether or not to advise a tenant to take their own action, staff should consider all the known and relevant factors including the seriousness of the nuisance, vulnerability of either tenant, competing work priorities etc., seeking advice from AM/SEO as necessary.

It should also be noted that a tenant aggrieved by nuisance could take legal action against the Council where it could be shown that we were not taking reasonable steps to stop the nuisance. This must be borne in mind at all times and any potential breach of Tenancy conditions on the part of the Council be avoided. It should be noted that “reasonable steps” might, according to the circumstances, only be advising the tenant of their right to issue proceedings as described above.

ENVIRONMENTAL PROTECTION ACT – TAKING PRIVATE ACTION

You can use the Environmental Protection Act 1990 (EPA), Section 82, to deal with noise, which is a statutory nuisance. Courts can use it to force neighbours, businesses and so on to stop creating or reduce the effect of too much noise.

We cannot offer advice on how you should go ahead with any particular case, but set out below is an outline of things that might help you if you are suffering from a noise nuisance.

It is a good idea to try to sort out problems in a friendly way. Your neighbours may not realise that their actions are causing a nuisance or they may not have any control over the cause for complaint. A personal approach can sometimes get the result you want. If you are worried about approaching them personally, a polite letter may sort out the problem. Even if it fails, it will help to show the courts that you have acted reasonably.

In the case of noise you will usually need to show the courts that the noise unduly interferes with your comfort and convenience.

It is unlikely that the courts would need complete silence as living in London you need to be quite tolerant towards noise, but you do not have to experience unreasonable levels. When deciding what is an unreasonable level the courts will look at the level and nature of the noise, together with its frequency, how long it lasts, the times and days the noise happens and how the noise would affect the average person. For example, a shift worker who has to sleep during the day, a home worker who needs complete silence to work and so on might be unlikely to be classified as average people when deciding upon noise nuisance.

TAKING YOUR OWN ACTION

Taking legal action is fairly straightforward and you can take it in easy steps, which are explained below. Many people have used this legal action, without needing a solicitor. You can represent yourself during the court hearings if you feel confident enough. The procedure is not difficult and you can get advice from the Citizens' Advice Bureau, Camden Law Centre and the magistrate's courts. (We provide phone numbers at the end of this document).

USING THE ENVIRONMENTAL PROTECTION ACT

Both private and council tenants, people who own their own homes and anyone affected by noise can use the Environmental Protection Act.

SUGGESTED PROCEDURE BEFORE YOU START LEGAL ACTION

- 1 Speak to the person who is making the noise. Try to come to a suitable arrangement, for example turning the music down, or perhaps limiting the hours of the noise.
- 2 If you do not want to speak to the person, or if the noise continues after you have spoken to them, write to the person explaining the problem and telling them what action you would like them to take to reduce the noise. Make sure you date the letter and take a copy.
- 3 If the situation does not improve, (and if you are not already keeping one) start keeping a written diary of the noise. Include in the diary record:
 - a when the noise happens, including the date and time;
 - b the length of time the noise lasts;
 - c what type of noise it is (for example loud music, machinery, and people shouting).
 - d why is it a nuisance, for example because you cannot get to sleep, the effect on your life and so on.

If you know about any other person bothered by the noise, or who has witnessed the noise, ask them if they would be willing to give evidence at court if you started proceedings against the person making the noise. If they are, ask them to keep their own diary of the noise. They will also need to make a written statement if the matter goes to court.

You can now take legal action against the person making the noise under section 82, Environmental Protection Act 1990.

THE PROCEDURE

You must have enough evidence to support your claims. Proceedings under section.82 are criminal matters, and your case must be proved beyond reasonable doubt.

- 1 First of all, you must give the person responsible for the nuisance at least three days' notice in writing. This notice must say that you are going to bring proceedings in the magistrates' court if specific action is not carried out. You must date this letter and keep a copy. If you post the letter you should send it recorded delivery.
- 2 If there is no improvement after you have sent the letter, you should contact the clerk of the court. Tell them you want to make a complaint under section 82 of the Environmental Protection Act 1990. They will probably make an appointment for you to go and see them. In the London Borough of Camden the magistrate's court to contact is:

Clerkenwell Magistrates Court,
78 Kings Cross Road,
London WC1X.

At the court, you will see one of the clerks of the court who advises the magistrates. They will explain the procedure and will take the details of your complaint. In other words they will ask you for the information they need to decide whether they should issue a summons.

A summons is a document that tells the person who is causing the nuisance that you have complained to the court about the noise and that they must go to the Court at a time and day to 'answer' the complaint. There is no fee for this.

- 3 You must give the clerk any schedule of the work, or change in behaviour, which you consider should be done to stop the nuisance. In many cases this may be as simple as asking the other person not to play loud music at night, but it may be that with certain types of noise nuisance technical matters will arise, and you will need to have information from a specialist.
- 4 The summons will give the date, time and place of the hearing. You should continue to keep a record of the noise nuisance.

- 5 At the hearing the person who has been summoned will be asked to plead 'guilty' or 'not guilty'. If the person pleads 'guilty' it is likely that the matter will be dealt with then. You will be asked to present your case and give the court copies of any written evidence, for example, your diary of the noise and any letters that you might have written.

The magistrates will want you to tell them what you need to reduce or get rid of the nuisance and will then make an order that the other person does what you have asked, or to take some other reasonable action.

- 6 If the person pleads 'not guilty' the case will be put back so that a trial can take place.

You will be asked how many witnesses you will be calling, and the day for hearing will be read out in court.

You will need to prepare your case for that hearing. Get written statements from any of your witnesses, and write one about your own experience. Put together any other evidence that you might have, for example, doctor's notes, experts reports and so on.

You must send a copy of everything that you are going to use at the trial to the other person (or their solicitor if they have one) as soon as possible.

- 7 If, at the hearing, the magistrates are satisfied that there is a nuisance, they will grant what is called 'an abatement order'. This tells the person who is causing the nuisance that they must stop the nuisance from causing you trouble any longer. They can also be fined and ordered to pay costs.

COSTS

If you are successful, the court might make an order that the other person should pay your costs. You should keep a record of any costs that you or your witnesses have had to pay, for example, having to take a day off work unpaid, travel expenses and so on.

In other circumstances, magistrates can decide how to award costs and either you or the person causing the nuisance could pay all or part of both sides' costs according to the circumstances.

In some cases you might be able to get legal aid to help your case. This will only be available if you employ a solicitor to act for you, and you are on a low income.

You can get further advice from your local Citizens Advice Bureau or you can also call Camden Community Law Centre on 020 7485 6672.

**PREPARED BY: RESIDENTIAL TEAM, ENVIRONMENT DEPARTMENT,
LONDON BOROUGH OF CAMDEN, LONDON WC1H 8EQ**

13 GATHERING EVIDENCE

TYPES OF EVIDENCE

NOISE DIARIES

These are incident logs, which are sent to the complainant after receiving the initial complaints. The EO must ensure that the tenant/leaseholder knows how to complete the form properly.

Some people have difficulty filling in what may be a simple form, especially when they are under stress from nuisance. Alternative means of recordings –e.g. tape recorders, should be considered.

Nuisance logs are a very personal account of what the complainant see and hear and the effect it has on them. In order for them to be effective they must be of good quality and they can form basis of evidence for NOSP and action under the EPA 1990 and can be used in court as evidence.

The EO will need to explain to the complainant that these diaries/logs must be completed as far as possible at the time of the nuisance occurring and over a period of time. So for example if the case is referred to EHT the officers can assess any pattern and frequency of the nuisance.

EHO EVIDENCE

The EHO are trained to make an assessment of nuisance under the Environmental Health Act 1990. Evidence from EHO can be used in court, where officers have either directly witnessed nuisance from visits or indirectly from recordings made from Noise Monitoring Equipment.

In most cases the EHO will take their own action under the EPA 1990 where they have witnessed a statutory nuisance i.e. serving of abatement notices, seizures. However, in some cases where these methods have failed to stop a nuisance the EHO may be able to give evidence in court for legal proceedings

WNS OFFICERS EVIDENCE

The Weekend Noise Service operates on Fridays and Saturdays between the hours of 10pm to 4am. During these periods two EHO are on duty and provide a responsive service through the council's switchboard number to all tenants.

If WNS officers have attended a council property, the DHO is sent a memo to inform the EO of action taken, in particular details of the visit. WNS officers can be called in court to give evidence of noise nuisance.

The EO can ask for an address to be put on the priority list by contacting the Initial Response Team on 020 7974 2744. The EO should provide details of the type of noise being complained of, any risk information about either party (i.e. has either party been aggressive in the past), and what the EO would like the WNS officers to actually do; witness the report back or serve a notice etc.

EO/ ESTATE OFFICER'S EVIDENCE

EO or any Estate Officer can provide evidence in court. The evidence is either in the form of direct witness of nuisance or 'hear say evidence'.

POLICE/STREET WARDENS

Where either Police Officers or Street Wardens witness a nuisance they should be asked for witness statements.

HOUSING PATROL OFFICERS EVIDENCE

The Housing Department operates a mobile patrol service during the hours shown below. The service is open to all council tenants and leaseholders. The service can be contacted directly on 020 7974 8205 or through the switchboard on 020 7974 4444.

The service is available at the following times:

Monday to Saturday 6pm to 2am
Sunday 2.30pm to midnight

HEAR SAY EVIDENCE

A statement made by a person of whom will not be called to give evidence in the Court. This is useful when a person is afraid to give evidence in court.

CARETAKER'S EVIDENCE

Caretaking staff can give evidence in court. When asking caretakers to attend court to give evidence consideration should be given to their safety on the estate. Caretakers are expected to complete incidents reports relating to anti-social behaviour on their estates. These may include incidents reported to them, incidents that they have seen, or evidence of anti-social behaviour such as drug paraphernalia, street based drinking on estates etc. These reports are passed to EO's and may be used in legal actions, and recorded by DHO's to map anti-social behaviour across Districts.

PROFESSIONAL WITNESS

Apply to ASBAG in cases of very serious nuisance where residents are too intimidated to give evidence (see 2. Surveillance (RIPA))

WITNESS SUPPORT

Witnesses need to be sure that if they are prepared to give evidence to support the Council they will be assisted where possible and given assurances that support is available to them. Confidentiality is often a concern and needs to be dealt with sensitively.

A comprehensive guide to witness support is available at <http://www.camden.gov.uk/asbag>



14 INJUNCTIONS AND UNDERTAKINGS

INJUNCTIONS

Injunctions should be sought if there has been a serious breach of tenancy conditions or lease, where a remedy could be achieved by compelling/preventing a person to do or not to do a particular act.

Under section 152 of the Housing Act 1996, the Council can apply to County Court for an Injunction against a tenant prohibiting person from;

- a) Engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises.
- (b) Using or threatening to use a councils premises for immoral or illegal purposes, or
- c) Entering Councils premises or being found in the locality of any such premises

The evidence required is similar to that which would be needed to seek possession of a property i.e. we will need to demonstrate that there has been a breach of tenancy conditions and that there has been no success in preventing the person from committing further breaches through informal remedies.

ASBi's

A new, and very powerful power now available to Local Authorities, is the Anti-Social Behaviour Injunction (ASBi). This new style injunction was introduced during 2004 under the Anti-Social Behaviour Act 2003, which brought in a number of other remedies to tackle anti-social behaviour. ASBi's should not be confused with ASBO's. They are Housing specific.

ASBi's can be far more effective and flexible than previous injunctions – to the extent that they have been used to exclude people from living in their own homes where there have been serious incidents.

ASBi's should now be considered as a first option whenever legal action is being considered, and can compliment other actions such as possession or ASBO action. For full details on the use of ASBi's and the ASB Act 2003 go to the link on the ASBAG website <http://www.camden.gov.uk/asbag>

Districts should be encouraged to share good practice in the use of ASBi's.

UNDERTAKINGS

An alternative and sometimes more effective alternative to an injunction is an undertaking given to the Court. These can be in written form agreed before a Court hearing, or a verbal undertaking to the Judge in the court.

An undertaking is a promise given to the court to desist from the behaviour complained of, and, like an injunction, can be applied to a wide range of circumstances. A breach of an undertaking is a serious issue and if proven can result in the person being found in contempt of court. This can result in a prison sentence or fine.

Undertakings can be agreed as an alternative to a possession order in certain circumstances and legal advice should be sought when undertakings are being considered in possession proceedings.

If a tenant is vulnerable, and undertakings have been given, the EO should notify any support worker or Social Worker in order that support services can ensure that the risk of breach is minimised. In all such actions the mental health of the defendant must be given due consideration, and the comments of other professionals dealing with the defendant are important, but mental health issues in themselves should not be seen as a barrier to taking action.

POWER OF ARREST

Where there is violence or threat of violence we can ask the courts for a power of arrest to be attached to the injunction, which means if the injunction is ignored the police have the power to arrest the person ignoring the injunction and bring them back to court. Also, if a person breaks an injunction they can be committed to prison. The courts are unlikely to give powers of arrest to injunctions unless it can be proven beyond doubt, that acts of violence or threat of violence have been committed or where there is significant risk of emotional or psychological harm to specified individuals. This could include hate crime or drug related nuisance.

In cases of very serious anti-social behaviour we can ask the courts for a power of arrest to be attached to the injunction, which means if the injunction is ignored the police have the power to arrest the person ignoring the injunction and bring them back to court. If a person breaks an injunction they can be committed to prison. In the past the courts were unlikely to give the power of arrest to injunctions unless it could be proved beyond doubt, that the acts of violence or threat of violence have been committed.

One of the advantages of ASBi's is that the courts must now take greater note of the concerns of the wider community, and it is now only necessary to demonstrate that the behaviour of a person "is likely" to cause harassment, alarm or distress. This means that consideration should always now be given to seeking the power of arrest, even if evidence of direct violence or threats cannot be proved.

ASBi's should not be used for those under 18 years of age because juveniles cannot be in contempt of court. However, the tenant can be served an ASBi for failing to control his/her children/visitors (breach of tenancy conditions) or an ASBO can be sought.

INJUNCTIONS WITH EXPEDITED POSSESSION HEARING

In cases of very serious anti-social behaviour where we think the perpetrator is likely to make a continued serious nuisance of himself/herself, we can ask at the hearing for an expedited possession hearing so long as we can show that a NOSP has been served.

BREACH OF INJUNCTION

An injunction is enforced by applying to Courts, but we need prove beyond reasonable doubt that a breach has occurred. Where an injunction is broken seek legal advice.

TYPES OF INJUNCTIONS:

- Interim/ex parte: a temporary order made pending the full hearing of the case. The advantage of this is an affidavit may contain statements of information. An EO may give evidence that he or she was told by the tenant. In very serious cases it is not necessary to notify the defendant prior to the hearing so that the injunction is in place to protect the victims/witnesses before the perpetrator has any knowledge of the application to injunct and the full hearing giving maximum protection to the community.
- Final: has permanent force but is usually time limited. The full hearing cannot go ahead unless the initial order has been served on the defendant and the court is satisfied that the defendant has had full opportunity to address the concerns or have sought legal advice.

CRACK HOUSE CLOSURE

The 2003 Anti-Social Behaviour Act 2003 also gave the Police strong powers to close any premises where harassment, alarm or distress is being caused or is likely to cause harassment, alarm or distress to a neighbourhood or community.

The Crack House Closure power allows the Police to make an urgent application to the Magistrates Court to close premises where the use of class A drugs, or dealing in class A drugs is, or is likely to cause harassment, alarm and distress. The Council has agreed a protocol with the Police and the full details of how to utilise this power can be viewed on the ASBAG web-site <http://www.camden.gov.uk/asbag>

In the past, it could take Housing Departments months and sometimes years to gather the evidence to gain possession of a property where the use or sale of class A drugs was having a negative impact on neighbours or the community. These new powers can bring quick closure, but DHO must ensure that when a property has been closed by the Police, urgent follow up action to repossess the property is taken, and every effort should be made to achieve this within 3 months. This must be given top priority.

15 ANTI SOCIAL BEHAVIOUR ORDERS

Section 1 of the Crime and Disorder Act 1998 introduced the anti social behaviour order as a community based, civil response to individuals who act in an anti social manner.

The order is in some respects similar to an injunction and is aimed to deter anti social conduct and prevent escalation of unacceptable behaviour without having to have recourse to a criminal sanction. The application is made by the local authority or the police to the magistrates' court acting in its civil capacity.

The order, which may be made on any individual aged over 10 years, will contain prohibitions considered necessary to prevent repetition of the conduct complained of and will last for a minimum of two years. Breach is a criminal offence, which may attract a maximum penalty of five years imprisonment.

The term 'antisocial behaviour' is defined as that, which is 'likely to cause harassment, alarm or distress to one or more persons not of the same household' as the defendant. The wording allows someone other than the victim of the behaviour to give evidence of its likely impact, thereby providing for the use of 'professional witnesses' such as local authority employees.

Examples of appropriate use might include:

- Intimidation of or threats to neighbours
- Persistent unruly behaviour by a small group of individuals on a housing estate who behave in a manner designed to intimidate others
- Persistent abusive behaviour towards elderly, mentally ill or disabled people causing fear and distress
- Persistent racial harassment or homophobic behaviour
- Persistent antisocial behaviour as a result of drugs or alcohol misuse.

ASBO'S AND YOUNG PEOPLE

ASBO's should only be considered against young people as a last resort. Camden has taken ASBO action against a number of young people and these have been effective. However, proportionally, and compared to most other authorities, Camden takes a much higher percentage of ASBO's out against adults. All other options, including signing young people up to Acceptable Behaviour Agreements (ABA's) should be considered before applying for an ASBO against a young person. Any decision to sign a young person up to an ABA must be approved of by the YISP and consideration must be given to what support is available to the young person and the family as a whole.

