

POLICY AND PROCEDURE FOR DEALING WITH RACIAL HARASSMENT

1.0 INTRODUCTION

- 1.1 Racial Harassment is an act(s) perceived by the victim as committed against an individual because of her/his racial or ethnic origin that interferes with the peace and comfort of that individual to the detriment of their quality of life.
- 1.2 This policy and procedure applies to incidences of racial harassment involving Housing Services and/or tenants and/or any members of their household.
- 1.3 The objective is to provide relevant support for the victim of racial harassment and, where possible, to take action against the perpetrators.
- 1.4 It is Housing Services policy to encourage victims of racial harassment to remain in their own homes but a transfer on racial harassment grounds can be requested. Alternatively, victims of racial harassment can apply for assistance under the homelessness provisions of the 1996 Housing Act.

2.0 RELEVANT LEGISLATION

- 2.1 This document accepts the definition contained within the Crime and Disorder Act 1998 which states that anti-social behaviour is:
- Acting in a manner that causes, or is likely to cause harassment, alarm or distress to one or more persons not of the same household as himself/herself.
- 2.2 Local housing authorities have certain powers when dealing with anti-social behaviour, which are set out in the *Housing Act 1996*, and the *Anti Social Behaviour Act 2003*, and this is reflected in the Tenancy Conditions.
- 2.3 The general duty for public authorities stated in section 71 (1) of the Race Relations Act 2000 states that when (public authorities) carry out their functions they must have 'due regard' to the need:
- to eliminate unlawful racial discrimination.
 - to promote equality of opportunity and good relations between persons of different racial groups.

3.0 UNDERLYING PRINCIPLES

- 3.1 The following principles are adhered to when dealing with racial harassment: -
- *Evidence* - the victim's perception is all-important, they do not have to prove the harassment, or that it is racially motivated - their word is sufficient. Racial harassment will not be just dismissed as a neighbour dispute. People acting on behalf of a victim will also be afforded the same treatment.
 - *Confidentiality* – interviews will be held in private; the identity of the person making the report will not be revealed to a perpetrator.
 - *Responses* – will be sympathetic but professional with non-judgemental, open questioning. Consent to any formal investigation and/or sharing of information with other agencies will be obtained in advance.

- *Withdrawal* - where someone does not want to pursue a formal complaint this will be respected but the complaint taken no less seriously - victims who withdraw from the investigation process will be advised that they can return at any point.
- *Notes* – full and confidential file notes detailing all interviews and actions will be kept about the incident(s) and kept on the tenancy file.
- *Advice* - detailing the help and support available from the Housing Service and/or other agencies will be given.
- *Multi-agency* – harassment reports are generally best dealt with on a co-operative basis with other members of the multi-agency racial harassment forum.
- *Reporting* - The multi-agency reporting form will be used in all cases as it aids monitoring and can be used in evidence in proceedings against perpetrators. Incident log sheets should also be completed (where possible) and a copy kept on the tenancy file.

4.0 PRACTICAL APPLICATION OF THE POLICY

- 4.1 The Housing Service will ensure that a report of racial harassment is responded to promptly and the perpetrator dealt with effectively. The Housing Service will work with other agencies to deal with the perpetrator and support the victim. In preparing an agreed action plan, we may consider relevant past history, and the consequences of non-compliance of action taken.
- 4.2 The responsibility for dealing with incidents of racial harassment is shared with the Police; as such acts are a criminal offence. The Housing Service will work with the police, sharing relevant information, wherever possible to assist in criminal proceedings.
- 4.3 The seriousness of the breach of tenancy conditions will be considered by the Housing Service when taking action against the tenant.
- 4.4 In some cases where the incident has involved violence, or a threat of violence, it may be appropriate for us to apply for an injunction against the perpetrator, to protect the victim.
- 4.5 The Council will ensure that all staff involved in dealing with anti-social behaviour will receive sufficient training to enable them to deal with the issue properly. Particular attention will be given to training in diversity and equality of opportunity issues.

