



# **NUISANCE AND ANTI SOCIAL BEHAVIOUR POLICY**

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Folder: LHT Housing Policies and Procedures

**LHT**  
**NUISANCE AND ANTI SOCIAL BEHAVIOUR POLICY**

**AIM**

The aim of LHT's Nuisance and Antisocial Behaviour (ASB) Policy is to ensure that correct and appropriate practices are adhered to enabling staff to effectively manage and resolve identified and reported cases of nuisance and ASB.

Nuisance and ASB is a widespread problem and while serious perpetrators are small in number their behaviour has a disproportionate impact on the vast majority of LHT tenants and neighbours. Tackling nuisance and ASB is of key importance for LHT staff and our customers and this was reflected in the Tenants Survey 2002 that placed tackling nuisance and ASB high on the list of priorities.

In aiming to successfully tackle nuisance and ASB, LHT will be helping to create sustainable communities where tenants and residents can live without fear that their communities will be blighted by the anti-social actions of a few.

Staff will be provided with appropriate training, support and resources to enable LHT to take quick, appropriate and effective action against perpetrators.

**PREAMBLE**

LHT own and manage approximately 8000 properties in and around Merseyside and Halton. Over recent years, LHT, along with other RSL's and housing providers have faced new and increased challenges in managing cases of nuisance and ASB.

The increased emphasis placed on this area of work by Central and local Government, the Housing Corporation and other regulatory bodies and tenants and residents groups have required a positive response on the part of LHT.

Measures taken by LHT include:

- ✓ The introduction of a specialist Tenancy Management team between 1997 and 2000 to provide increased organisational focus in this area of work
- ✓ The creation of District Housing Management teams in 2000 increasing resources in all Districts
- ✓ Establishing internal working and best practice groups

- ✓ Publishing Performance Indicators and management information on activity and case management
- ✓ Introducing 10% quality checks for all cases of nuisance
- ✓ Benchmarking against best performing organisations via membership of the Social Landlords Crime and Nuisance Group (SLCNG)
- ✓ Increased partnership working with local authorities, the police and other statutory and voluntary agencies
- ✓ Taking effective legal action in partnership with a range of solicitors
- ✓ Publication of action taken to combat nuisance and ASB in tenant's newsletters
- ✓ Piloted Estate and House Agreements

## **LEGAL AUTHORITY AND REGULATORY REQUIREMENTS**

LHT are empowered by and must comply with a number of Acts of Parliament and regulatory requirements when managing cases of nuisance and ASB. Principally these include:

- Environmental Protection Act 1990 and Noise Act 1996 covering statutory nuisance, including noise nuisance
- Housing Act 1996
- Protection from Harassment Act 1997
- Crime and Disorder Act 1998, as amended 2002
- Race Relations (Amendment) Act 1999
- Human Rights Act 1998 and Regulation of Investigatory Powers Act 2000
- Housing Corporation Regulatory Code 2000

## **EQUAL OPPORTUNITIES**

LHT regularly reviews performance to ensure equality of access to services. LHT will take proactive steps to ensure that all sections of the population are given equal access. These steps include:

- Availability of translated leaflets and literature
- Quality checks of cases to ensure a consistent approach is applied and that no sections of the community are disadvantaged
- Training is provided to all staff to ensure that cases are managed in an appropriate manner

- Building positive relationships with known Representative Groups
- Raising LHT's profile through targeted focus groups and publicity with an emphasis on service delivery and access to services

## **BACKGROUND**

LHT has a commitment to managing and resolving nuisance and ASB. This message is transmitted to all new tenants at sign-up and to existing tenants via newsletters and presentations and attendance at tenants and residents groups and internal Management Committees.

This approach to managing nuisance and ASB reflects the importance given to the issue by Government in terms of Acts of Parliament and the requirement on the part of local authorities to develop and implement Crime and Disorder Strategies in partnership with the police and other agencies.

LHT will seek to effectively manage resources and monitor trends to be proactive in preventing nuisance and ASB.

## **DEFINITION**

Nuisance and ASB is difficult to define and may mean different things to people at different times. In its report on ASB Policy Action Team 8 said, "there is no accepted definition and ASB can range from dropping litter to serious harassment" (page 7).

ASB ranges from what might appear to be nuisance and lack of consideration to serious criminal activity. The largest categories of complaints come within a low to medium level including clash of lifestyles, boundary disputes, litter, noise and the behaviour of children. These complaints will be managed through effective use of the tenancy agreement, the use of mediation services and interagency working.