The Housing Department has set up Youth Inclusion and Support Panels (YISP's) to cover each of the 5 DHO areas. These are multi agency panels that meet on a monthly basis to assess the behaviour of young people referred to the Panel, and agree actions to prevent further nuisance or offending. Panels include reps from the Police, Housing, Youth Offending Team, ASBAG and other agencies such as Education and the nominated support referral agency for the area.

Any final decision to make an application for an ASBO on a young person must be made by the local YISP, though the Police can in very exceptional circumstances seek ASBO's against a young person, without direct reference to the YISP.

Where an ASBO is the agreed route against a young person, consideration must also be given to the parenting of the child, and reports must be done to assess whether it is also appropriate to take out Parenting Orders, or sign the parent/s up to Parenting Agreements.

Post conviction ASBO's are also available to the Police. In these cases a person has to be found guilty of a crime that in the view of the Police and Local Authority, is likely to have caused harassment, alarm or distress to the community (such as car theft), and the Court has to consider granting a post conviction ASBO if asked. However, Camden has agreed not to seek post conviction ASBO's against anyone under the age of 18.

The full remit of the YISP's, the role of support agencies such as Families in Focus and the use of Acceptable Behaviour Agreements can be seen by going to <http://www.camden.gov.uk/asbag>

ROLE OF POLICE, LOCAL AUTHORITIES AND OTHER AGENCIES

Whichever agency takes the lead in applying for an antisocial behaviour order; the police or the local authorities are required to consult with each other. The partnership responsible for implementing the crime and disorder reduction strategy is likely to provide an ideal forum in which to discuss local approaches to the use of the order.

CONSIDERATION OF OTHER REMEDIES

In general, an application for an anti social behaviour order should only be made when other methods to prevent further misconduct have failed or such methods have been considered and deemed inappropriate or less effective than an order of this sort. The decision to apply for an order must be regarded as a serious step and other measures

Such as:

- Mediation
- Work with children and families
- Social and health care
- YISP's
- Targeting and Tasking Groups
- Establishing diversionary activities on estates – Kids Clubs

Should be considered before legal action is initiated.

In addition, other measures are available to the local authority and the police and the most appropriate should be used in each case. Alternative measures include those provided for under the Environment Protection Act 1990, the Noise Act 1996.

APPLYING FOR AN ORDER

Application for an order is made to the magistrates' court and the civil standard of proof – the balance of probabilities - will apply. A separate application must be made in respect of each individual concerned. The application must be made within six months of the behaviour complained of.

Those aged 10 – 17 are subject to the same procedures and are also dealt with in the adult court. Parents or guardians must be fully informed and consulted with at all times and be sent copies of the summons.

It will be good practice to consult the alleged victims of the behaviour in advance to establish what might be included in the order to ensure their safety and well-being. It is, however, for the court to decide on the content of any order.

PROCEDURE IN COURT

The court will hear the substance of the complaint and, if the allegation is contested, will hear evidence. The defendant may be legally represented and legal aid is available. The court will take a view on whether an order should be made. It is a defence that the action was reasonable in the circumstances the court must then disregard any such behaviour, even where it has caused alarm or distress. Where the defendant is under 16 years of age, the court must require the attendance of parent or guardian.

Where the defendant fails to attend, the court may issue a warrant or proceed in his or her absence. While it is preferable for the individual to be present, a defendant should not be allowed to delay the outcome through failure to attend.

CONTENT OF THE ORDER

The order must be made for a minimum period of two years. There is no maximum duration but orders should, wherever possible, be made for a finite period. The order may contain any prohibitions considered necessary for the purposes of protecting persons in the local government area from further antisocial behaviour of the same kind by the defendant.

Prohibitions should be specific in time and place in order to clarify what would constitute breach. An order will generally contain a prohibition against inciting the commission by others of anti social acts including those by minors resident in the same household.

All requirements in the order must be negative. There is no power to require positive action by the individual concerned.

BREACH OF AN ORDER

Breach of an antisocial behaviour order is an arrestable offence subject to the criminal standard of proof – i.e. beyond all reasonable doubt. Legal aid is available.

Prosecutions are conducted by the CPS and may be tried summarily in the magistrates' court (or youth court) or on indictment in the crown court. The maximum penalty is five years imprisonment.

16 DISPUTES OVER GARDENS

The Council's Conditions of Tenancy state:

"The Tenant must not, without the Council's written permission, remove any hedges or fences or remove or prune any trees".

"The Tenant must keep any garden or fitted window box neat and tidy."

Court action, especially possession proceedings are only likely to be realistic in the most extreme circumstances. Nevertheless, any potential cases should be fully discussed with the Legal Section. Because of the nature of many street properties in the borough, gardens can be either shared or divided up. This can lead to complex and sometimes violent disputes. Great care needs to be taken in reaching decisions in these cases especially where a leaseholder is involved and may have statutory rights.

Alternative strategies could include:

- Putting an elderly tenant, no longer able to care for their garden, in touch with Age Concern who may be able to provide assistance
- Encouraging a gardening club on the estate e.g. via the TA, Age Concern etc
- Encouraging a mutual exchange transfer
- Holding a gardening competition
- Referral to the Camden Mediation Service (see section 5). Any agreements reached should take into account existing legal rights to land or access to land.
- Discuss the case with the Quality Team. The Quality Team has an overview of formal complaints and has experience of specific cases relating to gardens. They may be able to advise on a suitable outcome.

Nevertheless, the tenant should also always be written to pointing out their obligations under the Tenancy Conditions.

If a garden has become so overgrown and /or full of rubbish, that it has become a nuisance, the council can arrange to clear and recharge it to the tenants

Visit the tenant and warn them that they are in breach of their tenancy conditions and that the garden must be tidied.

Point out any items of rubbish that need to be removed and give the tenant reasonable time to do the work.

Confirm this request in writing.

If the work is not carried out within the timescale a further warning should be given, telling the tenant if its not cleared than the council will do it and charge the tenant for it.

Section B: Standard letters and forms

- Letter to complainant after discussing course of action 67
- Letter to complainant to attend for an interview 68
- Letter to complainant to return the diary sheets or close the case 69
- First warning letter to alleged perpetrator 70
- Invitation letter to perpetrator to interview 71
- Second invitation letter to the perpetrator for interview 72
- Letter to perpetrator confirming agreement 73
- Letter to perpetrator, warning for serving a NOSP after a noise abatement notice has been served by the EHT 74

Please refer to the example letters in this section, these are designed to be a guide and not reproduced word for word, each case will be different and require a different response. They are not in a strict order and in some cases you may decide that writing letters is not the most effective way of communicating information or decisions. If so, you must make sure that you make notes of why you are not sending letters and keep accurate and up to date notes of interviews and phone calls. However, if you are planning to take or threatening action of any kind you must ensure that the resident receives notification of this in writing, in a language they can easily understand.

Telephone 020 7974 xxxx
Fax 020 7974 xxxx
E-mail xxxx.xxx@xxxxxx.xxx.uk

Date

Name

Address

Dear

Re: Complaints of noise

Thank you for discussing the problem you are having with your neighbour and bringing this matter to my attention.

After our conversation on (put date) we agreed on the following course of action.

1. I will write to (specify if alleged perpetrator known) to explain that a complaint has been made about noise and to ask them to be more considerate.
2. You have agreed to keep a diary of all further nuisance caused by your neighbour in the nuisance diaries I gave you at our meeting. If you have difficulty filling these in please let me know and we can discuss alternative ways of recording the noise.
3. You have also agreed to return the nuisance diaries to me by (put a date 4 weeks from today's).

I have enclosed the information booklet dealing with noise nuisance, which gives details of the services available to council tenants/leaseholders for dealing with noise nuisance. In particular can I point out the leaflet about the Camden Mediation Service as you may find this service useful to you and your neighbours.

If you would like to discuss this again or if you need any further information or assistance please get in touch with me on the above number

Yours sincerely,

Estate Officer

Telephone 020 7974 xxxx
Fax 020 7974 xxxx
E-mail xxxx.xxx@xxxxxx.xxx.uk

Date

Name

Address

Dear

Re: Noise Nuisance.

I am sorry to hear that you are still having noise problems with your neighbours. Thank you for returning the noise diaries to me.

I would like to discuss this further with, can you please come into the office on (date and time). If you are unable to attend on this date or would prefer I visited you at home please contact me to arrange a suitable time.

In the meantime, you should carry on recording any further incidents of nuisance in the nuisance diaries and continue to use the services Housing Mobile Patrol and Weekend Noise Service, should you need it.

Yours sincerely,

Estate Officer.

Telephone 020 7974 xxxx
Fax 020 7974 xxxx
E-mail xxxx.xxx@xxxxxx.xxx.uk

Date

Name

Address

Dear

Re: Noise Diaries

Following our conversation on (date) you agreed to keep a diary of nuisance caused to you by your neighbour. You agreed to send these back to me by (date).

Unfortunately I have not received these or had any contact from you. If you are experiencing difficulties in completing these nuisance diaries, then please let me know. I may be able to arrange for alternative methods of collecting the information.

If you do not contact me or return the completed diary sheets by (put date 2 weeks from today), then I will assume that your neighbours are no longer causing you a nuisance and I will close the case.

If you want to discuss this or any other queries please do not hesitate to contact me on the above number.

Yours sincerely

Estate Officer

Telephone 020 7974 xxxx
Fax 020 7974 xxxx
E-mail xxxx.xxx@xxxxxx.xxx.uk

Date

Name

Address

Dear

Re: Complaint about noise

I have received complaints about noise coming from your property. In particular,

(Give details of the complaint)

The Tenancy Conditions state that :

'You must keep noise, including televisions, radios, record players, musical instruments and so on to a reasonable volume at all times. You must not make any noise which can be heard outside your home between 11pm and 8am.'

Please ensure that you and other members of your household are aware of this and don't cause any disturbance to your neighbours.

If you would like to discuss this further please do not hesitate to contact me on the above number.

Yours Sincerely

Estate Officer

Telephone 020 7974 xxxx
 Fax 020 7974 xxxx
 E-mail xxxx.xxx@xxxxxx.xxx.uk

Date

Name

Address

Dear

Re: Complaints of noise

Following my letter datedI would like to meet and discuss this matter further with you.

Please attend an interview with me at District Housing Office:

On:.....

At:.....

If this appointment is not convenient, please contact me urgently on the above number, to arrange another time. If you do not attend the interview or I have not heard from you within five working days, I will contact you again. I should remind you that Camden takes anti-social behaviour extremely seriously and will take legal action if no other solution proves successful.

I again enclose a pack of information about techniques to reduce noise coming from your home and leaflets about services that are available to you such as the Camden Mediation Service.

If you would like to discuss this further or have any queries please do not hesitate to contact me on the above number.

Yours sincerely,

Estate Officer.

Telephone 020 7974 xxxx
Fax 020 7974 xxxx
E-mail xxxx.xxx@xxxxxx.xxx.uk

Date

Name

Address

Dear

Re: Complaint about noise nuisance

I wrote to you on the (put date) to ask you to come in to the District Housing office on (put date of interview) to discuss a complaint about noise coming from your property. You did not attend or contact me to arrange an alternative date. I would prefer to discuss the complaint made against you in person, however if I don't hear from you, I need to inform you that a report of your alleged behaviour will be recorded and kept on your tenancy file. If I receive any further complaints then this will obviously be taken into account when deciding on further action.

I enclose, for your information, details of Camden Mediation Service. This is an independent service aims to reach agreement with parties in dispute. I strongly recommend that you make use of this service as many people have benefited from their help.

Please note we may use noise-monitoring equipment as part of the investigation of alleged noise nuisance in the complainant's premises.

I would urge you to contact me on the above number to arrange a suitable time to discuss this matter in person.

Yours sincerely

Estate Officer.

Telephone 020 7974 xxxx
Fax 020 7974 xxxx
E-mail xxxx.xxx@xxxxxx.xxx.uk

Date

Name

Address

Dear

Re. Complaint of noise nuisance

Thank you for coming to see me on I am writing to confirm the issues raised and the agreement we reached.

(List each issues and perpetrators response and agreement).

You have agreed to Mediation and I have referred your details to Camden Mediation Service, who will contact you shortly.

As I explained at our meeting, Camden Council takes matters of nuisance very seriously, and I will continue to monitor the situation. If you would like to discuss anything further or have any queries please do not hesitate to contact me on the above number.

Yours sincerely

Estate Officer

Telephone 020 7974 xxxx
Fax 020 7974 xxxx
E-mail xxxx.xxx@xxxxxx.xxx.uk

Date

Name

Address

Dear

Re: Noise Abatement Notice

We have been notified by the Environmental Health Team, that you were served a noise abatement under the Environmental Protection Act 1990 on (date notice the nuisance occurred) by Weekend Noise Service Team/ Initial Response Team (delete appropriate).

You are now in breach of your tenancy agreement.

The council is committed to dealing with nuisance and enforcing the conditions of tenancy. I have contacted you in the past about the complaints of noise coming from your property. Please see attached previous correspondence. (Provide a summary of the previous position)

If the council receives any further complaints I will be forced to seriously consider serving you with the Notice Seeking Possession. This is the first formal step towards the council repossessing your home.

If you would like to discuss this matter with me please contact me on the above number.

Yours sincerely

Estate Officer

17 FILTHY OR VERMINOUS PREMISES

INTRODUCTION

Section 83 of the Public Health Act 1936 describes action that can be taken against ‘filthy or verminous’ premises.

VERMINOUS

The act is relatively clear on this section and refers to infestation by rats, mice or insects, including insect eggs. These must exist within a property as a result of the way in which someone lives or leave their premises for example, in the private sector this could conceivably relate to a vacant property, so action could be taken against a landlord of empty premises.

Infestation is normally occurs as a result of accumulation of food waste lying around and suitable harbourage such as rubbish and refuse. This would usually be accommodation in which no cleaning takes place, or where there are minimal attempts by the occupier to keep order. Infestations are possible (occasionally) in clean and tidy accommodation but these would not normally be dealt with under Section 83.

It may be appropriate to involve the Councils Pest control Officers to tackle infestation of pests. The Housing Department has developed a service level agreement with the Pest control, to provide the following services free of charge to Council tenants (leaseholders will have to pay a charge to pest control) at the point of service. Where a block treatment is required for mice or cockroaches (for instance), section 20 notices may have to be issued as leaseholders will be recharged for this work. In very urgent cases, the statutory notice period can be waived, but discussion should always take place first with the Home Ownership Section.

The Pest Control Service can be contacted on 020 7974 5976 and are open 8am to 5pm Monday to Friday. Information leaflets are available on how to deal with pests and how to avoid getting, they are available from Pest Control and are displayed in DHO reception areas.

FILTHY

Making an assessment that a premises is ‘filthy’ is more difficult and is normally a subjective decision based on experience usually an Environmental Health Officer (DHO).

In examples of 'filthy premises' one should expect to see a severe nuisance, which affects health directly. Subjective opinion or individual taste is not relevant, therefore it would be inappropriate to consider a complaint of a musty smell in a common hallway or a complaint of distaste of a particular residents lifestyle.

REPORTS OF FILTHY AND VERMINOUS PREMISES

Reports of filthy and verminous premises may come from a variety of sources, e.g. neighbours, caretakers, contractors, social services etc. The Estate Officer may be alerted to premises, which may be filthy or verminous after visiting the premises for other matters such as rent arrears.

As soon as the Estate Officer is aware a premises may be of filthy and verminous nature such that the health and safety of the tenants or other neighbouring residents are compromised. The Estate Officer will investigate the case; see below for points to be aware, officers should also refer to Section 3 – Dealing with Vulnerability

ACCESS ORDERS

Where access is persistently denied, consideration should be given to seeking an Access Order in the County Court.

Legal should be commissioned and clear evidence of access denied should be provided (with photographs if possible and evidence from neighbours and contractors).

Access orders can be obtained very quickly and may tied into possession actions.

At court the tenant may turn up. In these cases an attempt should be made to obtain undertakings unless the tenant is refusing to co-operate at this stage.

Where an access order or undertaking is obtained, follow up action should be taken immediately. An access order may have a time limit on it and the courts will expect that they are acted on swiftly. An access order is only breached if a further attempt at access is made and denied. At this point the tenant is in breach of the order and you should consult with legal about possible committal action.

The tenant, and any support worker, must be informed in writing of all actions being taken and copies retained on the tenancy file. This will show the courts whether reasonableness has been applied. In certain cases the tenant should be told that the Council will seek all associated costs such as the court action, and any forced entry, clearance and lock change. Individual circumstances must be considered in all cases, and the non-payment of costs should not be a barrier to enforcement.

CHECKLIST

- Check tenancy files to see if there is any previous history
- Check with Social Services information – ext 6666, to check if the tenant has any support from Social services and if so try to get them involved
- Check with caretakers – who might be able to tell you a bit about the lifestyle of the tenant
- Write to the tenant asking them to contact you about a tenancy matter. They may or may not contact you
- If the tenant has support workers, try to arrange an interview at home with the support worker present
- Visiting the tenant at home will give you an opportunity to assess the nature of the filthy and verminous premises
- Social Services may already be involved but if not and you consider it relevant after visiting the tenant, consider making a referral. Social Services have a duty to assess vulnerable tenants and provide support, if necessary, or advise
- Sometimes people will not let you into their property, perhaps they are embarrassed about the mess, or they are quite happy living the way they do and they do not want anyone to interfere. Perhaps there is someone who can get through to them, a family doctor, social worker, a family member, a friend, if so try to find them and get them involved
- Filthy and Verminous premises are easier to deal with at an early stage, than at a later stage
- Sometimes a premise becomes filthy because a tenant becomes too vulnerable to keep the property clean and proper support such as home care is not provided to the tenant. In such cases the Estate Officer should ensure that adequate support is present for the tenant

The Estate Officer should be aware in serious cases of filthy and verminous premises

- The tenant may not have electricity, hot water etc, perhaps they have been cut off because the tenant did not pay the bill
- If someone does not have any electricity, what are they using for lighting - candles may be a fire hazard if the tenant is hoarding furniture and newspapers etc
- There may be animals involved, if the property is infested with fleas or the animals are not fed properly the RSPCA may need to be involved.
- In certain circumstances it may be appropriate to ask the tenant to sign an Acceptable Behaviour Agreement about future activity/behaviour. For instance, in a property which is subject to hoarding, you might want to ban the person from using candles.