5.0 TENANCY CONDITIONS

- 5.1 The Tenancy Agreement sets out the Contractual Obligations of the tenant and the housing authority. The Tenancy Agreement requires tenants to act in a reasonable manner and not do anything that causes nuisance or annoyance to other people.
- 5.2 As well as a general prohibition on causing nuisance or annoyance, the Tenancy Agreement draws particular attention to the following:
- The tenant, members of their household and/or visitors, must not act in such a way that the behaviour could be considered harassment to others. This includes abusive behaviour, racist language or physical or verbal abuse.

The Housing Service will take legal action against any tenant found to have committed a specific offence under the Race Relations Act 2000 (such as racial harassment), or for knowingly allowing anyone he/she is responsible for to do so.

6.0 DEFINITION

- 6.1 Racial Harassment is an act(s) perceived by the victim as committed against an individual because of her/his racial or ethnic origin that interferes with the peace and comfort of that individual to the detriment of their quality of life.

7.0 SERVICE STANDARDS AND PERFORMANCE MONITORING

- 7.1 The victim will be offered a home visit or invited to an interview at the Town Hall (or other preferred location if appropriate) within 24 hours if the incident involves violence or threats of violence, or within 5 working days for other incidents.
- 7.2 The Housing Service will increase security measures and make good all physical damage to Council property (including racist graffiti) within 24 hours.
- 7.3 When a case has been brought to a final conclusion, a formal case closure letter will be sent to the victim advising of the impending closure (see Appendix 1).

8.0 PROCEDURE

8.1 *Actions*

- 8.2 Confirm the victims' account of racial harassment.
- 8.3 Where requested consider MRP application.
- 8.4 Ex-parte (perpetrator absent from court proceedings) injunctions will be considered. Where an incident has involved violence or a threat of violence, an injunction will be considered within 24 hours.
- 8.5 Breaches of any injunction will result in further enforcement action being considered.
- 8.6 Guilty perpetrators of Racial Harassment will generally be viewed as unsuitable tenants for re-housing, and therefore ineligible to apply to the Gosport Joint Housing Register

9.0 *Dealing with victims*

- 9.1 If a tenant reports racial harassment they will be interviewed within 5 working days unless violence or threat of violence is suspected, then they will be interviewed within 24 hours by the Housing Officer and Housing Enforcement Officer, and other agencies where possible. The purpose of the interview is:

- To assess what immediate practical help is needed
- To establish the details of the incident
- To discuss an action plan
- To advise on longer-term support from Housing and/or other agencies.

- 9.2 Interviews will be held in private and in a sympathetic manner. Interpreting and translation facilities will be made available where necessary.

- 9.3 The victim will be offered support through a referral to an outside agency such as Victim Support, Social Services, or Southern Focus Trust (Policy and Procedure for Witness Support).

- 9.4 Immediate help: -

Injury - if the victim has been injured they should be advised to seek medical help and get the extent of their injuries recorded for possible evidence.

Re-housing - in serious cases temporary housing can be offered in bed and breakfast or hostel accommodation. The vacated property should be inspected to ensure it is secure. A joint interview with Allocations and Advice would be appropriate.

Repairs – Housing Officer to take photographs of any damage or graffiti, and order repairs to be undertaken within 24 hours (the cost of this work should ideally be recovered from the perpetrator, otherwise their home contents insurance may cover some costs, in any event costs are not chargeable to the victim). The contractor must be made aware of the 24-hour deadline to complete works.

Security – it may be appropriate to increase security measures at the victim’s property including the provision of measures such as the installation of spy holes, secure letterboxes and window locks, and/or dispersed alarm. Such works can be initiated through the Crime Reduction Officer at Gosport Police.

9.5 *Details of the incident:* - this will include: -

- If the incident(s) have previously been reported to any other agencies
- If the perpetrator can be identified
- The ethnic origin of the victim
- If any supporting evidence is available such as completed log sheets, witnesses’ details, damage to property, threatening notes (if written material is provided, treat this with care as the Police may conduct a forensic examination).