Less common, but with often more serious consequences are cases involving harassment, violence, criminality and drug dealing. These cases can adversely affect the lives of whole neighbourhoods and add to the general problem of social exclusion. Such cases are not so readily amenable to preventative measures, or mediation and may require legal remedy to halt the behaviour or lead to eviction.

LHT's Assured Tenancy Agreement in the section headed The Tenant's Duties reads as follows:

### **Use of premises**

To use the premises for residential purposes as the tenant's only or principal home and not to use the premises for any illegal purposes or to operate any business at the premises. Not to cause a nuisance or annoyance to other persons in the neighbourhood. Not to allow anyone who lives with the tenant or who visits the tenant to cause a nuisance or annoyance to other persons in the neighbourhood.

### **Domestic violence**

Not to inflict violence or threaten violence against any other person living with the tenant.

### **Racial and other harassment**

Not to commit, nor allow members of his or her household or invited visitors to commit ant harassment or threat of harassment for example on the grounds of race, colour, religion, sexual orientation, HIV status or disability that may interfere with the peace and comfort of, or cause offence to, any member of his/her household, other persons in the neighbourhood or to any tenant, agent, employee, or contractor of LHT. Not to display or cause to be displayed in any part of the premises, any poster, message or communication of any type whatsoever of an offensive or obscene nature.

### **Nuisance and anti-social behaviour**

Not to engage nor to cause, nor to allow members of his or her household or visitors to engage in any form of anti-social behaviour likely to cause a nuisance or annoyance to other persons in the neighbourhood or to any tenant, agent, employee or contractor of LHT. The tenant shall not permit the premises to be used for any illegal and/or immoral purposes. This specifically includes the production, use and/or attempted sale of drugs or any other substances covered by the Misuse of Drugs Act 1971, or any other relevant legislation.

LHT's Tenancy Agreement also includes specific sections detailing parking and vehicle repairs, noise, pets and gardens.

Copies of LHT's Tenancy Agreements are available on request and these are reviewed on a regular basis.

## **COMPLEMENTARY LHT POLICIES**

### **Harassment**

It is recognised that nuisance and ASB can include, or in extreme cases lead to harassment.

Harassment is any form of behaviour, which results in people feeling uncomfortable or unsafe in their homes. It is any act of abuse, threatening behaviour or assault that is committed deliberately against any individual or a group of people. It can be verbal or physical and can include attach son the person as well as the property. It is behaviour that is unwanted, unreasonable or offensive to the recipient.

LHT report on and investigate harassment in three areas, namely racial incidents, domestic violence and other types of harassment.

For other types of harassment the definition outlined above will be used. For domestic violence the definition will be that agreed by the Liverpool Domestic Violence Forum and for racial incidents LHT will adopt the definition recommended by the McPherson Report.

These definitions are:

### **Domestic Violence**

Domestic violence is the mental, physical, sexual, emotional, psychological and/or economic abuse of one person by another who is in or has been in a relationship with them. The relationship maybe between partners or ex partners or other family members. Children involved may also suffer direct or indirect abuse.

Domestic violence is mainly perpetrated by men towards women. This is not to deny the existence of violence towards men or that women abuse. We acknowledge that domestic violence occurs between same sex partners. Domestic violence occurs in all communities. Certain groups face additional barriers and discrimination when trying to access services as a result of such violence.

### **Racial Harassment**

A racist incident is “any incident which is perceived to be racist by the victim or any other person.”

LHT have in place detailed policies and procedures in managing and investigating cases of harassment. These policies have been developed and implemented working to the recommendations contained within the McPherson Report and has at their core a clear and unambiguous victim centered approach.

LHT have harassment policies in place to manage cases of racial harassment and domestic violence and these are available on request.

## **SUSPENSION/EXCLUSION**

LHT is strongly committed to the principle of managing our properties to the highest possible standard and in conjunction with Liverpool City Council, CDS Housing, Riverside Housing Association and Arena Housing developed a suspension policy in 2002.

LHT will do all it can to avoid any person being suspended from our housing lists but where appropriate such action will be taken for the benefit of LHT and the majority of tenants and the wider community.

Specifically in terms of ASB applicants whose behaviour is or has been anti-social in nature at any time during the two years preceding their application for rehousing will be suspended from LHT rehousing lists for a period of two years. Applicants will be advised of LHT's decision in writing and will be given the opportunity to appeal.

LHT's Suspension Policy is available on request.

## **STARTER TENANCIES**

LHT, following consultation with the local authority can use assured shorthold tenancies to create 'starter tenancies in order to provide a probationary period of a tenancy.