REFERRING TO ENVIRONMENTAL HEALTH

If the Estate Officer is unable to gain access to a premises, which they suspect to be of a filthy or verminous nature, or if access is gained but the Estate Officer is unable to make an assessment of whether the premises is of filthy nature. The Estate Officer can refer a case to the Environmental Health

The criteria for referrals are:

- The Estate Officer must have made attempts to gain access to the property, including phone calls, visits, and letters for access, letters stating the relevant clause from the conditions of tenancy.
- The Estate Officer must make attempts to deal with the case by trying to involve support agencies
- There must be a genuine concern about the tenants health and safety or Health and safety of neighbouring properties
- The case will be allocated to an Environmental Health Officer within 5 working days of being referred. The Officer will contact the EO via e-mails/phone and leave the contact details
- Although the Environmental Health officers will carry out the legal side, the Estate Officer should still coordinate any clearing up necessary

The Environmental Health Officers will contact the tenant to make arrangement to access the premises. If access is denied than the Officers can force entry to the property to make a subjective assessment. The Estate Officer should be present along with any support agencies the tenant are linked to or have been referred by the Estate Officer. If there are animals involved the Environmental Health Officers may ask RSPCA officers to be present to enter the premises to make any assessment of whether the animals are subject to any cruelty.

If the premises are assessed to be of filthy or verminous nature, the Environmental Health officer will serve a Notice under the Section 83.

The Officers consider how the condition of the property affects any neighbouring property and whether the property is 'prejudicial to health' of the occupants. They look at things like:

- Cleanliness of floors, walls, ceilings
- Are any surfaces clean: are they easily cleanable
- Accumulation of rubbish- organics matter
- Ventilation of the property- can the windows be opened , vent holes are they free from obstruction
- Are there large amounts of paper- paper starts decomposing
- Faeces/urine in the property

- The toilet is usable/functional
- Is there water/hot water supply, heating
- Is the property infested with vermin, such as rats, mice, fleas, cockroaches-mice droppings, rats droppings
- The effect it has on neighbouring property

If the premises are considered to be of filthy or verminous nature under the Public Health Act 1936. A notice can be served on the tenant/occupier of the premises, requiring them to take such steps as may be specified in the notice to remedy the condition of the premises by cleansing and disinfecting them, and the notice may require among other things the removal of wallpapers or other covering of the walls, or, in the case of verminous premises, taking such steps as may be necessary to destroy or remove vermin's.

The notice may require the interior surface of premises used for human habitation to be papered, painted or distempered, and the interior surface of any other premises to be painted, distempered or whitewashed, and shall allow the person on whom the notice is served, or the local authority acting in his default, to choose, in a case of filthy premises, between papering, painting and distempering and, in a case verminous premises, between painting, distempering and whitewashing.

If a person on whom a notice is served fails to comply with the requirements thereof, the authority may themselves carry out the requirements and recover from him the expenses reasonably incurred by them in so doing.

Although section 83 includes a prosecution power (leading to a fine) as well as action in default this is not usually used in Camden to control filthy and verminous premises as those responsible are normally more vulnerable residents.

Costs under £1000	Order the works using a contractor from the approved list
Between £1000 to £5000	Obtain at least 2 quotes from the approved list (for value for money)
Over £5000	Formal tenders should be sought

In exceptional circumstances where immediate clearance is required, a contractor from the approved list can be used, provided this is carefully monitored to ensure value for money.

The Repairs Section will be able assist with the ordering of the clearance.

Monitoring after the clean up

After the clear out the EO should monitor the situation every 3 months, by visits, reports from care workers, social services, etc, so that further repetition is prevented.

5. REFERRING TO SOCIAL SERVICES/OTHER AGENCIES.

If the tenant is not linked to any support network, than consider referring to appropriate Social Services Team. Social Services have a duty under the NHS and community act 1990 to assess the needs of vulnerable adults and based on the assessment can provide.

- Information regarding other relevant agencies
- Advise and Social work Support.

6. HOME SUPPORT SERVICE ALSO KNOWN AS HOME CARE SERVICE

Access to the service is only via assessment from the Social Services Department Care Management Teams, see table below for details. The service is available to older people, people with physical disabilities, people with learning disabilities and people with mental health problems. The service assists people to maintain maximum independence at home by helping with personal care such as washing, dressing, personal hygiene, and domestic tasks such as shopping, cleaning, pension collection and laundry. There is a weekly fee, which varies depending on income/benefits. For further written information contact :

79 Camden Road
London
NW1 9ES

Tel: 020-7974 2948 (Admin)

There are 5 Care Management Teams in the Borough, and they are based within the 5 Community Based Health Centres. If you are not sure which area-based team is responsible for the tenant you want to refer, check with Social Services information on ext 6666.

Crowndale Health Centre

59 Crowndale Road
NW1 1TU

0207 530 3878/3865

Hunter Street Health Centre

8 Hunter Street
WC1E 6AE

0207 530 4386/4387

Kentish Town Health Centre.

2 Bartholomew Road
NW5 2AJ.

0207 530 4779/4799.

Solent Road Health Centre

9 Solent Road
NW6 1TP

0207 530 2597/2581

Gospel Oak Community Health centre

Lismore Circus
NW5 4QF

0207 530 4654/4665

7. PRIMARY CARE

The Primary Care team deals with people who are over 65 and are frail, physically disabled or who have mental health problems, including dementia; people over 18 who have a permanent and physical disability. It carries out assessments of people's needs and arranges services to meet their needs.

A Care Manager carries out the assessment and referrals need to be sent through to one of the above 5 health centres in the borough.

8. MENTAL HEALTH TEAMS

There are two teams; North and South Team. If you are not sure which team covers the tenant's address, contact Social Services information Ext 6666.

SOUTH CAMDEN COMMUNITY MENTAL HEALTH TEAMS

Tottenham Mews Resource Centre

Tottenham Mews
off Tottenham Street
London
W1T 4AA

Tel: 020-7530 4400
Fax: 020-7530 4447

Community based support for people in the south of the borough with severe and enduring mental health problems. Involved in hospital admissions and planning hospital discharges. Includes Community Psychiatric Nurses, Community Psychiatric Occupational Therapists, psychologists, psychiatrists, social workers and support workers. Teams cover different areas: Regents Park / Kings Cross Teams, Tottenham Mews Resource Centre, Tottenham Mews, W1T, Tel: 020-7530 4400; Camden Town / Kentish Town Teams, Peckwater Centre, 6 Peckwater Street, NW5, Tel: 020-7530 6431.

NORTH CAMDEN COMMUNITY MENTAL HEALTH TEAMS

The Hoo

17 Lyndhurst Gardens
London
NW3 5NU

Tel: 020-7941 1600
Fax: 020-7941 1604

Opening hours: Mon-Fri 09.00-17.00.

Community based support for people in the north of the borough with severe and enduring mental health problems. Involved in hospital admissions and planning hospital discharges. Includes Social Workers, Community Psychiatric Nurses, Community Psychiatric Occupational Therapists, psychologists and psychiatrists. Team is split into four GP-aligned mini-teams: Belsize, Gospel Oak/Highgate, West Hampstead and Swiss Cottage. Referrals can be made to the North Camden Mental Health Duty Team also based here.

18 PEST CONTROL

Pest control problems do not remain an individual tenants problem, by its nature they spread to other properties if not dealt with efficiently and affectively. People encouraging pigeons on to their balcony, gardens or communal areas are breaching their tenancy conditions. Pigeon droppings are unsightly, and corrosive to buildings. Gutters and down pipes can become blocked with food waste, droppings and nesting materials, causing dampness and subsequent structural damage to the building.

Where pigeons are fed there may be a risk of rat or mouse infestation, because bread and other food left for pigeons are attractive to mice and rats.

In serious cases where a person continually ignores warning letters, an injunction may be pursued to enforce the condition of the tenancy which states (C.7.g) “Do not feed pigeons or any other animal likely to become a pest, outside the building or on the balcony.” Examples of another animal could be foxes or mice.

The Housing Department has a service level agreement with the Pest Control service. The agreement is to provide the following services free of charge to council tenants. Council leaseholders will have to pay a charge for these services; the Pest Control Service will be able to advise of the charges.

Tenants should be encouraged to contact the Pest Control Service directly to arrange an appointment. However, if the Estate Officer is aware of a tenant who is either vulnerable or their may be some other reasons access to the property may prove difficult, they should work with the Pest Control Service to ensure that the officers have accurate information and or assistance in gaining access. Records should be kept on tenancy files of any reports to, or contact with Pest Control in case the tenant decides to sue the Council for nuisance or disrepair.

The agreement between Housing and Pest Control sets out performance standards – see below.

INFESTATION	RESPONSE TIME
RAT (INSIDE PREMISES)	SAME DAY (IF REPORTED BEFORE 15.00 hrs).
FUMIGATION (AFTER REPORT OF DEATH)	1 DAY
RAT (OUTSIDE PREMISES)	3 DAYS
MICE	3 DAYS
FLEAS	5 DAYS
COCKROACHES	5 DAYS
BED BUGS	5 DAYS
WASPS	5 DAYS
GARDEN ANTS	5 DAYS
OTHER INSECTS	5 DAYS



19 PETS

The Section C.7 of the Council's tenancy condition document deals with the keeping of animals/pets. If the tenant or anyone else living with them or visiting them is causing a nuisance with their animals, the Estate Officer should try to address the matter by either writing to them with the relevant clause from the tenancy condition or, if necessary, interview them at the DHO. If they refuse to change their behaviour then consider taking legal action.

In some cases where a tenant is vulnerable it might be more appropriate to consider involvement of other agencies to resolve the matter.

Sometimes the nuisance may be extreme; for example, dogs may be used in violent or threatening behaviour against tenants, visitors or staff. The EO should apply the tenancy conditions when dealing with such behaviour and if necessary involve the police (see the Harassment Procedure).

EO should be aware that some tenants may deliberately use animals, particularly dogs, to harass other tenants or visitors for what ever many different including to pursue racial harassment. The victims might be too afraid to come forward to report the incidents. In such cases the reports might come from a third party such as another neighbour. Refer to Harassment Procedure for such cases.

Where the nuisance is a low level breach of tenancy conditions the EO should follow the steps below;

	Complainant	Alleged perpetrator	Target
First report of nuisance Check previous history	Inform complainant of the action taken and send diary sheets to record any further incidents	Write to the alleged perpetrator (with the complainants permission) reminding them of their obligation under the tenancy condition.	5 days
If the nuisance continues Take any safety consideration into account.	Ask for the diary sheets to be returned. And interview the complainant. Agree plan of action. Inform the complainant in writing the plan of action.	Interview the alleged perpetrator. Remind them of their obligation under tenancy conditions again. (If perpetrator is vulnerable, involve any support workers). Write to them with a summary of the interview.	
For vulnerable tenants		If vulnerable, try using multi-agency approach to resolve the problem. If no support worker present, consider referral to appropriate agencies.	
Monitor for 3 months	No further incidents for 3 months-close the case. Inform the complainant.		
Further incidents	Ask for the diary sheets to be returned	Are any other neighbours affected? If so, consider collecting evidence form other neighbours.	
Consider legal action	Keep the complainant informed.	Injunctions, possession proceedings, ASBO	

DOGS AND TENANCY CONDITIONS

The Council's Tenancy Conditions make several references to dogs (Obligations of the Tenant 7 - Animals) including

- Not cause a nuisance e.g. persistent barking
- 3rd party insurance, collar and tag, on a lead, clearing up fouling, not entering children's play areas or dog free zones
- Not more than 2 dogs to be kept
- No dogs designated under Section 1 Dangerous Dogs Act 1991 and additional breeds

Breach of any such condition mean that injunctive or possession proceedings could be taken according to the circumstances of the case.

DEAD ANIMALS

For removal of dead animals found on estates use the following numbers:

Dead cats - contact litter line 0207 974 6914

Dead dogs - responsibility of the owner- who can seek assistance from vets.

LEGAL REMEDIES FOR ANIMAL NUISANCE

These should be considered where the nuisance is ongoing and the perpetrator refuses to change their behaviour or where a serious breach of tenancy condition has occurred.

Injunctions – [See Section 14](#) These should be considered first before any other type of legal action and is much quicker than possession proceedings. Consideration may also be given to seeking an Anti-Social Behaviour Order in extreme cases.

Possession proceedings – The nuisance would have to constitute anti-social behaviour in order to reach the point that consideration of possession proceedings. Refer to the Harassment Procedure for guidance.

POLICE POWERS

The Police are able to prosecute owners under the Dangerous Dogs Acts (1989 and 1991). Magistrates' powers include

- The destruction of dogs involved in an attack
- Disqualifying an owner from keeping dogs in the future
- The destruction of any designated breed not complying with requirements, (i.e. neutered, id chip/tattoo, insured, registered with Police [Index of Exempted Dogs] and, when in a public place, muzzled



20 VANDALISM AND GRAFFITI AND FIREWORKS

Action should be taken to quickly remove or repair damage when it occurs as a result of vandalism or graffiti. Where the graffiti is racist or otherwise offensive or where the damage has resulted in a health and safety risk e.g. broken glass it should be dealt with as an emergency i.e. within 1 working day. This should be done whilst ensuring the preservation of any evidence to assist in any subsequent legal action, e.g. by taking photographs prior to removal of graffiti.

Vandalism and graffiti are acts of criminal damage and the Police should be contacted in all cases where the perpetrator has been identified. Wherever perpetrators have been “caught in the act” or there are witnesses to the events, i.e. including identification of the perpetrator the Police will usually be able to prosecute under section 5 of the public order act 1986. In such circumstances the Council will wish to press charges, secure a conviction and recover costs.

Where criminal proceedings do not occur, it may still be possible to recharge the tenant who has, or for example whose children have, caused the damage.

If a tenant who lives elsewhere in a Camden property or their children, has been identified as causing damage to any council property in the borough the tenancy condition can be used to take action against the tenant.

Also the Housing Act 1985 (as amended) includes the following Grounds for Possession (4)

- “Damage to the premises, or common parts, or to any furniture provided by the Council.”

Vandalism and graffiti can cause serious blight to a community. In the case of persistent young offenders referrals should be made to the local Youth Inclusion and Support Panel and a package of actions to stop the offending must be agreed. Work may need to be undertaken with other agencies or housing providers to tackle neighbourhood problems, and where possible, people, whether young or old, who have been involved in vandalism and graffiti should be encouraged to take up restorative justice processes.

Another annual nuisance is the misuse of fireworks by young people in particular. Again, wherever possible, early intervention must be taken to prevent further offending or misuse in the interests of the community and the individual. For a detailed and useful report on the misuse of fireworks see the Bright Sparks report at <http://www.camden.gov.uk/asbag>



21 VEHICLE NUISANCE

A wide range of vehicles related to nuisance takes place within the Borough.

CAR REPAIRS

Although not specifically mentioned in the Council's Tenancy Conditions this may amount to a nuisance if excessive in frequency, duration or associated noise or destructive - causing damage to the Council's or neighbour's property.

ILLEGAL PARKING

The Council's Conditions of Tenancy state that "The Tenant must not without the Council's written permission

- a) Park a vehicle, or permit any occupiers or visitors to park a vehicle on any part of the estate other than on an area or areas allocated to the tenant or on a visitors' parking area.
- b) Park a vehicle or permit any occupiers or visitors to park a vehicle over 2.5 tons un-laden weight on any part of the estate. Tenants will not be allowed to sublet a car parking space, which is the property of the Council.

The Council has a Borough-wide contract for clamping illegally parked vehicles on housing estates.

Car racing/motorbikes on Estates/Neighbourhoods

Although not specifically mentioned in the council conditions of tenancy, if council tenants cause the nuisance, action can be taken against breach of tenancy conditions. Other options such as Acceptable Behaviour Agreement can be considered here as often-young people cause this type of nuisance. In the final resort, Anti-Social Behaviour Orders should be sought in the interests of the community and the individual.

Abandoned Vehicles

An abandoned vehicle has the following characteristics.

- It has resided in the same location for at least 3 weeks (unless burnt out or in very dangerous conditions)
- Expired or no road tax

- Poor conditions, i.e. burnt out, crash damage, dirty, drugs usage, flat tyres, full of rubbish, no wheels, smashed windows, unlocked doors etc.
- Crime generators
- Rough Sleeping

Abandoned vehicles have a significant effect on the quality of life for local residents and urgent action should be taken.

Patch Manager and site-based staff should have a locally agreed strategy to deal with any abandoned vehicles in their area.