9.6 *Action Plan* - In all cases, an action plan should be drawn up in consultation with the victim. The purpose of the action plan is to record the agreed next steps. The Housing Service will only act with the explicit consent of the victim. If appropriate (and the victim consents) a case conference of all the agencies potentially involved in the action plan should be organised. The victim should be invited and encouraged to attend.

9.7 All cases will be regularly monitored whilst they remain active, regular contact will be kept with the victim, and any further incidents dealt with in accordance with the Racial Harassment Policy, other Anti-Social Behaviour Policies and applicable Housing Policies and Procedures (see list at the end of this document).

9.8 Diary sheets should be issued to record any further incidents and copies kept on the tenancy file.

9.9 The Housing Service will ensure that the evidence collated is accurate, relevant and confidential. The victim has the right not to pursue a complaint and the evidence can be kept on file and noted that no further action has been sought. Such information is held as it may be useful if there are further such incidents or anti-social behaviour in the future.

9.10 If a formal complaint isn’t being pursued the action plan should record this with the need for no further action at present.

9.11 *Longer term support:* - this can include measures such as additional security measures (i.e. window locks or a community alarm) and/or a management move to another address. Note that such moves are dealt with under Management Re-Housing Panel (MRP) and the usual policy and procedure for MRP will apply. The Housing Officer should complete a Joint Housing Register application form with the victim before a referral to MRP. Managers have the discretion to waive any dilapidation charges and ignore arrears (any arrears will become a special condition of the new tenancy). Assistance with the cost of removals, reconnection charges etc may also be possible at the discretion of Housing Allocations and Advice.

10.0 *Dealing with the perpetrator*

10.1 The tenancy agreement states:-

“Racial harassment is a specific offence under the Race Relations (Amendment) Act 1990. We will take legal action against any tenant found to have committed such an offence or who has knowingly allowed anyone he/she is responsible for to do so.”

(Clause 2.4 - Conduct Nuisance and Harassment)

This wording gives wide scope to consider action against any tenant or their children, relatives or visitors who commit racial harassment.

10.2 Where the person(s) responsible for the racial harassment is a Council tenant or a member of a tenant’s household, use of all legal remedies available will be considered (see Anti-Social Behaviour and Enforcement Policy and Procedures).

10.3 Where a specific perpetrator cannot be identified, it may be appropriate to send a general

letter to all tenants and/or residents in the area reminding them that racial harassment is a breach of their tenancy conditions and a criminal offence (see Appendix 2).

10.4 Where a perpetrator has been individually identified (and the consent of the victim obtained) then the following steps should be taken:-

Step One – conduct a home visit or request that the tenant attends an interview at the Town Hall to discuss the alleged breach of tenancy conditions. The following good practice will be used;

- preparation for the interview in advance
- ensuring the interview is impersonal
- remembering that the ultimate purpose of the interview is to stop the harassment
- informing the interviewee that there has been a complaint of racial harassment but avoiding direct accusations
- explaining the policy on racial harassment and the tenancy conditions
- explaining the consequences for tenants who commit racial harassment
- giving a copy of the Tenancy Conditions to the interviewee to reinforce their contractual obligations.

Step Two - immediate consideration given to injunction or undertaking, co-ordinated with security measures for the victim where they remain in the property.

Step Three - follow up the interview by making case notes and write to the interviewee summarising the interview and reminding the tenant of the possibility of enforcement action, or an injunction. This letter constitutes an initial warning. Notes and copy letters must be kept and cross-referenced to the victim's tenancy file.

Step Four - if there appears to be a case for criminal prosecution, details of the incident should be given to the Police with the victim's consent, and after consultation with the legal services. This should be done by the completion of a multi-agency reporting form.