The eviction process for starter tenancies is different to that of a secure or assured tenant, in that no grounds for possession have to be made to the court. It is, however recognized that good practice requires the reason and evidence for any possession action taken in respect of a starter tenancy. In line with Best Practice LHT have a built in an appeals process for the tenant to challenge any decision not to grant a full tenancy.

LHT's policy and procedures on starter tenancies is available on request.

## **CASE MANAGEMENT**

LHT have in place a robust, case sensitive procedure for managing cases of nuisance and ASB. This procedure will include training for all staff involved in the management of nuisance and ASB.

Key features of this procedure include:

- Incidents can be reported to any member of staff, including by phone to Customer Service Officers who will be aware of the procedure
- All incidents will be treated with sensitivity and confidentiality with staff being aware of Data Protection implications

- Acknowledgment in writing of all incidents reported or identified with a clear statement of the next action to be taken
- Face to face interview with the complainant within 5 working days of notification of the incident, or 1 working day if the case is urgent
- A clear step-by-step procedure of warning prior to the initiation of any legal action
- Immediate legal action in serious cases
- Clear guidelines on case closure including written confirmation of action taken to all parties.
- 10% quality check of all identified cases carried out by Project Officers to ensure policies and procedures are being adhered to by Housing Officers.
- Adopting a multi-agency approach to managing nuisance and ASB.

LHT's Nuisance and Antisocial Behaviour Procedure complements this policy and is available on request.

## **MULTI-AGENCY WORKING**

LHT recognise that adopting a multi-agency approach to problem solving is key to the development of effective strategies to prevent and manage nuisance and ASB. This joint working will embrace a range of statutory and other agencies, including having trained Designated Liaison Officers to ensure the speedy and effective sharing of information.

It is acknowledged that households involved in ASB often have complex social and psychological support needs beyond those that can be provided for by local District staff. It is important that consideration is given to the involvement of LHT's specialist Tenant Support Team in addition to other agencies providing support services including mediation services, alcohol and drug abuse schemes and youth services.

LHT recognise that by operating in a number of local authority areas that different emphases will be placed on the various types of multi-agency working embraced by LHT.

District Project Officers, in conjunction with the Housing Services manager will have local responsibility for building, fostering, managing and detailing the various local instances of multi-agency working.

## **TOOLS AVAILABLE TO LHT IN MANAGING NUISANCE AND ASB**

LHT have a wide range of available tools in the management of nuisance and ASB. In all cases involving more than one identifiable party, mediation as a solution will be offered.

Staff responsible for the investigation and management of cases will in all instances follow the guidelines contained within the Nuisance and ASB procedure.

### **MEDIATION**

LHT recognise that mediation can be an effective solution to resolving neighbour disputes.

Mediation is a process whereby a neutral third party enables two or more parties in dispute to seek a mutually acceptable resolution to their difficulties without recourse to formal or legal proceedings.

Mediation is usually only appropriate when both sides voluntarily choose to take this course of action. Nevertheless it should be offered to all parties where deemed to be appropriate.

LHT part fund The Independent Mediation Service (TIMS), an impartial service operating in Liverpool, Knowsley and the Wirral. For cases in these local authorities staff should follow referral procedure available from LHT.

Runcorn District staff has access to mediation services on a case-by-case basis via Cheshire Mediation and referrals to Age Concern can be made in respect of tenants of Sheltered Housing Schemes.

Guidance notes for making mediation referrals are available from LHT.

### **ACCEPTABLE BEHAVIOUR CONTRACTS**

An Acceptable Behaviour Contact (ABC) is usually a written agreement between a 10 to 18 year old (or older if they live in RSL or some other types of accommodation) and the police.

The agreement normally requires that the young person cease to perform some acts that are defined as antisocial. The contract is not legally binding on persons under 18 but can be referred to in future court proceedings.

The contract will set out what is not acceptable behaviour and normally last for six months and will be reviewed periodically.

Breaches of contract are assessed and can lead to legal action being taken. ABC's are often seen as a precursor to applying for an ASBO (see below).

LHT have a detailed procedural guide on ABC's, which is available on request.

## **ANTI SOCIAL BEHAVIOUR ORDERS**

Anti Social Behaviour Orders (ASBO's) were introduced as part of the Crime and Disorder Act 1998 and implemented in April 1999.

They were initially available only to police and local authorities to protect people in the local authority area where granted, or an adjacent area.

Since December 2002 ASBO's have been made available to RSL's as an important tool in tackling ASB and are aimed at anyone aged 10 or over, and as such tend to be targeted towards ASB committed by young people.

When applying for an ASBO the burden of proof is less than the criminal requirement and is based on the balance of probabilities. A breach of the order can bring penalties of upto 5 years imprisonment for an adult.