SEIZURE OF VEHICLES CAUSING ALARM, DISTRESS OR ANNOYANCE

Under Section 59 Police Reform Act 2002, the Police are able to seize any motor vehicle that is deemed to be causing, or likely to be causing, harassment, alarm and distress to a local community. Where the Police determine that seizure is necessary, once done, the owner is liable to the following fees:

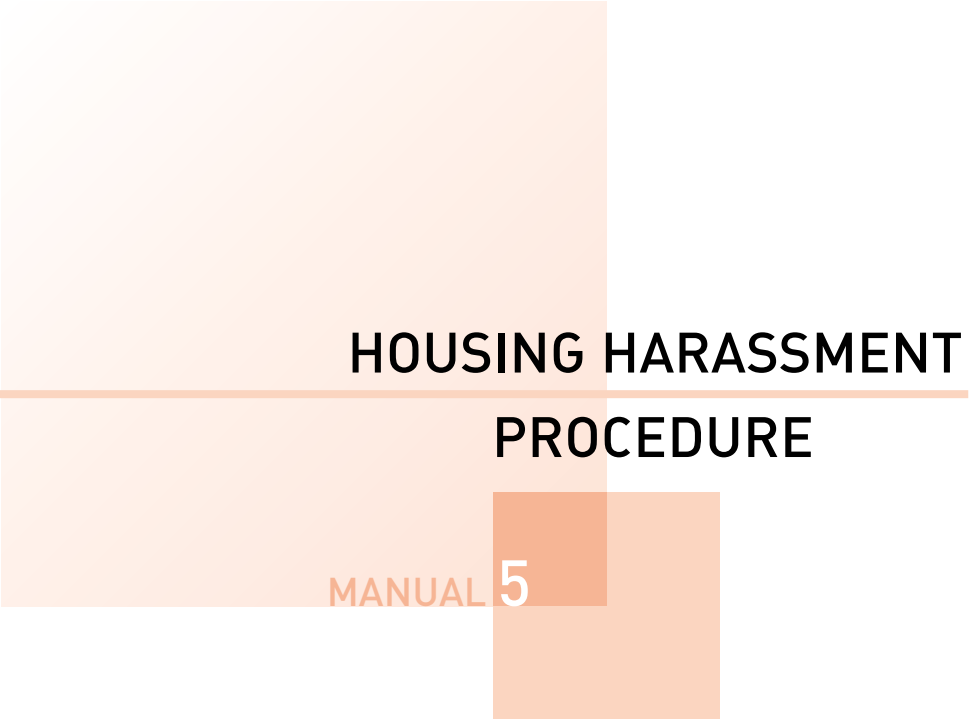
Removal - £105
Storage - £12 per day.

Any information that is received that identifies a vehicle where nuisance has been identified this should be sent to the local Police Ward Officer.



HOUSING HARASSMENT PROCEDURE

MANUAL 5



HOUSING HARASSMENT PROCEDURE

MANUAL 5

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STANDARD LETTERS:

To Police:	Disclosure Request
To Perpetrator:	Initial Contact & Appointment
To Perpetrator:	Restate Outcome of Interview
To Complainant:	Feedback
To Perpetrator:	No Contact - Caution Letter
To Perpetrator:	Formal Warning of SPO/Injunction
To Complainant:	Notification of NOSP served
To Complainant:	Reminder to Return Diary Sheets
To Perpetrator:	Request for Payment - Damage to Property
To Perpetrator:	Final Warning before Legal Action
To Perpetrator:	Formal Notification of Proceedings
To Complainant:	No Contact - case update request
To Complainant:	Close Case - no reports/resolved
To tenants:	Information Appeal

PROFORMAS:

Tenancy Incident Report
Domestic Violence/Racial Harassment Case Referral
Diary Sheet
Diary Sheet Guidance
Perpetrator Interview Form
Witness Report Form
Youth Offending Team (YOT) Referral Form
Acceptable Behaviour Agreement
Parental Guidance Agreement
Mobile Patrol Harassment/Surveillance Request
Mobile Patrol Noise/Surveillance Request
Regulation of Investigatory Powers Act 2000 (RIPA) - Request
Regulation of Investigatory Powers Act 2000 (RIPA) - Extension
Regulation of Investigatory Powers Act 2000 (RIPA) - Closure
Individual Case Log
Team Harassment Log
Monthly Team Case Update/Review
Contacts
Supporting People Team Contacts
Camden Womens' Aid Support Scheme

Glossary of Terms

ABA	Acceptable Behaviour Agreement
AM	Area Manager
ASB	Anti Social Behaviour
ASBO	Anti Social Behaviour Order
ASBAG	Anti Social Behaviour Action Group
CHMS	Complementary Housing Management Service
DAM	Deputy Area Manager
DHO	District Housing Office
DV	Domestic Violence
EO	Estate Officer
FSU	Family Services Unit
PGA	Parental Guidance Agreement
RIPA	Regulation of Investigatory Powers Act 2000
TIR	Tenancy Incident Report
TMO	Tenant Management Organisation
YOT	Youth Offending Team
CSN	Camden Safety Net

QUICK USER GUIDE

INCIDENT NOTIFICATION RECEIVED

Q1. Progress incident of harassment or nuisance

- Record basic details.
- Arrange a suitable time to interview within 1 day if urgent and 5 days for all other cases.
- Arrange translation via interpreter or LanguageLine.
- File Note
- LanguageLine 0845 310 9900
- Interpreters x5731 both require codes from Area Manager

INITIAL INTERVIEW AND HARASSMENT REPORT

Q2. Define the incident.

- Carry out in depth interview with the victim to assess type of Harassment/Nuisance.
- Complete all sections of Tenancy Incident Report (TIR)

Q3. Record and monitor further incidents.

- Advise the victim to keep diary sheets (in their language). Ask for regular copies/updates
- Issue Harassment Pack and appropriate advice/support leaflets

SUPPORT PACKAGE

Q4. Offer support.

- Go through all appropriate remedies available including legal, repairs, transfer and Mutual Exchange, support agencies
- Refer to procedure and check with CHMS Officer for support ideas.

Q5. Establish support, Multi-Agency network.

- Get victim's consent to contact other agencies/witness
- Refer to CHMS Web page, use Agencies own referral method.

Q6. End the interview?

- Inform victim you will discuss proposed action with Area Manager including rehousing if requested.

INVESTIGATE INCIDENT (WITH PERMISSION OF VICTIM)

Q7. How do I carry out a thorough investigation?

- Check both tenancy files for previous incidents. Check with caretaker, neighbours' files and other named witnesses.
- If verbal contact use file note to record.

Q8. What if there is not enough evidence?

- Refer to Mobile Patrol/Police. Consider Independent Witness (referral via ASBAG)
- Appropriate referral forms, disclosure letter to police from Area Manager.

REGISTERING, MONITORING AND MANAGEMENT ACTION

Q9. Register the case for monitoring and seek management advice/decision.

- After interview discuss case with AM or DAM, inc. proposed actions and agree a plan incorporating victim's wishes
- AMs write to victim within 5 working days with decision and action plan. AM sets up case file & copies the TIR to ASBAG

How should I? Action Resource

Q10. Monitor the case.

- Keep in regular contact by phone and visit on a monthly basis.
- Update harassment file and AM to review decision.
- Use file notes and update the summary sheet at front of harassment case.

INTERVIEWING PERPETRATOR (WITHIN 5 DAYS OF RECEIVING PERMISSION)

Q11. Contact with the perpetrator.

- Send a letter stating you need to discuss a tenancy matter urgently and inviting to attend an interview (within 5 days of receiving permission)
- Standard
See letters

Q12. Protect myself and not put myself at risk.

- Consider interviewing with a colleague/ police officer or in the secure room. Always hold interviews in the DHO.
- Sit near panic alarm in interview room. Tell the receptionist to listen out for signs of problems.

Q13. State my case to the perpetrator.

- Set the questions in advance. State what the allegations are, listen to them. Explain tenancy conditions and that the situation will be monitored.
- Refer to remedial action guides depending on type of behaviour. Write giving outcomes within 5 days.

Q14. The perpetrator does not show up.

- Write to them outlining the allegations, that you are monitoring the situation and of breach of tenancy conditions.
- Refer to Key Points and Remedies using standard letters depending on type of behaviour.

Q15. The perpetrator denies the claims.

- Discuss with AM to find best way forward and how to monitor or gather evidence.
- Use relevant referral forms or letters from Harassment shared drive

CASE MANAGEMENT AND REVIEW

Q16. What if I am not sure what to do?

- Discuss the case with your Area Manager. If they cannot help refer to a case conference, legal or ASBAG
- Use regular supervision format. DV/Racial Harassment case Referral form.

Q17. When can I close the case?

- When the harassment or nuisance has stopped and after discussion with your manager.
- Carry out visit to confirm no more incidents – then send out letter confirming case is closed.

ALL STANDARD LETTERS AND FORMS ARE AVAILABLE ON THE HARASSMENT SHARED DRIVE. TO USE, COPY AND PASTE THEM INTO YOUR OWN DRIVE EACH TIME AS THEY MAY HAVE BEEN AMENDED SINCE YOU LAST NEEDED THEM.

TENANCY INCIDENT REPORT

Victim interview fact-find



Name of Victim (in full):

Victim does not have to be a tenant or named on a tenancy

Case Number:

Address: Full Address – where should letters safely be sent?

Are there any children at the interview?

Could they go elsewhere?

Do they really need to hear this?

Tel:

Name of interviewer:

Mobile:

Date of interview: Starts the procedure clock

Include mobile Number, is it safe to call?

Name of Occupants of Household

M/F

D.O.B.

Relationship to victim

Health Issues

Special needs may

need to be considered

Referred By: Are they already receiving support?

ETHNIC ORIGIN

Please complete with interviewee and cross boxes as appropriate:

Language(s) Spoken:

(Ask them)

White UK

Asian

Irish

Asian UK

White Other (Please Specify)

Indian

Pakistani

Interpreter required? Yes No

Not Known:

Bangladeshi

Advice Leaflets Given (please list):

Harassment Pack

Black Caribbean

Chinese

Caribbean

Asian Other (Please Specify)

Black African

Black UK

Turkish Cypriot

Victim (tick): Tenant Leaseholder Licensee

Somali

Cypriot

Resident Adult Child(ren)

Black Other (Please Specify)

Greek Cypriot

Other (Please Specify)

INCIDENT SUMMARY

Perpetrator (Name):

Health issues: Tells us the perceived issues

EVEN IF WE DON'T GET PERMISSION TO CONTACT THEM WE CAN WORK OUT PATTERNS ETC... MONITORING PURPOSES

and gives clues for support

Gender

Tenancy Type

Ethnicity (if known)

Location of victim to alleged perpetrator:

Address: Camden or HA tenant?

A LOW LEVEL CASE BECOMES MORE IMPORTANT IF THE PERPETRATOR LIVES NEXT DOOR RATHER THAN THE OTHER SIDE OF CAMDEN/LONDON

May we contact perpetrator? Yes No

TENANCY INCIDENT REPORT

PREVIOUS SITUATION

(history of relationship between victim and alleged perpetrator)

e.g. Were they best friends? Have they ever spoken before?

Frequency of incidents:

Minor incidents become more serious if they are happening frequently

WITNESS DETAILS

NAME OF FIRST WITNESSES

These are also potential support sources

Address:

Relationship to victim:

Tel:

Mobile:

Willing to give evidence Yes No

NAME OF SECOND WITNESSES

These are also potential support sources

Address:

Relationship to victim:

Tel:

Mobile:

Willing to give evidence Yes No

What type of Harassment does the victim think they are suffering?

Use categories from the harassment types on last page

GIVE 3-4 EXAMPLES OF WORST EVENTS - including most recent and dates & times

If there are children in the family were they in the room, home or area when each incident occurred? (please state where)

EXAMPLE 1. Date:

Time:

- In reality you are making the decision on each case – not your manager. How you write this report is crucial. It is essential that all details are taken down.
- We need to know about where the children were because it can affect them even when they are not in the immediate vicinity. We can therefore offer counselling and support for the children.
- Reassure the victim and his/her family that the Council is interested in helping them.

EXAMPLE 2. Date:

Time:

- It is important to make the victim aware that the questions asked do not arise from disbelief.
- The need to identify what has occurred, and who was involved relates directly to Camden's ability to take action against the alleged perpetrators at a later stage either as hearsay or direct evidence.
- Any inconsistencies in the victim's statements should not be ignored, they should be clarified as far as possible during the interview.

TENANCY INCIDENT REPORT

EXAMPLE 3. Date: Time:

EXAMPLE 4. Date: Time:

Support Agencies	Involved	Referral Required	Referral Date	Contact Details	
Police	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
					Crime No: <input type="text"/>
S.Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
Solicitor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
Victim Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
Environmental Health	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
Tenancy Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
Specialist groups	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
(inc. neighbours to be contacted for Neighbour Support Scheme)				Organisation: <input type="text"/>	
Specialist groups	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
(inc. neighbours to be contacted for Neighbour Support Scheme)				Organisation: <input type="text"/>	
Specialist groups	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	Name: <input type="text"/>	Tel: <input type="text"/>
(inc. neighbours to be contacted for Neighbour Support Scheme)				Organisation: <input type="text"/>	

*** IT IS ESSENTIAL TO GET CRIME NUMBERS. GET NAMES AND ADDRESSES OF CONTACTS AND DATE REFERRALS**

Can Camden Housing Department make referrals to these agencies or contact them for information? Yes No

INCIDENT SUMMARY

- Physical attack
 Property Abuse
 Verbal Abuse
 Noise Nuisance
 Rowdy Behaviour
 At home
 Outside Home
 Estate
 Elsewhere (give details)
 THIS IS A GOOD TIME TO SUMMARISE WHAT YOU HAVE BEEN TOLD SO FAR

TENANCY INCIDENT REPORT

Action taken by victim:

Promotes ownership of the problem, we can only help

Effect on Victim: (For example, health, education, freedom of movement)

(A) Household:

Good for use if case goes to court

(B) Visitors:

Can we share information with the Police? *Allows sharing information for research and hot spot initiatives.*

- Yes full details Yes Anonymous Details No

Expectation of Victim:

(If transfer requested explain options before completing transfer form or new area preference map and pass to Area Manager along with this form.)

Again promotes ownership, don't presume you know what they want, explain transfer is a last resort and not available to everyone. Also explain the types of properties and temporary accommodation they are likely to be offered.

Emergency Support offered:

See remedies section in Harassment Guidelines

- Caretaker Mobile Patrol Panic Alarm requested
 Environmental Health Repairs/security ordered Neighbour Support (DV)
Is the victim willing to attend mediation? Yes No

LEGAL ISSUES

Is the victim willing to attend Court? Yes No

- Personal Injunction Council Injunction Advised to seek private legal advice
 Tenancy issues Anti Social Behaviour Order

IF NO LEGAL ACTION IS BEING TAKEN PLEASE STATE THE REASONS WHY:

Why not? Is it fear, expense, humiliation, cultural issues?

TENANCY INCIDENT REPORT

RECOMMENDATIONS OF INTERVIEWER:

What do you think should happen next?

ARE PERPETRATOR OR VICTIM INVOLVED IN ANY OTHER CASE?

Is this a known perpetrator?

Does action need to be co-ordinated, is this tenant having other problems?

IS THIS A REPEAT VICTIM? Yes No

If yes give closed case reference numbers.

If yes check the previous history and give report to Area Manager

Closed Case Ref No:

READ BACK THIS FORM TO THE VICTIM AND CONFIRM ALL DETAILS ARE CORRECT

Signature of Victim:

Date:

TENANCY INCIDENT REPORT

DECISION OF AREA MANAGER

(Must be completed within 5 working days of interview)

Transfer Request Agreed: Yes No

Further Action Required:

Name: (Block Caps) Date:

Signature:

HARASSMENT TYPE

- | | | |
|--|---|--|
| <input type="checkbox"/> Racial Harassment (RH) | <input type="checkbox"/> Domestic Violence (DV) | <input type="checkbox"/> Religious Belief (RB) |
| <input type="checkbox"/> Homophobic Harassment (HH) | <input type="checkbox"/> Sexual Harassment (SH) | <input type="checkbox"/> Anti Social Behaviour |
| <input type="checkbox"/> Disability (HDIS) | <input type="checkbox"/> Mental Health (HMH) | <input type="checkbox"/> Vulnerability (HVN) |
| <input type="checkbox"/> Harassment on grounds of HIV (HHIV) | <input type="checkbox"/> Bullying by children. | |
| <input type="checkbox"/> Other (please specify) | | |
-

REASON CASE CLOSED:

- | | |
|--|---|
| <input type="checkbox"/> Rehoused | <input type="checkbox"/> Harassment Stopped |
| <input type="checkbox"/> Council Action Successful | <input type="checkbox"/> No contact |
| <input type="checkbox"/> Other (please specify) | |
-

Closing the case? Remember and tell rehousing if priority was awarded.

PLEASE SEND A COPY OF THIS FORM TO:

ASBAG, Room 101, 1st Floor, Bidborough House

(3215 / 3011 / 3408 / 3451 | Racial Harassment Hotline 0800 138 1661 (Freephone)

INTRODUCTION

This guidance note outlines methods for dealing with harassment perpetrated or suffered by Camden Council tenants and anti social behaviour suffered by anyone within the geographical Borough of Camden whether living, working or visiting.

The Housing Department is committed to ending acts of harassment and anti social behaviour against all Camden residents. We aim to take legal action against the perpetrator with the victim's consent, and offer support and assistance to victims. To achieve this, and meet our statutory obligations, we will act quickly, effectively and sensitively, offering victims and witnesses a transfer if they are not safe (and we cannot make them feel safe) in their home, as well as offering advice and assistance to households in crisis and making appropriate referrals to other agencies.

Managers must ensure their staff that deal with harassment receive regular training to keep them up to date with legal and procedural requirements. ASBAG staff are available to give one to one and group training on an ad hoc basis as well as the formal annual training sessions.

A selection of forms and standard letters are available to Housing Staff in the Harassment Procedure Letters & Referrals folder on the shared drive. CHMS provide a list and outline of support agencies on their intranet site.

HARASSMENT PACK CONTENTS LIST

- Tenancy Incident Report ■ Mediation Leaflet ■ Harassment Charter ■ Camden Victim Support Leaflet
- Diary Sheets (2) ■ Personal Safety Leaflet ■ Family Services Unit General Leaflet ■ Contact Agencies List

FORMS OF HARASSMENT E.G.