Step Five - if harassment continues, consider the effects of further action such as possession action, demoted tenancy order or applying for an injunction, again in consultation with Legal Services. The action taken must ensure that the harassment stops and this should be considered carefully when reviewing the action plan.

Step Six - if Court action is taken against a perpetrator who has children, notify Social Services and/or the Housing Allocations and Advice Section in case of potential homelessness.

In particularly serious cases of racial harassment, Officers may decide to shortcut the above process and proceed with court action as soon as possible. This may need to be done, for example, where there is a serious risk of harm to the victim.

11.0 *Case monitoring and performance monitoring*

11.1 All cases must be regularly monitored whilst they remain active, keeping regular contact with the victim, and any further incidents dealt with in accordance with the Racial Harassment policy.

11.2 When a case has been brought to a final conclusion, a formal case closure letter must be sent to the victim advising of the impending closure.

11.3 Racial harassment cases must be logged using the Anti-Social Behaviour statistics sheet.

11.4 Racial harassment cases will be recorded within the statistics collated on Anti-Social Behaviour.

12.0 OTHER REFERENCES

- 12.1 The following references should be used in support of this policy and procedure;
- Housing Services Statement on Anti-Social Behaviour
 - Anti-Social Behaviour and Enforcement Policy and Procedures
 - Domestic Violence Policy
 - Policy and Procedure for Supporting Complainants, Witnesses and Perpetrators of Anti-Social Behaviour
 - Anti-Social Behaviour and the Media: Policy and Procedure
 - Housing Officer Guide
 - Police and Housing Joint Protocol
 - Joint Protocol on Anti-Social Behaviour Orders
 - Management Re-housing Policy
 - Gosport Borough Council Equal Opportunity Policy
 - Joint Housing Register Policy
 - Crime and Disorder Strategy 2002-2005
 - Housing Strategy
 - Tenancy Agreement
 - Tenants Handbook
 - Customer Information leaflets relating to Anti-Social Behaviour

13.0 APPENDICES

- 13.1 Appendix 1 – Closure letter
- 13.2 Appendix 2: Standard Letter to Residents

Town Hall, High Street,
GOSPORT, PO12 1EB

Telephone: (023) 9258 4242

Fax: (023) 9254 5285

My Ref: CR/HEO/HOS

Your Ref:

Please ask for: Mrs C Read

Extension: 5361

Direct Line: (023) 9254 5361

E-Mail address: readca01@gosport.gov.uk

www.gosport.gov.uk

2004

Dear

RE

I am writing further to our telephone conversation on..... when your concerns about your neighbour were discussed.

You are aware that the issues have been discussed with your neighbour and that I have been monitoring the situation for some time now. It is my understanding that the nuisance has not occurred of late and I have not received any completed log sheets recently.

It is therefore my intention, as discussed with you, to close this enquiry but should you have further concerns please do not hesitate to contact me on 02392 545361.

Yours sincerely

Carol Read

Housing Enforcement Officer

Town Hall, High Street,
GOSPORT, PO12 1EB

Telephone: (023) 9258 4242

Fax: (023) 9254 5285

My Ref: CR/HEO/HOS

Your Ref:

Please ask for: Mrs C Read

Extension: 5361

Direct Line: (023) 9254 5361

E-Mail address: readca01@gosport.gov.uk

www.gosport.gov.uk

Dear

There have been a number of, what we believe to be, racial incidents in These have included I am, therefore, writing to all residents to seek your co-operation in dealing with this anti-social behaviour.

The Council is committed to tackling all forms of racial harassment and intimidation. Where perpetrators are identified it will use all the legal powers available under the Housing Act 1996, and the Tenancy Agreement, to evict those who persistently harass their neighbours. The Council will also work with the Police to take action against the perpetrators.

I am aware that the vast majority of people understand the importance of good community relations. If you can help us in tackling this small minority of offenders, please telephone me on (023) 9254 5361. All information will be treated in the strictest confidence.

Thank you for your co-operation.

Yours sincerely

Carol Read

Housing Enforcement Officer