A prerequisite of obtaining an ASBO is the requirement for working with partners and agencies, including the police and local authority, in investigation, assessment and resolution.

ASBO's are a relatively new tool available to LHT and detailed procedural notes are being developed.

## **INJUNCTIONS**

An injunction is a court order, which is preventative in nature, and it is usually sought to prohibit acts of nuisance, annoyance and harassment. A breach of an injunction amounts to a contempt of court and can be punishable on application by a fine or imprisonment of up to two years.

There are a number of different types of injunction including:

- ✓ Interim injunctions - sought in existing possession proceedings pending the final outcome
- ✓ Final order injunctions - sought as a final remedy at trial, and
- ✓ Statutory or 'final order' injunctions - these are not currently available to LHT although proposals contained within the 2002 White Paper Respect and Responsibility: taking a stand against antisocial behaviour may extend RSL powers in this area.

## **UNDERTAKINGS**

An undertaking is a formal promise given by a tenant to the court not to cause or allow nuisance to be caused.

The undertaking usually remains in force for 6-12 months and LHT need to have commenced possession proceedings before the undertaken is given. In most cases where an undertaken is given the matter will be adjourned generally.

If the tenant breaches the undertaking the possession proceedings can be reinstated very quickly and any breach is considered to be contempt of court for which the tenant could be sent to prison or fined.

## **POSSESSION ACTION/EVICTION**

LHT will consider possession action via the County Court in managing nuisance and ASB and this action will, in certain cases, result in the eviction of the perpetrator from their home.

LHT will take into account the effect of the behaviour on the victim, the serious of the ASB and any alternative remedies available.

Possession action will be viewed as part of an incremental process that commences with giving people the opportunity to change their behaviour. It is acknowledged that possession proceedings may not always result in eviction as undertakings or suspended orders may give the tenant a final chance to change their behaviour and remain in their home.

When considering legal action LHT will work in partnership with a range of solicitors, or on occasions take action independently. LHT will also be aware of the implications of Stamp Duty in taking possession action and LHT's procedure for taking possession action is available on request.

## **LEGAL SERVICES**

LHT receive legal advice and case management via three firms of solicitors, namely:

Brabners Chaffe Solicitors  
1 Dale Street  
Liverpool  
L2 2ET

Tel : 0151 600 3000

Whitehead & Co. Solicitors  
PO Box 125  
Chorley  
Lancs.  
PR7 2GD

Tel : 01257 266008

Bremners Solicitors  
1 Crosshall Street  
Liverpool  
L1 6DH

Tel : 0151 2271301

In addition to the above LHT's Runcorn District have entered into an innovative partnership pilot agreement in 2003 whereby Halton Borough Councils Legal Service Section will provide case management advice in the Borough of Halton.

Halton Borough Council  
Legal Services  
Municipal Buildings  
Kingsway  
Widnes  
Cheshire

Tel : 0151 4242061

LHT are actively exploring extending the provision of legal services by entering into a formal partnership arrangement with both Liverpool Anti Social Behaviour Unit and a similar initiative in the Wirral and Knowsley.

## **PHYSICAL MEASURES/MONITORING EQUIPMENT**

LHT will seek to provide additional security measures where these are deemed to be appropriate. Examples of such measures include provision of mobile phones, additional or replacement locks and installing security grills or roller blinds.

In cases where racist or offensive graffiti has been identified or reported, this will be removed within 24 hours, or at the first possible opportunity, once photographs have been taken.

LHT own or have access to a wide range of monitoring equipment, including digital cameras, camcorders, CCTV, noise monitoring equipment and pinhole cameras.

This equipment will be shared across Districts, and where appropriate other landlords in the locality, to both reassure local tenants and residents and add to the information gathering process. In addition LHT facilitated the purchase of CCTV for Merseyside Racial Harassment Prevention Unit (MRHPU).

LHT are aware of protocol in the use of monitoring equipment and will liaise with local police and other agencies to obtain guidance. In addition LHT will never jeopardise the potential success of legal action by over reliance on such evidence in Court.

Visual images are recognised as an important tool in training staff and providing information to third parties, including any training provided to tenants and residents groups and internal Committees.

## **PERFORMANCE MONITORING**

The use of effective monitoring tools are an important element in ensuring that staff adhere to policies and procedures, and in enabling LHT to be proactive in managing nuisance and ASB.