- Physical Assault ■ Personal Ridicule ■ Noise Nuisance* ■ Offensive Graffiti ■ Failure to Control Dogs*
- Derogatory Name Calling ■ Malicious Complaints ■ Rubbish Dumped on Doorsteps/Through Letterboxes
- Property Damage/Arson* ■ Provocative Behaviour ■ Wearing Racist Badges/Insignia*

* These acts need to be viewed within a wider context with other substantiating evidence e.g. noise nuisance on its own does not constitute racial harassment, there would need to be other factors such as racist name calling or assault.

DEFINITIONS

Harassment - Deliberate action designed to cause fear and distress. This includes physical or verbal abuse, abuse of a power relationship e.g. man/woman; white/black and the actions are not usually reciprocated. Generally harassment is centered around one or more prejudices. Examples of these prejudices include:

- Age ■ Disability ■ HIV/AIDS ■ Race/Ethnicity ■ Religious Belief ■ Domestic Violence ■ Gender
- Sexuality ■ Learning Difficulties ■ Other Vulnerability

Victims of Harassment may suffer from post traumatic stress disorder. This is characterised by intrusive thoughts, flashbacks, nightmares, drug abuse and increased alcohol consumption.

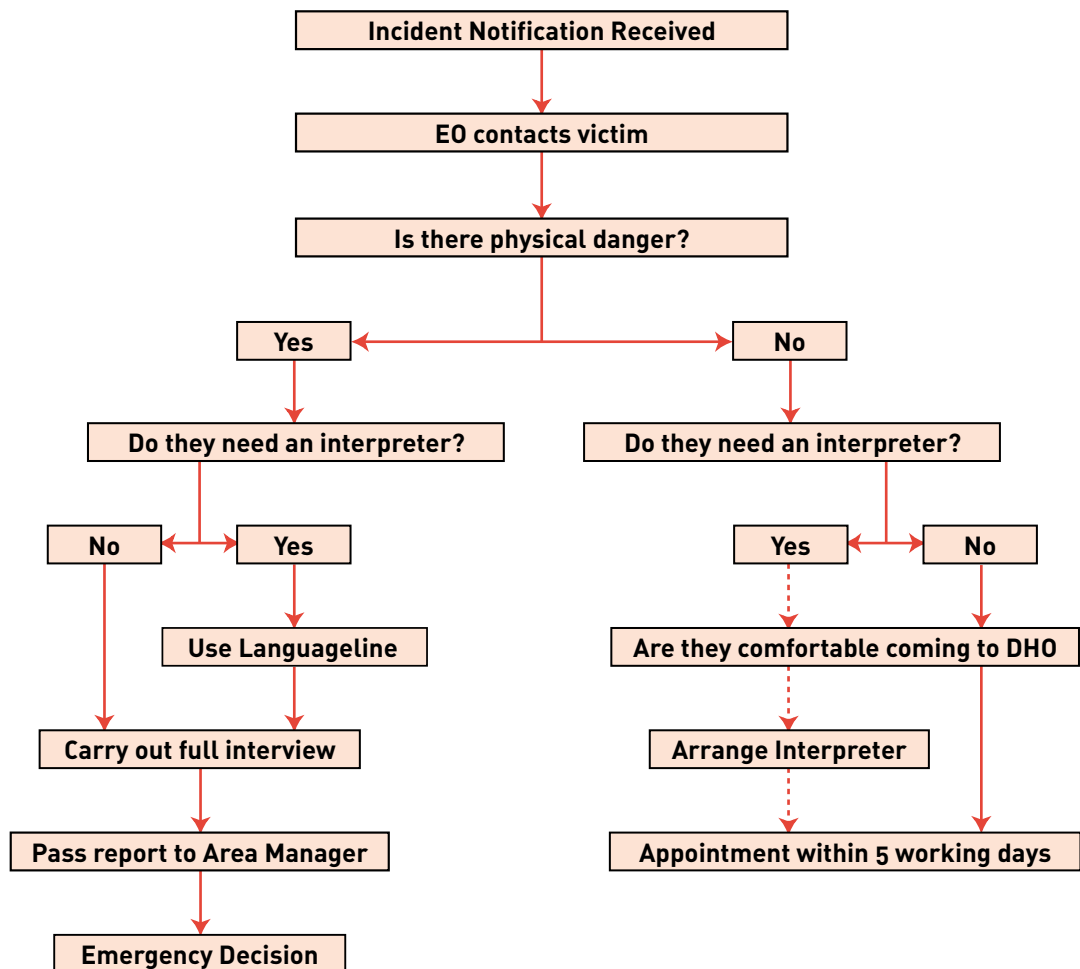
Anti Social Behaviour - This is inconsiderate action, or lack of action, by an individual or group that prevents other residents from having quiet enjoyment of their home and surrounding area (communal areas in house, block, estate or local area). This may include:

- Youth disturbance ■ Rowdy behaviour ■ Drug/Alcohol related behaviour
- Graffiti/vandalism/criminal damage ■ Street Drinking ■ Criminal/Sub Criminal behaviour

ANTI SOCIAL BEHAVIOUR ACTION GROUP

ASBAG aims to advise, train and assist Housing Staff who are helping victims of harassment. They monitor harassment on a monthly basis, offering suggestions and checking procedures are being followed. The group holds a central database of all harassment of Camden tenants which it uses to prioritise resources and refine policy. The group also holds a budget for Independent Witnesses and is the pivotal point for protocols and information sharing whilst coordinating work on ASBOs. The team has a Syhletti speaking Racial Harassment Case Worker, a Domestic Violence and Homophobic Assault Officer and a Youth Officer, all are available to assist with complex cases or special initiatives. The Racial Harassment Caseworker and the Domestic Violence and Homophobic Assault Officer visit and monitor each District's cases on a monthly basis.

Notification Received



DETAILS OF INCIDENT RECEIVED

By telephone, letter, fax, email, personal caller into office, referral agency.

EO CONTACTS VICTIM

EO should immediately, safely, contact the victim to establish a brief outline of the situation. If this is not possible the EO should complete a file note of known details and what attempts have been made to contact the victim. A letter should then be hand delivered (to a safe address) asking them to make contact.

IS THERE PHYSICAL DANGER?

Has the victim been attacked/threatened with violence or are the incidents prejudicial to health?
Yes, interview within 1 working day (check they have attended their GP or hospital if appropriate).
If No, interview within 5 working days. If in doubt interview the tenant on the 1st day.

DO THEY NEED AN INTERPRETER?

Do not presume that because you can hold a basic conversation with the victim that they have a full command of English. Ask the victim if they would like an interpreter and if they would like that person to be male or female. It is best practice to use an independent translator rather than family, children and friends.

TO ORDER AN INTERPRETER,

including British Sign Language, call the Language Service on ext. 5731. They will need a contact name/number; interview situation; language; required gender/cultural background; time/place and approximate duration of interview and your District's Customer ID.

TO USE LANGUAGELINE

call 0845 310 9900. You will be asked what organisation you are from, the language you need and if the client is with you. If the client is with you, you will be placed on hold whilst they connect you to a translator. If the client is not with you they will need both your phone number and the client's phone number and they will then arrange a conference call with the interpreter.

ARE THEY COMFORTABLE COMING TO THE DHO?

Ask the victim if they are happy to be interviewed in the DHO. If the victim feels unsafe coming into the office or is concerned that they may be seen, the interview should be arranged in either another DHO or a place convenient and safe for both the victim and EO. If interviewing outside DHOs EOs should consider arranging for a colleague to accompany them.

CARRY OUT A FULL INTERVIEW

Use the TIR and give the harassment pack with appropriate additional leaflets.

PASS REPORT TO AM

EO and AM to discuss case, agree priority, temporary accommodation and support package.

INITIAL INTERVIEW & HARASSMENT REPORT

PLEASE READ IN CONJUNCTION WITH KEY POINT SECTIONS

Confidentiality must be safeguarded at all times; particular care should be taken when both victim and alleged perpetrator(s) are in contact with the same housing office. No details should be passed to either party without signed permission and all information should be considered beforehand to ensure it will not implicate the victim (unless victim gives permission).

INTERVIEWING THE VICTIM:

The victim should be encouraged to give as much information as possible. EOs must remember that victims very often see interviewers as interrogators who challenge rather than understand and support. Also, interviewing and evidence gathering may be distressing for victims whilst also confusing and difficult for the EO. EOs must acknowledge this and explain that this information will decide their case and be the basis for the support and help the council can offer. EOs must also be aware of the type of body language and impression being given. Housing staff may contact the specialist officers, situated in ASBAG, for advice and assistance at any stage.

The Harassment Pack should be given to the victim and its contents explained and appropriate support agency leaflets should be offered. The function of Diary Sheets should be explained to the victim, both as a means of identifying the extent of the problem and for use if legal action is agreed.

When a person has had a traumatic experience, they may:

- Become uneasy or suspicious at the number and type of questions asked;
- Withdraw if they suspect that they are not believed or supported;
- Hesitate to answer if they are made to feel uneasy or pressured;
- Become frustrated or hostile at having to substantiate the facts

These signs do not necessarily indicate that the victim is not telling the truth, or is angry and uncooperative. They are equally, if not more, likely to be signs of distress or lack of confidence. It is therefore imperative that a Victim-Centred approach is adopted.

VICTIM-CENTRED APPROACH

When carrying out an interview, staff should be aware of the following issues:

- The victim's perception of the harassment and the Council's approach to dealing with it.
- Any cultural issues or differences, where these may affect the victim's perception or approach to reporting harassment/nuisance e.g. those who have fled from torture or persecution in another country.
- In cases involving domestic violence the victim may be in genuine fear of their children being taken into care.
- With domestic violence there will invariably have been numerous incidences of violence before the victim is courageous enough to report it.

The EO should be led by the victim's perception of the incident, balanced with the evidence available, throughout the investigation. The onus for investigation is on the Housing Department, not the victim. However, this approach does not imply that during an investigation, inconsistencies or irregularities should not be challenged.

In all cases of harassment, the emphasis must be on identifying and taking legal action against the perpetrator whilst establishing the appropriate mechanisms for assisting the victim. However, as well as the victim being advised of their legal options they must be assured that Camden's belief of the case does not involve them taking legal action. It should be made clear from the onset that legal action will not be instigated without the victim's consent, unless the case can go ahead without identifying them. Legal action may not be appropriate if the perpetrator is vulnerable in some way or there is not enough evidence.

IDENTIFYING THE PERPETRATOR(S)

At the interview and when interviewing witnesses EOs must take positive steps to trace the alleged perpetrator(s). If they are not known descriptions should be obtained. Note down details of any suspects and establish whether the victim knows of similar incidents in the neighbourhood. If the victim gives consent to us contacting the perpetrator and/or sharing the information with other agencies ensure they initial the appropriate boxes on the TIR.

INTERVIEW TIPS

Do

- Be Courteous
consider the individual's needs
- Be Patient
asking for help can be embarrassing and distressing
- Listen
victim may talk around the subject before getting to the point
- Explain
why the interview is taking place and the point of the questions
- Be Attentive
understand exactly what she/he is asking for to enable you to respond effectively
- Be Clear and Honest
give reliable information, written if necessary. Explain what the Council can and cannot do and what delays or uncertainties there may be
- Be Responsible
this is your case, you are guiding all decisions and will be undertaking the monitoring
- Be Non-Judgemental
- Be Safe
ask for assistance from colleagues, withdraw from threatening situations
- Be Aware
of Human Rights implications and ensure all parties are being treated fairly
- Observe Confidentiality
carry out interviews in an appropriate, safe and private place (for both of you)
- Offer Support
allow a friend/family member or representative to be in the interview. Ask if the victim can arrange for someone to look after the children during the interview
- Seek Support
from colleagues, ASBAG and your manager
- Offer Reassurance
confirm that the incident is being taken seriously
- Define Incident
at the end of the interview go through the form and check the details are correct.

Don't

- Lose Concentration or appear disinterested or bored
- Challenge victim's record of events dismissively or aggressively
- Allow Personal Prejudices or subjectivity to influence your perception/decision
- Appear Unsympathetic to the victim's needs/fears
- Become Case-Hardened and appear callous

SUPPORT PACKAGE AND ACTION PLAN

In discussion and agreement with the victim, outline an action plan, the methods for gathering evidence and ways to increase the personal safety of the victim. Explain who else may be involved and who you may be contacting. Be clear about the timescales in which you would expect to complete each stage.

The plan may involve the following:

- Support from caretakers, Mobile Patrol, Environmental Health
- An Alarm from Careline
- Emergency orders should be issued to repair damage caused by the perpetrator or to make the property secure (e.g. locks to doors/windows, fitting fireproof letter boxes and safety seals to glass panels). This emergency work should be carried out quickly and effectively (repairs within 24 hours and improvements within 5 working days)
- Report offensive graffiti immediately to the Caretaking Supervisor or the Street Cleaning Section for removal within 24 hours. Wherever possible, photograph damage/graffiti immediately as this can be used should the matter go to court (Caretaking Supervisors have cameras). NB. Do not use digital cameras as the resulting photos may not be admissible in court. Evidence collation should not interfere with the timescale for emergency repairs.
- Liaise with the Legal Department and note the advice given
- Ask the victim to report any criminal damage to the police
- Advise the victim to inform their EO of any further incidents

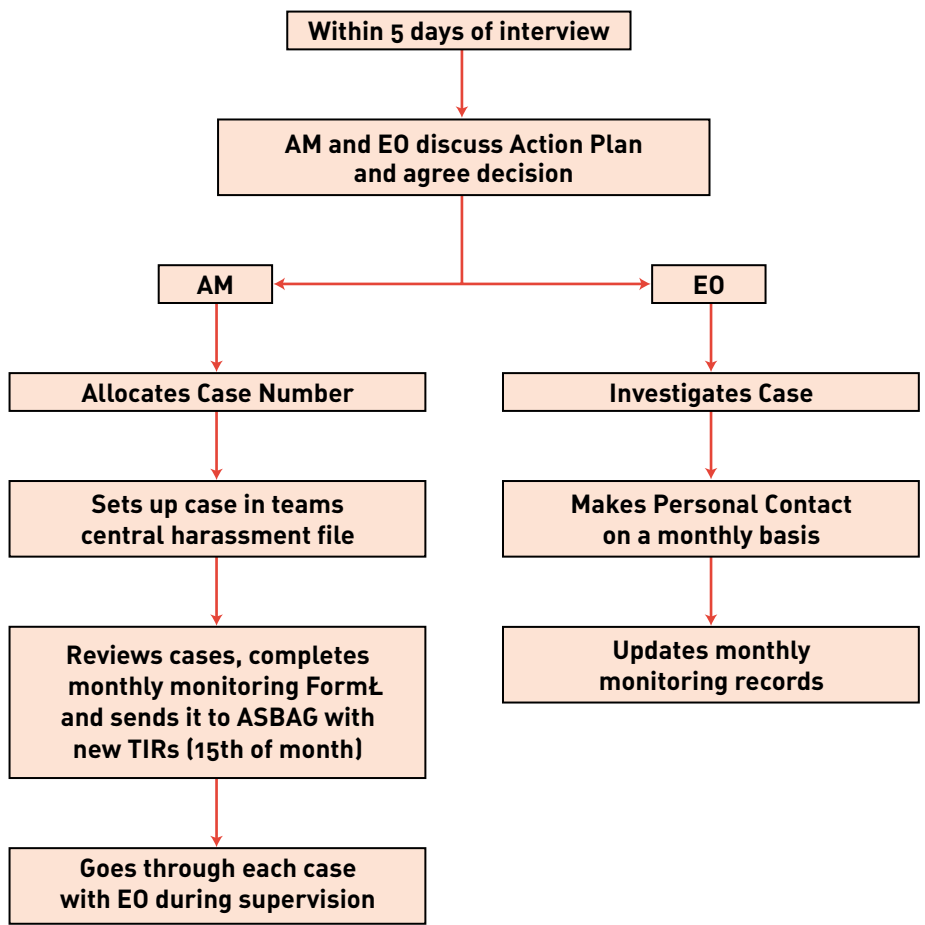
Upon completion of the TIR:

- The report should be thoroughly checked and signed by the victim
- Relevant information should be given along with the Harassment Pack
- Refer to the Remedies Section and CHMS Intranet site when discussing the suitability of remedies available to the council, as well as from external voluntary/statutory agencies.

CONTINUITY

Where possible the same EO should follow through on a case to ensure maximum confidentiality and continuity. If it is to be handed over a full verbal and written briefing should be given by the officers concerned.

Registration, Monitoring & Management Decision



REGISTERING AND MANAGEMENT OF CASES

The AM and EO should meet after the interview to discuss the proposed action plan, the TIR and allocate the harassment category. In cases where several types of harassment are occurring the AM should use their judgement in deciding how to categorise the incidents. Cases should not be counted under more than one category, as this will have the effect of inflating figures.

The different categories are:

1.	RH	Racial Harassment
2.	DV	Domestic Violence
3.	RB	Religious Belief
4.	SH	Sexual Harassment
5.	HH	Homophobic Harassment
6.	HIV	HIV Status
7.	HMN	Mental Health
8.	HDIS	Disability
9.	HVUN	Vulnerability
10.	ASB	Anti Social Behaviour
11.	BUL	Bullying by children

Although there is a category for 'other' this should be avoided if at all possible.

The AM, having regard to the victim's express views, must decide whether the proposed course of action is appropriate. If there has been violence and/or threats of violence this meeting should take place on the same day as the interview. An interim decision should be reached at this meeting.

The AM should write to and telephone, if possible, the victim with confirmation of the proposed action plan and timescales, within 5 days of the interview. The letter must inform the victim that they may appeal to the District Manager within 14 days of receipt if they disagree with the decision or any proposed course of action.

FOLLOW-UP VISITS

The EO should contact, preferably visit, the victim on a monthly basis to ensure the victim is safe, identify further support requirements and detail further incidents. All information gathered must be recorded on the individual harassment summary sheet.

Do not close the case without making personal contact.

MONITORING

ASBAG records all baseline data for cases to ensure that there is an overall picture of both the pattern of harassment and the effectiveness of the Council's response. This enables local or borough-wide initiatives to be developed ensuring the Council's commitment to combating harassment is achieved. To enable this an accurate update on each case must be submitted on the 15th of each month along with any new TIRs. When a case is closed the reason and date of closure should be included on the monitoring form.

In addition to records kept on the tenancy file each Area Team must maintain a central record of all harassment cases. It is recommended that these include the TIR, diary sheets, action sheet and all related correspondence/file notes. The AM is responsible for setting up this file immediately after the initial interview.

Case numbers must be constructed with the district code (CT, GO, HA, HO, KT) followed by the Area Team (N, S, E, W,), the year (01) and the case number.

The team harassment file should be used to review and record monthly updates. Every month the EO should make an entry on each record concerning any progress with legal action, outlining further incidents/contact with victim, evidence-gathering attempts, contact with the perpetrator/other agencies or notification that the case is closed.

AMs should go through the harassment cases with the EO during supervision, checking appropriate action is being undertaken.

District Managers and AMs are expected to develop links continually with local agencies and to hold regular multi-agency meetings to discuss their district's response to harassment/crime and disorder, such as Neighbourhood Action Partnership (NAP) meetings.

INVESTIGATE CASE

There are two levels of investigation on any case. Firstly to confirm the situation and secondly to establish the possibility of taking legal action.

HISTORY OF INCIDENTS

The victim's and the perpetrator's tenancy files must be checked for previous incidents both at current and previous addresses. Also check with ASBAG in case perpetrator is known in other areas of the borough. Evidence of previous harassment and/or nuisance of a serious nature may have an effect on any decision to be made in relation to awarding the victim harassment points for a transfer or requesting a priority increase via the Vulnerability or Exceptions Panel.

Any involved agency should be contacted, with the victim's consent, as the information provided by them may assist us and avoid duplicating work/referrals.

HOW TO INTERVIEW WITNESSES

With the victim's consent arrangements should be made to interview witnesses. Witnesses should be given copies of diary sheets to record any further incidents.

Ask the witness, as per victims, whether or not they are willing to give evidence at court. If not, with their permission, we can use the evidence as hearsay evidence without naming or identifying them.

While interviewing the witness, it is important to find out and note on the Witness Report form any concerns, and allay any fears they may have. After the interview ask the witness to read and confirm that the information is correct and then sign the report. Arrangements should be made for additional security if required.

Do

- Prepare for the interview. What do you need to find out?
- Ensure you ask 'open' questions allowing the witness to speak for themselves e.g. "What happened on" "What did you see/notice" "Can you remember the time/day"
- Take detailed notes of the interview
- Discuss the future use of the information, will they attend court etc.?

Don't

- Ask leading questions e.g. "Would you please confirm X was involved?"
- Show your feelings regarding the incidents
- Coerce the witness into making a statement - they may be reluctant to get involved for fear of reprisal
- Disclose the victim's name and address

INTERVIEWING ALLEGED PERPETRATOR

Within 5 days of receiving written permission, whether the perpetrator is a council tenant or not, she/he should be given the opportunity to comment on the allegations made. The aim of the interview is to stop the incidents from happening, establish a fuller picture of the situation and, if the case goes to court, prove to the Judge that attempts have been made to discuss the problem with the perpetrator allowing them the opportunity to refute the allegations.

Interviewers must ensure it is clear to the perpetrator that the council is not saying they are guilty of the act but that allegations have been made. The interview is the first stage of our investigation and is their opportunity to give their version of events.

Perpetrators must be advised that the Council takes harassment allegations very seriously and that further complaints may, after investigation, lead to court action.

BEFORE INTERVIEW

When inviting the perpetrator to come in for a meeting do not disclose the details of the meeting, simply ask them to come in regarding tenancy matters. Always conduct perpetrator interviews in the District Housing Office. Where appropriate, two officers should be present at the interview, this may include a Police Officer, an ASBAG Officer or a member of DHO staff.

Prepare the Perpetrator Interview Form by listing all the questions you are going to ask, ensuring that all aspects of the complaint are covered.

DURING THE INTERVIEW

Do

- If two officers are present, one should take the notes. Wherever possible note the exact words at the time of the meeting including any racist, sexist or derogatory remarks (do not challenge these remarks). These notes may form a critical part of the evidence in the event of legal action being taken
- Give a copy of Camden's Anti-Harassment Charter and Tenancy Conditions
- Put specific questions to the perpetrator
- If the victim is to remain anonymous keep the questions restricted to property damage etc. to protect the identity of the victim
- Ask the perpetrator why they think the allegations have been made
- Ensure you take the perpetrator's human rights into account
- Discuss the Council's Terms and Conditions of Tenancy during the course of the interview without threatening the perpetrator. This reinforces their obligations and responsibilities as well as re-establishing the authority of the Council to take action. This will help the perpetrator to consider the complaints being made and not view the Council's involvement as personal
- At the end of the interview, ask the perpetrator to read and sign the report if they agree it is correct. All officers present should also sign the report. If the perpetrator refuses to sign the report this should be noted.
- If you feel that the incidents are personally distressing ask your manager for support with the interview

Don't

- Agree or disagree with any points the perpetrator may make
- Disclose the victim's name and address without their consent
- Voice personal opinion or judgements, either about what is said or the likely outcome of the case
- Make any statements committing the Council to a course of action
- Pre-judge the case - listen to the alleged perpetrator's account of events

FOLLOWING THE INTERVIEW

Send a letter detailing the outcome of the interview, the proposed course of action (with timescales), the consequences of their continued offensive behaviour and that the Council and the Police are now monitoring the situation.

Inform the victim that the perpetrator has been interviewed and that you would appreciate their ongoing help with monitoring the situation.

CONSENT WITHHELD

In specific cases, approved by the ASBAG Coordinator, perpetrators may be approached without the victim's consent e.g. if ASBAG and the DHO take the view that related issues, such as the safety of other residents, or damage to council property, outweigh the victim's opposition to the council approaching the perpetrator. The victim should be informed of this decision and assured that they will not be named in any of the proceedings.

REVIEW AND CLOSE OF CASE

CASE REVIEW

AMs, in consultation with Rehousing Staff, should review cases on a monthly basis to ensure appropriate action is being taken. When reviewing cases the AM should consider whether it is appropriate to continue temporary accommodation or whether there are other ways of protecting the tenant against harassment that should be tried.

If new evidence comes to light or further incidents are reported, previous decisions should be reviewed and appropriate action taken.

Victims may change their mind about legal action, temporary accommodation or their transfer request. It is important to take a flexible and understanding approach and review each change.

The EO should make personal contact with the victim on a monthly basis as long as the case is open.

CASE CLOSURE

If there have been no incidents for 3 months the victim should be visited and advised that the case will now be closed, but that it can be re-opened should new incidents occur. If a harassment transfer has been agreed the Rehousing Team should be notified immediately of the case's closure and the harassment points will then be removed from the transfer request.

Once closed the case should be stored in a closed file. Maintenance of this archive assists with identification and analysis of patterns of harassment.



B: KEY POINTS



Anti Social Behaviour Key Points

TACKLING ANTI SOCIAL BEHAVIOUR (ASB)

There may be several problems or types of nuisance that Housing cannot deal with alone. Estate Officers must involve tenants/residents and other agencies. A pro-active approach should be adopted at all times. Anti Social Behaviour has been defined in the Crime and Disorder Act 1998 as behaviour that caused or was likely to cause harassment alarm or distress to another person not of the same household. This means that the behaviour must affect individuals other than those who live with the perpetrator. It could range from low-level nuisance to serious anti social behaviour and other forms of sub-criminal/criminal behaviour.

The actions in this section are not intended as a definitive list, but they have been recognised as good practice and effective in making an impact on ASB.

INVOLVE TENANTS AND RESIDENTS

It is extremely difficult to tackle ASB if the residents are not willing to cooperate. If possible set up a working group, even if only a few people want to be involved. If there is no active Tenant's Association in place this could be a way to start one. Ensure there are residents in the working group who reflect all members of the community in order to get a balanced view. If the problem is with young people ask the local youth worker to participate and encourage young people to get involved. Also ask the ASBAG Preventions Project Officer to participate as this will automatically bring experience and current good practice.

Identifying the Issues

- Check through relevant tenancy files to establish the history of the incidents
- Discuss incidents with police and mobile patrol to establish their involvement so far
- Consider sending a questionnaire to residents to assess extent of problem and/or conduct a door to door survey (ASBAG can help and advise on this)
- Ask Tenant's Association if you can raise the problem at their next meeting
- Ask local community groups/shopkeepers and businesses if they have any information and include them in the working group
- Set up a confidential hotline

If you decide to do a questionnaire or survey it needs to establish

- what the problem is
- if there are drug or alcohol issues
- if racial, sexual or homophobic harassment are involved
- graffiti and/or vandalism issues
- community safety issues (e.g. lighting, access, planting)

REMEDIES

- Mediation - now offer a service to groups and work with young people
- Injunctions - if the case is very serious consider an emergency injunction to contain the situation whilst evidence is gathered for an ASBO
- Youth Offending Team - see their section in the Remedies
- Youth Workers - Detached Youth workers or youth clubs may be able to co-ordinate diversionary work
- Patch Managers - may be able to source help and funds for diversionary youth schemes which encourage young people to work with housing staff.
- Social Services - issues around mental health and vulnerability should be addressed prior to legal action
- Acceptable Behaviour Agreements/Parental Guidance Agreements
- Environmental Health Department may be able to take legal action - nuisance procedure
- Anti Social Behaviour Orders
- Possession Proceedings

EVIDENCE

- Gather as much information and evidence as possible. If victims do not wish to give evidence at court the evidence may still be admissible as hearsay evidence (as long as it doesn't identify the victim).
- Ask for disclosure of information from the Police and request an officer to attend court. Mobile Patrol should also be approached in the same way.
- Ensure witnesses can identify the perpetrators and are not presuming they know who is responsible.
- ASBAG can authorise Professional Witnesses in certain circumstances.
- When considering evidence from caretakers, thought must be given to their safety if they give evidence in court.
- Support Agencies, local counsellors, community leaders and Housing Associations should also be approached for evidence.
- All witnesses should be given diary sheets to record further incidents.

Once the situation has been resolved you will need to consider how best to maintain order in the area.

RTB LEASEHOLDERS

If a RTB Leaseholder is the victim of anti social behaviour we will not charge them for the cost of an ASBO taken out on their behalf.

Domestic Violence Key Points

Domestic Violence is physical, emotional, psychological or sexual violence, experienced by people in a domestic relationship.

This can range from slaps, kicks, blows, shaking, wounding to rape and murder. It also includes harassment, for example, by persistent letters or telephone calls, threats of violence and emotional, psychological or mental abuse. Examples would include intimidating or humiliating behaviour, being kept a prisoner at home or being cut off from family and friends.

Almost all Domestic Violence is directed by men against women, but it can and does occur in lesbian and gay relationships, and in a minority of cases, by women against men.

STATISTICS

- In Islington 1 in 10 women surveyed had suffered DV in the last year (J. Mooney 1993)
- In Britain, 50% of females murdered are killed by their partner (Police 1994)
- Women are beaten on average 35 times before they ask for help
- 1 in 4 pregnant women suffer DV

VICTIM

- Usually, though not always female (85% reported to Camden Police in 1997)
- Victims may not recognise themselves as suffering DV
- The victim of DV is most likely to be seriously attacked, even murdered, when, or just after, leaving the relationship
- DV is about the abuse of power; the victim will feel powerless - telling you is a step towards regaining power.

PERPETRATOR

- Usually, though not always male (90% reported to Camden Police in 1997)
- (ex)Partner; (ex)spouse; sibling; parent; carer; guardian; older son/daughter
- Doesn't necessarily live with or have lived with the victim

POINTS TO REMEMBER

- Give power to the victim, help, support and advise - don't insist or make decisions on their behalf
- Statistically the chances are extremely high that the victim is telling the truth
- You may be the 1st or 5th person the victim has come to for assistance - make your advice count, be positive whilst pointing out potential problems
- Never insist on legal action - taking legal/criminal action may put the victim in extreme danger - give full advice to enable the victim to decide
- Assistance does not always mean a move - but the victim does not know this. Give full option range allowing the victim to decide on the safest route
- If there are children in the household the victim should be advised of Family Services Unit (FSU) who will be able to provide counselling for the victim and FSU can then discuss the issue of supporting and counselling the children

NEIGHBOUR SUPPORT NETWORK

This was successfully piloted in Leeds. With the victim's permission the EO speaks to a couple of close neighbours and asks them to call the police if they hear anything untoward. Neighbours do not get details, just the request and address. Neighbours can say no. The aim is to make the victim feel safer if they wish to stay at home.

DIVERSITY OF CLIENTS

People suffering domestic violence are from a broad range of local communities, across age, class and ethnicity.

- Remember the domestic violence problem may be compounded by racist reactions, isolation, language and cultural barriers and other reactions to age, sexuality or disability
- Immigration uncertainties can add extra stress and impacts on choices. Where there is an immigration aspect specialist advice should be sought.
- The elderly and people with learning difficulties or mental health problems may need specific advocacy and support. Contact Social Services for their guidance on dealing with the abuse of these clients.

MUTUAL EXCHANGES

Women's Aid is currently considering setting up a mutual exchange scheme of their own which Housing Officers would be able to access. This scheme would decrease the possibility of new addresses being given out. If you have a woman who would like to move to another part of London you can call Camden Women's Aid and ask if they have anyone who could swap.

PERPETRATOR SUPPORT

Camden Safety Net offers a men's counselling group. This course aims to address violent behaviour. Men from throughout the borough can refer themselves by calling 020 7974 8421.

DV CASE DISCUSSION GROUP

If the Housing Team have been unsuccessful in their attempts to remedy a DV case and the work has now come to a halt, the Estate Officer can refer the case, with the victim's consent, to this group. Both the Estate Officer and the victim are invited to attend the Group, which is made up of Police, ASBAG, Equalities, Women's Aid and Family Services Unit officers. At the meeting the officers will look at the current circumstances and draw on their wide knowledge to try and find a solution. To refer a case send a copy of the initial TIR along with the DV Case Discussion Group Referral Form to the Equalities DV Co-ordinator, c/o Camden Safety Net, 52 Camden Square, NW1.

BEST PRACTICE

Interview the victim within 24 hours, if possible take photographs of any injuries as this will help should the victim decide to seek an injunction and/or Camden seek possession of the perpetrator's home.

IDENTIFY A SAFE PLACE FOR THE VICTIM TO STAY

HOME -

- Address security issues/repairs
- Offer Careline alarm
- Offer to set up a Neighbour Support Network
- Offer Mobile Patrol to prioritise calls
- Offer Caretaker to call police if they see perpetrator
- Joint Tenant? Advise to seek private legal advice about having the tenancy transferred into their name

FRIENDS/RELATIVES -

- Is the address known to perpetrator?
- Does the victim need to get belongings (police to assist?)
- Can they stay there up to 3 months?
- Joint Tenant? Do they want to return home? Advise they are still running up bills and to seek private legal advice
- Sole tenant? Discuss terminating tenancy and storing belongings

TEMPORARY ACCOMMODATION -

- Explain the type and location of accommodation
- Explain only a last resort and in extreme cases
- Joint Tenant? As per friends/relatives above
- Sole tenant? As per friends/relatives above

REFUGE -

- Located outside Camden to ensure resident's safety
- Gives support and advice
- Shared facilities
- Joint tenant? As per friends/relatives above
- Sole tenant? As per friends/relatives above

In All cases Children?

Advise victim to seek counselling from FSU. Give Blue **DV Booklet** and advise on support groups. Discuss **injunctions**, if power of arrest is attached victim should give a copy to the police and carry a copy.

Is victim not named on tenancy? - If they live with the perpetrator (no time restriction) we take responsibility as though they were a tenant. Advise victim to seek private legal advice if they wish to remain in the home.

Gospel Oak or Camden Town District? If victim is in one of these districts refer them to the Camden Safety Net pilot project for support coordination.

Homophobic Harassment - Key Points

Homophobic Harassment should be dealt with in the same way as Racial Harassment. Victims are identified due to the perpetrator's ignorance, racial or cultural background, fear of difference, desire to maintain superiority and prejudice.

This category should be also used for people who are harassed as a result of them being transgender or transvestite.

To be a victim of Homophobic Harassment does not necessarily mean that the victim is a lesbian, gay man or bi-sexual, it means that they are perceived as being so.

Homophobic Assault includes:

- Verbal abuse ■ Physical assault and violence (including sexual violence) ■ Property damage
- Psychological and emotional violence ■ Extortion

REPORTING PROBLEMS

Each time a gay, lesbian, transsexual, transvestite or bisexual person has to inform someone of their sexuality it is the same as them 'coming out' for the first time. This process leaves the person vulnerable while they are awaiting the response of the recipient of the information

Public Sex Environment If the harassment has taken place in a public sex environment the victim will have technically broken the law and therefore may be reluctant to approach the police for assistance. The victim should be advised that the police will not take action regarding the public sex angle and they are very keen to prosecute perpetrators of homophobic abuse

Bisexuals may have heterosexual home lives; this may make reporting their abuse appear even more difficult

EFFECTS OF HOMOPHOBIC HARASSMENT

- Adolescent victims are three times more likely to self harm or to take their own life than heterosexual adolescents
- Young gay men are fifteen times more likely to attempt suicide than their heterosexual counterparts
- Long-term exposure to harassment increases the prevalence of depression, anxiety and relationship problems among lesbians, gay men and bisexuals.

PERSONAL SAFETY

The Personal Safety Leaflet in the Harassment Pack should be identified to the victim as being particularly good advice, even though it was originally aimed at women.