This performance monitoring will comprise:

- Monthly management information on type, location (by Orchard Area Leaf) and closure of all identified cases
- Management target of 80% of all cases to be resolved/closed within the month of being identified
- 10% quality check of all identified cases carried out by Project Officers to ensure policies and procedures are being adhered to by Housing Officers
- Annual activity report to be presented to all District Committees and Housing Services Committee
- Future use of the Tenant 250 Panel and tenant inspectors in monitoring performance and testing leaflets

## **COMMUNICATION**

LHT recognise that an effective nuisance and ASB policy must be backed up via clear procedures that are communicated to the widest possible audience.

LHT will communicate our nuisance and ASB message via:

- Monthly meetings between Housing Officers working in the Marketing and Lettings and Housing Management Teams
- Bimonthly meetings for all Housing Officers to share best practice

- Statements, case studies and activity reports in all tenants newsletters
- Ensuring that Nuisance and ASB is a fixed agenda item at all Tenants and Residents Groups meetings, with attendance, where possible by appropriate staff
- Issuing press releases highlighting success, achievements and initiatives in tackling nuisance and ASB
- Launching all new initiatives to the widest possible audience in the most appropriate format
- Partnership involvement in Zero Tolerance initiatives

## **BEST VALUE**

### **Consultation**

LHT will undertake to consult with Housing Services Committee, District Committees and Tenants and Residents Associations when developing service provision. The Tenant 250 Panel will be utilised for comment and suggestion on specific policy areas.

Where appropriate external stakeholders, including local authorities, neighbouring RSL's and the police will be consulted.

### **Comparison**

In preparing this policy reference has been made to the following:

- Good Practice Briefing Issue 23 Crime, Disorder and Anti-Social Behaviour, CIOH, 2002
- Tackling Anti-Social Behaviour, Judy Nixon and Caroline Hunter, CIOH, 2001
- Manual of Housing Law, Andrew Arden Q.C. And Caroline Hunter, Thomson Sweet & Maxwell, 2003
- Landlord and tenant A practical guide for social landlords, National Housing Federation, 1998
- Report of Policy Action Team 8: Anti-Social Behaviour, National Strategy for Neighbourhood Renewal, 2000
- Housing Law For Housing Officers The latest Update and Review, The Housing Training Company, 2003

- Good Practice Guide A Guide To Starter Tenancies For RSL's, The Housing Corporation, 1999
- Managing Nuisance, Harassment and Anti-Social Behaviour A Framework for RSL's, The Housing Corporation, 2000
- 2003 Anti-Social Behaviour Bill and White Paper Respect and Responsibility - Taking a stand against Anti-Social Behaviour. Briefings and consultation documents.

Reference has also been made to the Nuisance and ASB policy documents and practices of Helena Housing, Blackpool Council, Halton Borough Council and Harvest Housing Association and information supplied by the Social Landlords Crime and Nuisance Group.

### **Continuous Improvement**

It is important that all involved in the reporting and management of nuisance and ASB ensure that they seek to improve their knowledge in this challenging area of work.

Staff will be provided with refresher training and information on legislative changes and best practice. Internal staff will provide this, solicitors employed or instructed by LHT to provide information and training, SLCNG and other external briefing and best practice agencies. The effectiveness of all training will be continually evaluated.

It will be compulsory for all staff to circulate new or revised information and all training material to District Project Officers to ensure knowledge is shared across LHT.

### **Challenge and Compete**

Consideration at all times will be given to alternative means of service provision. The effectiveness, including cost-effectiveness of local Anti Social Behaviour Units will be monitored and if appropriate approval will be sought to enter into formal partnership arrangement.

### **CONCLUSION**

Managing incidents of nuisance and ASB can be complex and emotive for all parties but is recognised as a key element as LHT seek to manage homes and localities in the most effective way.

This policy will be circulated to all staff to ensure that best practice is maintained and will be reviewed and updated on a regular basis.

# **LHT**

## **NUISANCE & ANTI SOCIAL BEHAVIOUR PROCEDURE**

### **AIM**

The aim of LHT's Nuisance and Anti Social Policy procedure is to ensure that correct and appropriate practices are in place to ensure consistent application of Policy and to provide staff with the necessary guidance to facilitate effective case management and resolution.

### **DISCOVERY OF NUISANCE**

Staff should note that initial reports of nuisance can be received in a variety of ways, (i.e. in person, by telephone, in writing, by e-mail), and from a variety of sources including:

- Direct from victims of nuisance
- From other tenants & residents
- Chance discovery by Housing Officers whilst on the 'patch'.
- Approaches from local councillors
- Enquiries from the Local Member of Parliament
- Referral from other agencies, (e.g. Police, Environmental Health, other Landlords, ASB units etc)
- Anonymously

Whatever the source, it must be noted that **ALL** reports of Nuisance must be recorded using the Nuisance report form and all details passed to the appropriate Housing Officer for investigation.