TRANSFERS

If you are transferring a couple who are suffering homophobic abuse they should be advised that unless there are medical reasons for them being allocated a 2 bed flat they will be allocated a 1 bed. This means the allocation will potentially identify them to local residents as a gay or lesbian couple.

SUPPORT GROUPS

CHMS Co-ordinators have details of local support groups. These details are also available on the CHMS Intranet site.

NB: Research indicates that the term 'Homosexual' should be avoided, unless the victim uses it himself or herself, as historically it was used to denote a form of mental illness.

Racial Harassment Key points

Racial harassment is identified as violence, which may be verbal or physical and includes attacks on properties as well as a person or a group of people, because of their colour, race, nationality or ethnic origin.

FORMS OF RACIAL HARASSMENT

Racial harassment can come in many forms and can include:

- Physical or verbal abuse
- Threats of violence
- Racist graffiti
- Rubbish dumping
- Distribution of racist literature
- Intimidating use of dogs/noise

EFFECTS OF RACIAL HARASSMENT

Racial harassment can cause an individual or group of people to feel humiliated, embarrassed, angry and isolated. In extreme circumstances it can cause injury and ill health. Repeated harassment invariably causes severe stress, making life intolerable. A specific member of a household can be the target for harassment yet it will most certainly affect the whole household and the wider community.

VICTIM MAY BE

- Black or white
- Single parent
- Refugee
- Vulnerable e.g. learning difficulties or have disabilities
- Living on large estates in ground floor accommodation
- Elderly

Some of these groups can suffer multiple harassment. For example, minority ethnic women may suffer 'multiple abuse' if they are subjected to both sexual and racial harassment.

Racial harassment may not always be reported directly as racial harassment. Initially the harassment may be disguised. For example, a tenant with broken windows may contact the council repeatedly for repairs, it is important for the EO to question whether the real reason behind the broken windows is that they are being targeted on racial grounds.

PERPETRATOR

Different people can perpetrate racial harassment. It can include:

- A neighbour or their visitors
- Young children, teenagers or adults and the elderly
- The person may be black or white
- Individual or group of people from a neighbouring area

POINTS TO REMEMBER

- Prepare for the initial interview and take appropriate information to the interview e.g. leaflets, diary sheets etc.
- Provide help, support, advice, options available and let the victim decide which route they want to take
- Never insist on a particular option for them
- Provide interpreters if required and check prior to the interview taking place
- Believe what they are saying and don't question their motives otherwise they may not report problems of further harassment
- With consent refer to another agency for support e.g. Victim Support

GOOD PRACTICE

- In severe cases of racial harassment interview the victim within 24 hours otherwise 5 working days.
- Make referrals to the police and other agencies with consent
- If the case is difficult, ongoing and proving hard to resolve then refer the case to the Victim Support Racial Harassment Sub - Committee via ASBAG for a multi agency approach
- Carry out emergency repairs and look at any security issues
- Offer a Careline Alarm and Mobile Patrol to prioritise calls
- Advise caretaking staff in the area about the situation and ask the victim if they want them to call the police if they witness anything
- Discuss legal remedies and ask the victim or any witnesses if they are willing to testify in court
- In most severe cases where lives may be in danger, offer emergency accommodation explaining the type of accommodation they will be placed in and the location e.g. Bed & Breakfast in a neighbouring borough



C: REMEDIES



INFORMAL REMEDIES

It is important that prompt and effective action is taken.
The type of action will depend upon several factors:

■ Preference and safety implications for the victim ■ Type of nuisance/harassment ■ Suitability of mediation ■ Source of nuisance/harassment ■ Effect of nuisance /harassment ■ Number of people affected by the nuisance/harassment ■ Whether the incident is judged to be malicious ■ Evidence available ■ Suitability of legal remedies

MULTI AGENCY APPROACH

Camden aims to work in partnership with local voluntary, and statutory agencies, to increase understanding and awareness of harassment issues, monitor reported incidents and support victims or vulnerable persons. This involves working with other departments, the health authority, Youth/Community Workers; Schools; Community Leaders; Solicitors, Politicians and the Probation Service.

Referring victims for specialist agencies provides support for the victim thereby enabling the EO to concentrate on gathering evidence. If the case becomes particularly complex a referral may be made to the Camden Victim Support Racial Harassment Sub-Committee or the Domestic Violence Case Discussion Group.

VULNERABILITY

When considering appropriate remedies vulnerability is a priority. The Social Services Department has a duty under the NHS and Community Care Act 1990 to assess the needs of vulnerable adults and based on this assessment can provide:

- Information regarding other relevant agencies;
- Advice and social work support.

Social Services consider potentially vulnerable people as those with mental health problems, depression, eccentric behaviour, people with alcohol or drug dependency, young people leaving care or children at risk. When dealing with vulnerable victims or perpetrators the first port of call is the CHMS Coordinator in each DHO who can help identify what support service the client is linked to. Any interview with a vulnerable victim or perpetrator should be conducted with their support worker present - or under their guidance. If there is no support involved referrals should be discussed, if appropriate, during the interview. Agreement should be sought from the vulnerable person to the referral. In cases of legal action being proposed against a vulnerable person the Vulnerability Panel must give consent and a referral made to Social Services or Tenancy Support for an assessment to be carried out. Courts considering cases involving vulnerable individuals will require reports from Social Services or other Health Advisors before making a final decision.

TENANCY SUPPORT TEAM

There are two Tenancy Support Teams (TSTs), North and South, providing help to single council tenants who have mental health problems and who need support to maintain their tenancies. Support may be short term to deal with a one off problem or longer term for tenants who have more complex needs and require ongoing support. They can co-ordinate support with a range of agencies and accept referrals from District Housing Office Staff. As well as offering help and assistance to victims they can also establish what the situation is. Occasionally this may change the perception of who the victim is, and work with vulnerable tenants who are perpetrating harassment.

Referrals: Referrals are made using the referral form on the intranet.

Telephone: Tenancy Support Team (North) 020 7974 6188
Tenancy Support Team (South) 020 7974 916 9441

COMPLEMENTARY HOUSING MANAGEMENT SERVICE (CHMS)

Sometimes anti social behaviour is not a simple case of victim and perpetrator. Lines can be blurred where the effect of the illness or vulnerability is nuisance or harassment of others.

CHMS will work with you regardless of whether the client in question is recognised as a victim or because they are a perpetrator whose anti social behaviour is a symptom of illness or a result of vulnerability, not wilfulness. This does not mean that CHMS condones anti social behaviour.

CHMS Coordinators will co-ordinate support to EOs as well as advise and assist in dealing with individuals and ensure that a multi-agency approach is adhered to. Referrals to the vulnerability panel should be passed to the CHMS Coordinator in each District to ensure that all appropriate information is included to allow the Vulnerability Panel to reach a decision where the action is deemed necessary against a tenant identified as vulnerable or potentially vulnerable.

As well as offering practical advice and support on individual cases CHMS Coordinators will work to ensure there is consistency of approach throughout the borough. This will not only ensure all tenants receive the same high quality service but will mean that the Council will not be open to challenges of insensitivity and inconsistency from the Courts and Ombudsman.

CHMS Coordinators maintain a directory of support services and other information known as the CHMS Resource so that you have up to date details of available support agencies. This is available on the intranet.

CHMS Coordinators can be contacted as follows:

Camden Town	020 7974 4126
Gospel Oak	020 7974 1223
Hampstead	020 7974 1100
Holborn	020 7974 2569
Kentish Town	020 7974 3878

HOUSING SUPPORT TEAM - Telephone: 020 7974 1663/1699

The Housing Support Team (HST) provides resettlement support and advice to all single vulnerable homeless people. This includes people who have experienced violence or harassment. Referrals come from all sections of the Housing Department, Social Services, Health and Probation. The team make a comprehensive assessment of an individual's housing and support needs and secure appropriate accommodation. The team have nomination and referral rights to all supported housing in the borough and can refer secure tenants back into supported housing. In addition to this they can make referrals to tenancy support and other floating support services for vulnerable people who need assistance to enable them to live independently.

YOUTH OFFENDING TEAM (YOT)

YOT works with young offenders and those at risk of offending. The team includes workers from Social Services, the Police and Education. Housing Staff can refer young people direct to the YOT via the referral form on the Harassment Shared Drive. It is essential that young people are referred to the YOT before an ASBO is requested. YOT will work with the young person to try and address the anti social behaviour. The earlier the referral is made the more chance they have of addressing the problem.

All ABAs and PGAs must be copied to YOT for them to assess whether they need to become involved.

Floating Support

Generic floating support is available to any vulnerable tenant.

The contacts are:		
Camden Town	Suzanne Dodd	020 7284 5914
Kentish Town	Chris Giles	020 7288 4184
Hampstead	Karen Todd	020 7252 6280
Holborn & Gospel Oak	Steve Hall	020 7700 4861

CARELINE ALARMS

Careline offer a Community Alarm Service, similar to that offered to elderly residents, to victims suffering from racial harassment or domestic violence. This is only appropriate when the harassment takes place in the home. Victims must have a fixed telephone line that has a direct outside line (no code to dial prior to making a call). When the alarm is pressed a signal will be sent advising Careline to send the police round and if appropriate a friend can also be contacted. The service is free and must be monitored monthly, to establish continued need. To arrange for an alarm please call Careline direct on ext 1491/7974.

MEDIATION SERVICE - Telephone: 020 7383 0733

Mediation has proved to be effective in many disputes between neighbours, whatever the cause. It can also be offered to victims of harassment (except Domestic Violence and when violent incidents have occurred). Experience has shown that mediation has the best chance of success if offered at an early stage, e.g. before legal proceedings commence. However, it can be successful in any situation, sometimes without even involving the alleged perpetrator.

It must be noted that victims cannot be required to participate in mediation nor can other action be conditional to mediation being tried first. Camden Mediation Service will take on both individuals and groups in conflict. However, they will not see sex offenders or people with a history of violence. Victims of DV should not be offered mediation. Camden Mediation also offer specially trained youth mediators who can mediate between groups of young people.

TENANTS AND RESIDENTS ASSOCIATION SUPPORT SCHEME

This scheme aims to encourage TRAs to support estate residents who are suffering anti social behaviour or harassment and nuisance by nominating TRA members as emergency contacts who will support and advise the victims at the time of the incident. The scheme may not be appropriate for victims of DV.

Below is a description of how the first scheme, on Peckwater Estate was set up. The Estate Officer, who set it up, Mandy Berger, wrote it.

Peckwater TRA, their Estate Officer, Area Manager and District Manager held a meeting to discuss the levels of harassment on the estate. We agreed the Tenants and Residents Association Support Scheme.

A joint letter went out from the district and the TRA telling all residents that we did not tolerate any form of harassment and that those tenants suffering any harassment could count on the TRA for their full support. The chair of the TRA allowed his address and phone number to be put into the letter so that tenants could phone him or knock on his door if they needed his support.

ACCEPTABLE BEHAVIOUR AGREEMENTS/PARENTAL GUIDANCE AGREEMENTS

Camden Council and the Metropolitan Police (Camden Division) are working together to use these new initiatives to tackle the early signs of anti social behaviour perpetrated by young people in the Borough. This includes all forms of harassment; threatening behaviour, minor acts of criminal damage (e.g. graffiti), groups of young people congregating in areas in and around Council Estates etc. It is anticipated that the agreements will be effective where other methods for dealing with the behaviour may not be appropriate.

The agreement is designed to place responsibility for behaviour back with the individual causing the problems. In all cases a joint interview should be carried out by the Council and the Police and where a decision not to proceed for an application for an anti social behaviour order is reached, the young person concerned will be requested to sign an Acceptable Behaviour Agreement.

ACCEPTABLE BEHAVIOUR AGREEMENTS (ABAS)

ABAs are aimed at young people between the ages of 10 and 17. They are designed to effectively deal with initial behaviour that falls within the definition of an anti social behaviour. They should be viewed as a preventative measure designed to make the young person, and their parent/guardian, aware of the consequences of their behaviour and therefore adjust such behaviour.

The agreements can be used against young people over the age of 18 in appropriate circumstances (where the young person is still living at home in council, rented or privately owned property with their parents).

PARENTAL GUIDANCE AGREEMENTS (PGAS)

In respect of a person under the age of 10, the parents/guardian would be required to sign a Parental Guidance Agreement. This agreement is similar in effect to the ABA, but it places more emphasis on parental responsibility in taking possession/forfeiture proceedings and reminds parents/guardians of the seriousness of the behaviour, giving a clear warning of the consequences if the behaviour continues. Parents will be left with no uncertainty that failure to control the behaviour of their children may result in them losing their home. This agreement is with the parents/guardian not the young person.

NOTE: ABAs and PGAs are non-legally binding agreements. Breach of an agreement will, however, be used as evidence should the case progress to an application for an Anti Social Behaviour Order and/or possession action. Failure to sign the agreement should be noted and cited in subsequent legal proceedings.

Both agreements are available on the Harassment Shared Drive, once completed they must be copied to the YOT team

The district also agreed that during every 'sign up' of a new tenant the estate officer would explain this initiative to them. Also when a tenant comes into the office to talk to the estate officer about harassment, the phone number and address of the chair is given to them as additional support from the TRA. The district also agreed to update the chair of the number of harassment cases on the estate each quarter so that he can have an idea of how things are on the estate.

Since the scheme started, tenants have contacted the chair usually when they have suffered from youths harassing them on the estate. The chair then talked to the youths to explain that their behaviour is wrong, and since that they have stopped.

EVIDENCE GATHERING

The success of any legal action will depend upon the continued collection of evidence. This could be from the original victim or other residents/persons affected by the nuisance. It can also be obtained from staff including caretakers, mobile patrol etc. and evidence from the police. Evidence should be first hand - although hearsay can sometimes be used and can add weight to a case and help convince the judge that reports are coming from more than one source, and that it is reasonable to take the action.

Human rights consideration require officers to properly prepare a case and ensure they have considered all factors before making decisions to take formal action. E.g. keeping contemporaneous records, file notes, meeting notes etc.

HOUSING MANAGEMENT PATROL

This service can be requested to make out of office hours calls to estates to check on disturbances and victims of harassment. They can prioritise the address of a victim/witness; they have surveillance equipment and will gather evidence for court when necessary. EOs should make referrals using the Mobile Patrol referral form. Mobile Patrol reports appear on the HMIS system as 'New Mail'.

The use of the council's enhanced Mobile Patrol Service to conduct video surveillance and stills photography should be encouraged as a means of combating harassment and other forms of anti social behaviour on estates.

INDEPENDENT WITNESS SCHEME

The Council's Independent Witness Scheme (IWS) is under the control of the Anti Social Behaviour Action Group. The IWS should be used in appropriate cases following discussion with the AM. The budget is held centrally and needs District Manager approval before requests may be submitted onto the relevant RIPA form.

IWS can be used for cases presenting evidential difficulties preventing the case from progressing, cases where witness protection is necessary and/or cases where counter allegations are raised, although this is by no means an exclusive list.

Having identified a case where IWS evidence can assist, the AM should contact approved companies and discuss the feasibility of using their services. If the scheme is feasible, the AM will then submit the RIPA request form with an estimate of the costs and work to be carried out to ASBAG, along with their District Manager's approval. ASBAG will then reach a decision on the level of funding to be approved and pass the RIPA form to the Housing Management Co-ordinator for approval. Once approved the work has to be carried out within 3 months. If an extension is required a RIPA extension form must be completed. After the surveillance, has been completed, the cancellation form must be filled in.

CARETAKER SUPPORT

Caretaking staff can give evidence at court and support victims of harassment. For instance, in cases of Domestic Violence - the caretaker may be asked to phone the police if they see the perpetrator in the vicinity, with the victim's consent. In cases of bullying, the caretaker may be introduced to the children affected, so that if they are seen in dubious circumstances the caretaker knows she/he should intervene. When asking a caretaker to attend court, especially if they are a resident caretaker, consideration should be given to ensure their safety on the estate.

INFORMATION EXCHANGE

EOs must follow up referrals they have made on a regular basis.

ASBAG regularly meet with the Youth Offending Team, voluntary agencies and schools. Members of the group attend the Victim Support Racial Harassment Sub - Committee and Domestic Violence Case Conferences; they will feed back information on referrals.

The Crime and Disorder Act 1998 introduced Protocols that allow agencies to exchange information on tackling and preventing harassment and anti social behaviour. The Housing Department also has a Protocol in place under the Housing Act 1996, and District Managers have been designated as responsible officers in each district, to allow for the exchange of information to take place.

CONFIDENTIALITY

Both Data Protection Act 1998 and Human Rights Act 1998 impact on information disclosure.

Information disclosed during an investigation, regardless of its source, must be kept in the strictest confidence. If the victim refuses to give their consent to their details being given out, it must be kept confidential; under no circumstance should the information be disclosed to the alleged perpetrator. If the nature of the incident identifies who the victim is and the victim does not consent to their identity becoming known, the AM should consider putting into place other evidence gathering methods, for example, the use of Independent Witnesses.

FORMAL REMEDIES

RE-HOUSING OPTIONS

Re-housing is not the first option to solving harassment or nuisance even in cases where there are evidential difficulties e.g. where the victim does not wish to be identified in proceedings against the perpetrator. Emergency re-housing, whether on a temporary basis or permanent basis, should only be considered in serious cases e.g. cases involving violence or threats of violence where a significant risk of harm remains. The Re-housing Team guarantee to re-house harassment priority cases within 3 months if they require a 3 bed or smaller property.

HARASSMENT PRIORITY TRANSFER

'Like for like' moves don't exist for harassment cases, the purpose of the harassment priority is to move someone within 3 months to the first suitable available property, not to the same type of property they are living in now. If the victim is in a flat with more or less rooms than required they will automatically be allocated the correct sized property. Any agreed harassment priority applicant is guaranteed at least one suitable offer within 3 months of getting harassment status. An exception to this is applicants who require 4 bedrooms or larger or wheelchair accommodation, where the guarantee will instead be an aspiration.