Don't ignore anonymous complaints. The reluctance of the complainant to provide their identity might signify intimidation or fear of reprisal. In such instances Housing Officers should assess the seriousness of the complaint and if necessary look to send a letter to tenants who live in the locality which encourages people to come forward and provides reassurances of confidentiality.

**NB: The completion of the Nuisance Report Form is essential for performance monitoring purposes. Completed forms are passed monthly to the Project Officer for collation into district Key Performance data.**

## **INVESTIGATION OF THE NUISANCE**

### **Interviewing The Complainant**

Following an initial referral/discovery of a problem, the Housing Officer must proceed to gather as much relevant information and evidence regarding the Nuisance. This must include both a written acknowledgement of the reporting of the complaint and a face-to-face interview with the complainant within five working days. The reason for the interview is to collect/clarify the following information and provide the following advice:

#### **Information to be collected:**

- Who the complaint is about
- How long the nuisance has occurred
- Times and instances of nuisance
- Severity of Nuisance, i.e. is it nuisance, harassment or a neighbour dispute
- How did the nuisance impact on the complainant
- What action has been taken by the complainant
- Possible witnesses
- Action/involvement of other agencies, (e.g. Police)

#### **What Action They Would Like LHT To Take?**

Advice to be given:

- Details of LHT's nuisance procedure, (Housing Officers should give tenant copies of LHT's nuisance leaflets)
- What external agencies can offer and their details
- How the tenant should log complaints/instances of the nuisance, (issue incident diaries if necessary)
- What action if any LHT will take following interview

**NB: This should be confirmed in writing following the completion of investigations.**

Housing Officers are encouraged to use their experience to enable them to determine what action, if any is necessary – dependent upon the nature and severity of the incident concerned. However, if it is decided that no breach of the 'Conditions of Tenancy' has occurred, the Housing Officer must ensure that the complainant is informed of this decision. A report of the complaint and the decision must be documented and placed on file for reference. This will support any future enforcement action that becomes necessary.

In cases where the Housing Officers investigations indicate that there would appear to be a breach of a Condition of Tenancy, immediate action must be taken to minimise any nuisance, and attempt to resolve the situation at the earliest possible stage.

Finally, if Housing Officers are in any doubt whether there has been a breach in tenancy, no further action should be taken until the Rents and Tenancy Management Project Officer has been consulted with regard to the details of the case.

### **Collecting Additional Evidence**

Following the interview with the complainant it may be necessary at this point to collect additional evidence prior to taking further action. This may include interviewing neighbours, collecting witness statements, issuing incident diaries, installing monitoring equipment, contacting the Police, other Landlords, ASB units, etc.

Accurate records should be kept on the housefile of any additional evidence collected in case such information should need to be utilised in future legal action.

### **Interviewing The Perpetrator**

If following the initial interview with the complainant it is evident that further action is necessary then with their consent the Housing Officer should arrange to interview the alleged perpetrator. A letter should be sent to the alleged perpetrator outlining the report of Nuisance and confirming a date and time for interview.

During the interview the Housing Officer should be aware of the need to deal with the issues objectively, with sensitivity and have an awareness of possible data protection issues. Whilst the interview is an opportunity for the alleged perpetrator to give their version of events the Housing Officer should where appropriate make them aware of the potential consequences of their actions, including the ultimate sanction of eviction. The interview should be recorded on the tenant interview form.

**NB. Staff should note the entire process of investigation including interviewing both the complainant and perpetrator should be a maximum of ten working days. By the end of such time the Housing Officer should be in a position to inform the complainant in writing what action has been taken to date and any future action necessary.**

## **ACTION/CASE MANAGEMENT GUIDANCE**

Following the interview with the alleged perpetrator the Housing Officer should have all the necessary information to be in a position to form a view on what action if any is required.

**NB. If following the Housing Officer investigations it is decided that further action is necessary the Housing Officer must agree an action plan with the complainant outlining what action LHT will take. This action plan should be confirmed in writing and signed by both the Housing Officer and the complainant.**

### **Mediation**

If following the investigation it is evident that the complaint involves a neighbour dispute between two or more parties then the mediation service **must** be offered to those involved. If all parties are in agreement a referral form should be sent to the relevant mediation provider. If mediation is successful then details should be recorded on the house file and the situation monitored by the Housing Officer. If mediation has proved unsuccessful and the dispute continues resulting in more instances of nuisance behaviour then the following action must take place.

**NB. Housing Officers should implement the following steps if mediation isn't appropriate or mediation has proved unsuccessful and the nuisance behaviour continues.**

### **Issuing Warnings**

Staff must note that this action should consist of:

- A verbal warning made to the nuisance perpetrator, (i.e. tenant)
- A letter sent out detailing the nature of the nuisance and confirming the warning, with a copy being taken and placed on the property house file
- A full report of the visit and subsequent interview being made out and kept on the tenants property house file
- A written reply being sent out to the original complainant
- A course of future monitoring by the Housing Officer involved, including:
  - Issuing incident diaries
  - Installing monitoring equipment, (where appropriate)

The initial verbal warning must be followed up in writing and should clearly state in what way their behaviour has breached the terms of their tenancy agreement. It must state that further action will be taken should the breach of tenancy continue.

All staff involved should be aware that complete reports of visits, interviews etc must be recorded and placed on the property house file. This includes not only the initial breach of tenancy itself, but also all subsequent action taken to resolve the matter.

Where an initial report of a breach is made as part of a complaint involving another tenant/resident, the complainant must be informed by letter of the outcome of the Housing Officer's initial visit or interview. **NB:** Within ten working days of initial complaint.

The complainant must also be informed that a warning has been issued to the tenant concerned. Where such a breach involves excessive noise or nuisance to neighbours, then the Housing Officer should additionally recommend that the complainant begins to keep a diary of events, noting down any further instances of the nuisance which might occur from then on. The ability to precisely detail the exact nature, date and times when such incidents take place, will subsequently give the Housing Officer a greater advantage when dealing with the disruptive tenant at his/hers next interview, as well as being necessary for use as evidence should the case be entered into court.

Housing Officer's should place a note in their diary, to contact the complainant again after a pre-arranged period has passed, **(i.e. 28 days after the issuing of the warning)**.

### **Final Written Warnings**

Should further reports of nuisance be received a second warning letter must be issued to the perpetrator informing them that they have failed to comply with previous warnings and informing them of a date and time for a further interview, **(NB within five days of reported incident)**. At the interview the tenant should be informed that they are being issued with a final written warning, which if breached will result in the service of a Notice Seeking Possession.

As above all details of incidents, interviews, warning letters etc should be placed on the property housefile.

### **Issuing an NSP**

**NB: It should be noted that in cases involving starter tenants Housing Officers at this stage should refer to the Starter Tenancy Policy & Procedure for guidance on type of Notice required, legal process, etc.**

If the issuing of warnings fails to have an effect and the incidences of nuisance continue the Housing Officer should serve a Notice Seeking Possession, (NSP). The NSP must be in the prescribed format, (see appendix 1), and must contain the following information:

1. The tenants full name
2. The full property address

3. The date of tenancy
4. The details of specific breach of tenancy, (i.e. ground, see below)
5. Specific details of incidences of nuisance/action taken

### **Assured**

#### **Ground 12**

Any obligation of the tenancy has been broken or not performed

#### **Ground 14**

The tenant or a person residing or visiting the dwellings house:

- a. Has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality

Or

- b. Has been convicted of:

- i) Using the dwelling house or allowing it to be used for immoral or illegal purposes

Or

- ii) An arrestable offence committed in, or in the locality of, the dwelling house

### **Secure**

#### **Ground 1**

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

#### **Ground 2:**

Nuisance ground same wording as ground 14.

Staff should note that when the nuisance ground is being relied on the period of notice required before action is/can be taken is in effect dispensed with. Thus in theory it would be possible to serve a notice on a Monday and begin proceedings on a Tuesday.

## **Use of NSP:**

In cases where the serving of a NSP is designed to bring about a cessation in the nuisance behaviour and not with a view to the commencement of immediate possession proceedings, the Housing Officer should inform the tenant that the NSP will remain in force for a period of twelve months, during which time the case will be regularly reviewed. If after a period of 28 days there have been no further reported incidents of nuisance the Housing Officer should write to the tenant reaffirming the lifespan of the NSP and advising the tenant that any future corroborated incidences of nuisance **will** result in possession proceedings being brought.

In serious cases where the serving of the NSP is with a view to commencing immediate Possession Proceedings the Housing Officer should prior to service seek the advice of the Tenancy management Project Officer with a view to consulting with LHT's solicitors to agree the requirements/timings of the legal process, (gathering evidence, compiling witness statements, possible injunctions etc).

If the tenant responds to the threat of the NSP and ceases the nuisance behaviour the Housing Officer should write to both the tenant and the complainant at the end of the twelve-month period explaining that LHT consider the case closed. However it should be stressed that LHT will treat future incidences of nuisance seriously and act accordingly.