Harassment victims can only be given harassment priority if the re-housing options are realistic. This means that they choose a minimum of 15 wards, up to the 4th floor unless there are medical reasons and be willing to consider larger estates. An applicant cannot exclude large estates except for medical reasons or there is an exceptional reason for doing so which has been agreed with the Area Manager/Re-housing Manager. Therefore victims who select only one or two wards, or only highly desirable wards/property types will not receive priority. EOs should go through the property options with the victim and identify wards where the victim and perpetrator are unknown; reducing the risk of being found and of offers being unsuitable.

Before confirming that harassment priority will be given the Area Manager should consult their Re-housing Manager for confirmation that the selections are appropriate. The completed Transfer Application Form and a copy of the TIR, signed by the AM, together with other relevant documents must be submitted to the Re-housing Manager to activate priority on the transfer system. If a victim changes his/her preferences the harassment priority decision must be reviewed by the Re-housing and Area Managers involved.

The Re-housing Team monitor harassment priority transfers on a monthly basis to ensure they are receiving offers of housing and are being reviewed. However it remains the responsibility of the AM to ensure that their cases are kept under continued review notifying the re-housing team of any cases that have not received their nomination or if harassment priority is no longer applicable.

TMOs and Estate Management Boards must follow this procedure. However, decisions must be discussed and approved by the District Manager in conjunction with the Re-housing Manager. If it is not done this way, the result will be that TMO/EMB tenants will not receive the same priority.

Non-tenants whose main or sole home is a council property and who require re-housing as a result of harassment will be dealt with in the same way as a transferring tenant. Although DHOs should monitor these cases in the usual way, they are treated by the Re-housing Service as private sector applicants and should be given Housing Register (purple) Forms to completed rather than the standard green transfer form. They will continue to be dealt with by the DHO and will be eligible for temporary accommodation.

TEMPORARY ACCOMMODATION

The Area Manager has the authority to make decisions regarding temporary accommodation and appeals are referred to the District Manager. The criterion for agreeing temporary accommodation is "where harassment of any form is occurring such that it is unsafe for the tenant or any resident member of the household to continue in occupation". Applicants going into temporary accommodation who require a transfer must still choose 15 wards up to the 4th floor on large estates medical/exceptional circumstances permitting, as per harassment transfer priority section. Temporary Accommodation can be unsuitable and should only be considered as a last resort. It is important to consider other options e.g. friends, relatives or refuges. The cost for temporary accommodation comes from a central budget, code H11JL385.

Camden's Legal Department should be consulted if you are considering terminating a victim's temporary accommodation due to them having refused an offer and being suspended for a year.

If the victim wishes to return to the property following legal action and the cessation of the harassment, their home should be secured to protect their possessions and storage should be arranged for items that cannot be taken into temporary accommodation. If they do not intend to return to the property the victim should be encouraged to surrender the tenancy and their belongings placed in storage. This also applies to tenants of TMOs who now organise re-housing rather than referring them to HPU. TMOs have a central budget for placing harassment victims into temporary accommodation. The Re-housing Team holds this budget, approval must first be given by the DHO, AM or DM.

Harassment victims, in a refuge or having made their own temporary arrangements, receive the same priority as those in Council temporary accommodation.

MUTUAL EXCHANGE

Victims considering a mutual exchange to escape from their harasser must be advised to consider the possibility that the person they are swapping with may give their new address to the perpetrator. This must be weighed up against the fact that a mutual exchange is the only way they may have a choice of properties, especially if their home is desirable. Women's Aid is currently looking into setting up a mutual exchange scheme of their own which Housing Officers would be able to access. This scheme would decrease the possibility of new addresses being given out. If you have a woman who would like to move to another part of London you can call Camden Women's Aid and ask if they have anyone who could swap.

HOMES NOMINATION

If a victim of harassment would like to move outside Camden the choices are severely restricted. In general boroughs in the South East will not accept nominations. The most likely offer, if one is made, will be to a property on a large estate in Greenwich. If the victim requires a 1 bed or bedsit and they have a strong local connection their chances may be slightly higher, again nominations will be for properties on large estates. If the household is elderly it is possible to move them to sheltered accommodation, especially if they have a local connection. Homes nominations are possible in areas North of Birmingham; with these moves the family will often be nominated to a house. Please contact the Mobility Team to discuss the victim's requirements prior to the victim leaving the office.

The DHOs can pay fares for viewing properties outside Camden. Under occupation and harassment transfer payments are both applicable to people moving via Homes nominations, though the applicant will only receive the larger amount applicable.

RECIPROCAL AGREEMENTS

These are rare, but do happen. Camden's Mobility Team will contact the desired borough and offer to rehouse a similar household. This type of move would not benefit from under occupation payments.

Financial Assistance

PRIVATE OWNERSHIP/PRIVATE RENTALS

The Home Ownership team may give tenants £1,000 for every bedroom they vacate. This is called a **Home Move Assistance Grant**. People vacating bedsits also receive £1,000. This payment is applicable to the tenant as long as:-

- All residents in the property are moving into a non Camden nominated property
- The tenancy has been held for a minimum of 2 years
- Not more than 25% of the applicable grant is owed to Camden Council
- The tenant does not have more than £5,000 savings

- The total income for the household is less than £40,000
- The tenant has not previously received Home Move Assistance Grant

This payment will be made once the Estate Officer confirms the property is empty. Victims of Harassment may also apply to buy a property through the **House Purchase Grant Scheme**. To qualify for this they must

- Have been a public sector tenant for at least two years
- Ensure their home is in good condition and ready for immediate allocation
- Not have a Bankruptcy petition pending, a receiving order in force nor be an Undischarged Bankrupt
- Not be in breach of their tenancy agreement
- Not have been issued with a valid NTQ or NOSP
- Not have rent arrears exceeding £250 and they must not have any other monies owing to the council.

The Grants are 'means tested', the amount of grant given depends on the number of bedrooms being given up and the number of years they have been a public sector tenant.

■ 3+ bedrooms	maximum	£30,400
■ 2 Bedrooms	maximum	£27,000
■ 1 bedroom/bedsit	maximum	£20,000
■ Less than 5 years tenancy	maximum	£13,000

The home they are purchasing must be suitable for all members of the household, a permanent dwelling within England, Wales, Scotland or Northern Ireland and must not cost more than £158,000.

For further details of these schemes please contact the Home Ownership Section.

HARASSMENT REMOVAL COSTS

People who are transferred due to being the victims of Harassment are given the following amounts towards the cost of removals.

- £110 if moving from a bedsit or 1 bed
- £215 if moving from a 2 bed
- £325 if moving from a 3 bed or bigger property

UNDEROCCUPATION PAYMENT

If they are moving to a smaller property they will get the following payment instead as long as Camden is organising the move or it is a mutual exchange between Camden Tenants.

- | | | |
|-----------------------|-----------------------|-----------------------|
| ■ 4 to a 1 bed £3,000 | ■ 4 to a 2 bed £2,000 | ■ 4 to a 3 bed £1,000 |
| ■ 3 to a 2 bed £1,000 | ■ 3 to a 1 bed £2,000 | ■ 2 to a 1 bed £1,000 |

The Rehousing Team administers both harassment removal costs and under occupation payments.

Legal Proceedings Against Council Tenants

Victims should never be forced to take legal action as a way of proving they are suffering harassment. Legal action aims to reduce the necessity of transfers rather than be used as a hoop the victim has to jump through prior to a transfer being agreed. Although violent situations are among the most deserving of legal action it is not always safe for this action to be taken.

When legal action is proposed the perpetrator should be notified accordingly. The victim should also be informed whether or not they are giving evidence. If the victim has agreed to give evidence they should be made aware that the perpetrator will be informed of their identity. If consent was not received their identity will not be revealed or indicated to the alleged perpetrator. Clearly in some instances, for example cases involving Domestic Violence, action can only be taken with the cooperation of the victim. It is advisable for the perpetrator to be contacted before the decision to take legal action is taken, except in cases where urgent injunctions are sought on a "without notice" basis.

There are a number of legal remedies available for Camden to take when other methods do not stop the behaviour. This section briefly identifies these.

NB. Where the Council via Police is to pursue criminal proceedings the alleged perpetrator does have the legal right to be told the names of the victim(s) or the address of the property where the alleged damage occurred.

CASES INVOLVING VIOLENCE OR THREATS OF VIOLENCE

If a victim presents themselves to the DHO as a victim of violence they should be advised to contact the police and their GP (or hospital) and an appointment made for them to return to the DHO for a harassment interview made for later that day or the next day, unless the victim does not need/want to go to any of the above whereby the interview should take place straight away.

WARNING LETTERS

It is essential to send warning letters to perpetrators, unless without notice proceedings are being requested. If it can be shown that the perpetrator received warning letters and still persisted with the Judge is more likely to find it reasonable to grant possession. Where there is a persistent problem on an estate it would be useful for the Manager to send a letter to all residents reminding them of their contractual responsibilities. Copies of letters must be kept on the individual tenancy files and in the team's harassment file. Again this will make it harder for perpetrators to argue that they were unaware they were causing a problem or breaching their tenancy conditions.

NOTICE OF SEEKING POSSESSION

This Notice must set out the ground(s) on which possession is being sought as well as details of the breaches so that the tenant knows what it is that she/he must do to put matters right. Care should be taken when drafting the Notice; all allegations should be set out clearly, with dates and specific details. If the tenancy is secure the Notice must specify the date on which the tenant is asked to give up possession of the property.

If the Council is seeking possession under grounds 2 or 14, the harassment is severe and the victim is at risk of physical harm the Council can commence legal proceedings immediately rather than wait the normal 4-week period. This allows the Council to ask the Court to:

Dispense with need to serve a Notice of Seeking Possession, issue proceedings immediately and fix an early trial date.

Where expedited possession has been sought the possession order granted by the Court cannot set an eviction date that precedes the expiry date on the Notice of Seeking Possession.

STATUTORY GROUNDS FOR POSSESSION (HOUSING ACT 1996)

This Act created two new grounds for possession which were added to the grounds specified by Schedule 2 of the Housing Act. The new grounds are Grounds 2a and 2b. Ground 2a enables the Council to seek possession if the tenant, their household or visitors behave in an anti social manner or have been convicted of an arrestable offence (committed on the premises or in the locality).

Under **Ground 2b** the Council can seek possession in cases involving Domestic Violence if the victim has fled the property and the perpetrator is still in occupation. This applies if the tenant had committed violence against a partner or a member of the family. However, it would not cover the situation if the perpetrator is an adult child and the mother had to leave. This Ground is discretionary, the Court must be satisfied that **the victim is unlikely to return** and that the council has taken **all steps** to serve the victim with a copy of the Notice of Seeking Possession. This Ground does not cover same sex relationships.

WHAT IS AN ANTI SOCIAL BEHAVIOUR ORDER?

ASBOs were introduced under the Crime and Disorder Act 1998 and designed to tackle persistent and serious anti social behaviour ranging from youth problems on estates to serious racial and homophobic harassment. Like an injunction the orders are preventative and can prohibit someone from continuing to act in an anti social manner. They last for a minimum of two years and either party can apply for a variation or discharge.

Only Local Authorities and the Police can apply for ASBOs and either must do so within 6 months of the incident(s) taking place. Perpetrators must be aged 10 or over although Home Office guidance indicates orders are unlikely to be granted against under 12s. Before each application the Police, Council and other relevant statutory/voluntary agencies must be consulted in order to consider the appropriateness of the order. ASBOs are individual; each perpetrator requires a separate injunction. Applications go to the Magistrates Court local to the incident and are heard using the Court's civil jurisdiction, with the civil burden of proof.

If an ASBO is breached it becomes a criminal offence and the Police will refer it to the Crown Prosecution Service who will decide if a criminal prosecution is appropriate. Penalties include 6 months imprisonment and/or a fine on a summary conviction or five years imprisonment and/or a fine on indictment.

RECOMMENDATIONS FOR WHEN TO USE AN ANTI SOCIAL BEHAVIOUR ORDER

These examples are adapted from the Home Office guidance notes on ASBOs:

- When ASB is persistent unruly behaviour by a small group of individuals on an estate or other local area. This behaviour may be used to dominate or intimidate others. Examples include using property damage or fear of retaliation, possibly at unsociable hours.
- If the household perpetrating ASB are challenged and the result is the behaviour continues or escalates, or they use their children as a vehicle for action against neighbouring families
- When there is persistent abusive behaviour towards elderly people or towards mentally ill or disabled people causing them fear or distress.

ASBAG also recommends an ASBO when:

- ASB is the result of an underlying problem such as drug/alcohol abuse
- The perpetrator is a leaseholder

INJUNCTIONS UNDER THE HOUSING ACT 1996

Injunctions are Court orders that seek to prohibit prescribed behaviour; they come into effect once they have been served on the perpetrator. Injunctions can be sought against a tenant if they breach their tenancy conditions or the statutory grounds for possession. Injunctions can also be granted against Council tenants and non-tenants who cause anti social behaviour in Council premises or in the locality of such premises. Injunctions can be applied for independent of any possession proceedings. They can only be sought against people aged 18 years plus, or against the parent or guardian of a perpetrator under 18 years, although we would recommend an ASBO in these circumstances.

EMERGENCY INJUNCTIONS - WITHOUT NOTICE APPLICATIONS

In extremely urgent cases an injunction can be obtained without giving notice to the perpetrator. The Court will hear the request on the day of issue. Any injunction granted will be for a limited time (7-14 days) and a date will be set for a full hearing with the perpetrator present. The initial application should be made to the county court at the first available opportunity. The court will hear the application on affidavit evidence although it is advisable to have the witness in court in the event that the court requires clarification.

Breach of the injunction is a contempt of court and is punishable by a term of imprisonment and/or a fine.

POWER OF ARREST

In serious cases the Council may apply for an injunction with a power of arrest attached to it. The Power of Arrest enables a Police Officer to arrest a perpetrator if the officer has reasonable cause to suspect the perpetrator has breached the terms of the injunction. If the perpetrator is a Council tenant it may be prudent to issue possession proceedings at the time the injunction application is made and to seek leave of court for the possession proceedings to be expedited to an early hearing date.

Injunctions should be copied to the local police and the Police Community Safety Unit. If an injunction has Power of Arrest attached it is advisable for the victim to carry a copy with them at all times.

LEGAL ACTION AGAINST NON-COUNCIL TENANTS

ASBOs

ASBOs can be taken against anyone who is causing harassment or nuisance in Camden, even if they do not live in Camden. Please refer to the ASBO section.

Forfeiture/Injunction Proceedings against Right to Buy Leaseholders

There is a clause in the Right to Buy lease prohibiting the leaseholder causing a nuisance or permitting a nuisance to be caused to his/her neighbours. It is possible, in certain circumstances, to enforce this clause by way of forfeiture proceedings (similar to possession proceedings) or by an injunction. If the Council were to gain forfeiture it would mean the leaseholder would have to leave the property (which would return into housing stock) but continue paying their mortgage.

PRIVATE CIVIL REMEDIES

PROTECTION FROM HARASSMENT ACT 1997

The Act covers all conduct which causes alarm or distress to a person. It provides for both criminal and civil remedies and is primarily directed at 'stalkers'. A person will be guilty of a criminal offence if they cause another to feel harassed or to fear violence. The offence carries a punishment of up to 6 months imprisonment and/or a fine. The courts also have power to make restraining orders and a power of arrest can be attached to these.

The PHA'97 also extends the civil remedies available to victims. Although its intention was to provide a remedy for victims of stalking, the provisions will cover a wide variety of harassment, including racial and sexual harassment, harassment by neighbours, harassment in the workplace and domestic violence.

Individuals can take proceedings to the County Court and the High Court to stop harassment. It is possible for both criminal and civil cases to be brought arising from the same incident. Alternatively, an individual may decide to bring a civil case if there is insufficient evidence to support a criminal case where the burden of proof is much higher.

The Act allows for an individual to take proceedings where there is 'apprehended' harassment i.e. the harassment has not yet taken place, as long as the person has reasonable grounds to fear harassment.

Victims of harassment are entitled to compensation for the anxiety caused and to be reimbursed for any financial loss.

The Council cannot bring proceedings on behalf of the individual - this can only be done either by the individual themselves or the Police.

DOMESTIC VIOLENCE - FAMILY LAW ACT 1996

The Family Law Act 1996 (Part IV) replaced all existing domestic violence legislation. It will also replace, to a certain extent, proceedings under 'assault and trespass'.

Part IV of the Family Law Act identifies the categories of people who can apply for non-molestation or occupation orders (injunctions). This includes any 'associated' person, including spouse, and former spouse, cohabitee and former cohabitee, a large number of relatives, parents of children and people living together in certain domestic situations. Personal Protection Orders are replaced by Non-Molestation Orders and Occupation Orders replace Ouster/Exclusion Orders. In the case of the latter, if the victim does not have a right to occupy the property, then they can only apply for an order against a spouse, former spouse, cohabitee or former cohabitee.

Part IV states that a Power of Arrest must be attached to an order wherever the Court is satisfied that the perpetrator has used or has threatened violence against the victim or a relevant child unless satisfied that the victim/child will be adequately protected without it. The Court can attach a Power of Arrest to one or more provisions of an Injunction e.g. it may be attached to the harassment provision but not the provision relating to coming within a certain radius of the property.

Undertakings can be given by a perpetrator in place of the Court making a formal order; Power of Arrest cannot be attached to these.

The Act specifically allows for without notice occupation orders to be made (without the perpetrator being made aware of the application). The Court may attach a Power of Arrest to without notice Injunctions where the perpetrator has been violent or threatened violence and there is a significant risk of harm.

On making an occupation order the Court will have the power to make orders for the repair and maintenance of the house and can transfer tenancies between spouses and cohabitants. The Council will be bound if a transfer order is made.