## **NUISANCE MONITORING FORM**

In all cases where it has become necessary to serve an NSP the Housing Officer should send the complainant a Nuisance Monitoring form, (see appendix 2), requesting feedback on the handling of the case. All completed forms should be forwarded to the Project Officer for monitoring.

## **FACTORS TO CONSIDER BEFORE TAKING POSSESSION ACTION**

- Is the proposed action appropriate in terms of the scale and severity of the Anti Social Behaviour?
- Are we likely to be granted the order requested, (i.e. can we prove reasonableness)

To prove reasonableness the following attempts at resolution should have been considered:

- Have all the available self-help measures, such as mediation been explored, if not why not?
- Have other measures such as:
  - Acceptable Behaviour Contracts, (ABC's),
  - Anti Social Behaviour Orders, (ASBO's)
  - Estate Agreements,

- House Agreements
- Physical measures, (i.e. CCTV, additional security measures, etc), been considered to resolve the case. If not, why not?
- Have all parties in the case been contacted and kept informed of the case. If not, why not?
- Have all parties in the case acted appropriately, If not, legal action may be delayed and appropriate remedial action will need to be put in place.
- Has the perpetrator been given an opportunity to change their anti social behaviour? (i.e. been issued with warnings)
- Have support measures been considered to assist the perpetrator to cease their anti social behaviour?
- Has the perpetrator been given sufficient warning of our intentions?

## **TAKING POSSESSION ACTION**

As stated above in cases where the seriousness of the nuisance means Possession Proceedings are required it is important that LHT can not only prove the ground but that it is reasonable for the Judge to grant possession.

It is for this reason that LHT's approach to tackling Nuisance and Anti Social behaviour needs to demonstrate that Possession Action is part of an incremental process which looks to utilise a wide ranging set of tools for preventing and tackling the problem. All the afore mentioned measures in addition to LHT's use of the tenancy agreement can be important indicators of reasonableness in any Possession Action.

## **STAMP DUTY**

In 2002 the implications of the Stamp Act 1891 and Finance Acts of 1999 and 2000 became apparent to RSL's and may have potentially far reaching consequences when taking legal action to manage cases of nuisance and ASB.

When presenting a possession case the Tenancy Agreement is part of the evidence relied on by LHT. The literal interpretation of the Stamp Act 1891 is that an unstamped document cannot be relied on as evidence with the implication that the case will either be dismissed or adjourned.

A series of payments and penalties has been introduced to enable documents to be stamped and until the outcome of a legal challenge to the 'reviving' of the Stamp Act 1891 has been fully evaluated clarification on this matter should be sought from District Project Officers.

## **WITNESS SUPPORT/ GUIDANCE FOR OFFICERS**

In trying to tackle Anti Social Behaviour one of the largest problems faced by officers is in persuading people to act as witnesses. Indeed many potential witnesses / victims in cases of anti social behaviour are “lost” in the course of an investigation as a result of fear of reprisals and intimidation - actual or perceived.

To sustain effective action witnesses are essential and whilst in some cases evidence can be supplied by third parties, such as Housing Officers or Professional Witness, in others the evidence of neighbours is crucial.

In an instance whereby the provision of additional witness support measures are considered necessary to the success of the case Housing Officers should speak to the Rents & Tenancy Management Project Officer about accessing the Anti Social Behaviour budget to support such measures

The following information provides a number of practical methods, which Housing Officers should consider in their approach to managing severe cases of Nuisance and Anti Social Behaviour.

- Large scale door knocking to make contact with all those potentially affected by the Anti Social Behaviour and arranging to meet groups of neighbours can result in more evidence and provides individuals with group support
- Use of neighbourhood letters to encourage witnesses to come forward
- Maintain close contact with neighbours and witnesses by use of regular visits in order to build up trust and support
- Assurance of confidentiality: Ensure that wherever possible individual complainant details are not revealed to the defendants
- Consider the use of an injunction to ensure witnesses feel protected from intimidation in the run up to a hearing
- Ensure that other relevant agencies, such as the Police, social services, victim support, etc are aware of the situation. They can also offer support
- If necessary arrange for witnesses to be taken through the process of what might happen at court, including a visit to the court prior to the hearing
- Is temporary accommodation required in the run up to the hearing to ensure protection of the witness?
- Can additional security measures be provided in the short term to make witnesses feel more secure: for example:
  - Mobile phones
  - Property & personal alarms
  - CCTV
  - Security lighting
  - Fire Safe Letterboxes, etc
- Ensure contact is maintained after the court hearing and if appropriate consider referring witnesses to counseling