

## **RACIAL HARASSMENT IN SOCIAL HOUSING POLICY & GUIDELINES**

### **Policy Statement**

The Council recognises the serious effects which racial harassment can have on its customers and is committed in ensuring that our customers have quiet enjoyment of their homes, safe from racial harassment. It accepts legally and morally that any form of harassment is not acceptable and does not expect its employees to tolerate or condone such behaviour whilst delivering its Housing service.

### **1 Legal Requirements**

- 1.1 Under the Race Relations Act 1976, and the Race Relations Amendment Act 2000, the Housing Department is required, in the carrying out of its various functions, to have due regard to the need to eliminate unlawful discrimination and to promote race equality and good race relations.
- 1.2 In May 2000 Rochford DC adopted the Commission for Racial Equality Race Relations Code of Practice in Rented Housing, for the elimination of racial discrimination and the promotion of equal opportunities.
- 1.3 The Protection from Harassment Act 1997 makes harassment a criminal offence and a conviction can form the basis of a ground for possession under Schedule 2 Ground 2 of the Housing Act 1985, as amended by Sections 144 - 146 of the Housing Act 1996.
- 1.4 Under the terms of the tenancy agreement, the tenant is prohibited from committing any form of harassment or threatening or committing violence.
- 1.5 Under Section 152 of the Housing Act 1996, the authority may apply for an injunction for anti-social behaviour, if the respondent has used or threatened violence, and this may have a power of arrest attached.
- 1.6 An Anti-Social Behaviour Order may be obtained under the Crime & Disorder Act 1998 by Local Authorities or the police.

### **2 Definition of Racial Harassment**

- 2.1 Racial harassment includes not only physical attacks on persons and damage to property, but also verbal abuse and any other form of behaviour which deprives people of the peaceful enjoyment of their homes, or of access to local facilities, on the grounds of racial origin.
- 2.2 The racial nature is defined:

- By the victim
  - That the behaviour is likely to cause nuisance, annoyance, alarm or distress to anyone within the locality
  - That the offender should know or ought to know that the conduct will cause nuisance, annoyance, alarm or distress.
- 2.3 Racial harassment does not have to be intentional, or targeted, or follow a course of conduct. When the victim believes the incident to be racially motivated, it must be treated as such.
- 2.4 Racial harassment can include the following:
- verbal and physical abuse
  - threats of and actual violence
  - arson and attempted arson
  - racist graffiti
  - offensive deposits around the home or through the letter-box
  - damage to property
  - targeted noise nuisance
- 2.5 Any other incident that may cause nuisance, annoyance, alarm or distress can be considered.
- 2.6 All cases reported as racial harassment must be treated as such, until such times as any investigations conclude them not to be.
- 2.7 The fact that a perpetrator did not intend to be racist in their actions, is not sufficient defence if their actions have caused offence or distress to a particular ethnic group.
- 2.8 The victim does not have to be the person at whom the abuse or harassment is focused, but could be anyone else in the immediate neighbourhood.
- 2.9 A single incident can be classed as racial harassment, there does not have to be a series of events.
- 2.10 It is possible for people from one ethnic group to be harassed by those from another ethnic group often because of cultural, religious or social differences. If the victim perceives that another ethnic group is targeting them, this should be dealt with under the remit of this racial harassment policy.
- 2.11 In some cases where the victim is white the motive for racial harassment may be clear, such as a mixed race relationship. However the allegations could be counter-allegations, perhaps, as a result of a complaint against them by an ethnic minority. It is essential to use discretion and sensitivity in this situation.

### 3. Victim-Centred Approach

- 3.1 When a victim contacts the Council to report racial harassment they will be treated sensitively.
- 3.2 Interviews will be carried out in the home wherever possible, or in privacy in an office.
- 3.3 As part of a victim-centred approach, the following principles apply to both the initial and all subsequent interviews.
  - The victim should be believed. During the interview no attempt should be made to undermine the victim's confidence by challenging the validity of their statement or by under-estimating the effect racial harassment has on the victim. A judgmental remark could effect community relations.
  - During the course of the interview, even if it seems apparent that there are serious discrepancies in the victim's statement, under no circumstances must this be discussed with the victim. The role of the interviewer is not to judge the evidence but rather to encourage the victim to give all relevant information, in order that a subsequent investigation of the complaint can take place. A leading question or judgmental comment would seriously hamper any subsequent internal or police investigation.
  - Every effort must be made to gain the confidence of the victim. This means that they must be given time to explain the details of the racial harassment.
  - The role of the interviewer is to listen and to empathetically encourage the victim to relate all incidents of harassment; even when the victim views these matters to be of minor importance.

### 4 Dealing with Perpetrators

- 4.1 The rights of any alleged perpetrator, under the Human Rights Act 1998 and natural justice, need to be recognised.
- 4.2 If there is likely to be criminal proceedings the police should lead in any interviews. This ensures that the rights of the individual, under The Police and Criminal Evidence Act 1984, are maintained. A criminal prosecution would provide sufficient evidence for an application for eviction.
- 4.3 If the police are not involved, for example, the incident is deemed too minor, or an investigation has failed to provide sufficient evidence to prosecute then, with the victims permission, the tenant should be interviewed in order to:
  - advise them that there has been a complaint
  - to explain the Council's policy on racial harassment
  - to record their responses to the allegations

- 4.4 A thorough investigation of the allegation and responses will be undertaken by the Housing Manager and legal advice sought before making a response.
- 4.5 Malicious or unfounded complaints of harassment can have a devastating effect on the health, confidence, morale and motivation of those falsely accused. It would not serve the interests of the Council for any policy or procedure to be abused and for victims of malicious or unfounded allegations to have no redress. Complaints of harassment that are found to be intentionally frivolous or vexatious, will themselves be treated as harassment and may place any tenant so found in breach of their Tenancy Agreement.

### **5 Interpreters/translations**

- 5.1 If the person reporting an incident has difficulty communicating in English then every effort should be made to arrange an interpreter, via the internal interpreter Register, Social Services Refugee Support Team, or Essex Police HQ, who maintain a list of interpreters.
- 5.2 Family members and friends can be used with the consent of the client OR in an emergency situation, when to wait for a trained interpreter would result in unacceptable delays. Only in extreme situations can children be used as interpreters.

### **6 Combating Racial Harassment**

- 6.1 Tenants and residents associations must be encouraged to discuss issues of racial harassment in order to raise awareness of the issues involved. Tenants associations can play an important role in helping to create a climate where such harassment is unacceptable and in reporting incidents and supporting victims.
- 6.2 Tenants associations and resident associations should adopt the racial harassment policy into their constitution. Tenants Associations must be made aware of local incidents, whilst respecting the victims right to anonymity.
- 6.3 By publishing its policy, Rochford can demonstrate to victims of harassment that they will be provided with support and assistance and it will warn possible perpetrators of the firm action that will be taken against them.
- 6.4 Posters and leaflets will be displayed prominently in order to deter perpetrators and to provide victims with information and the confidence to report incidents.
- 6.5 In line with the Macpherson report, that victims should be able to report incidents at locations other than police stations, an

information leaflet for reporting incidents to Rochford District Council will be provided at various agencies across the District. Allegations not involving Housing tenants will be referred to the Community Safety Officer.

- 6.6 All incidents must be recorded and the Housing Management Sub-Committee advised of any incidents, at least every six months.
- 6.7 With the victims permission, incidents must be reported to the Anti-social-Behaviour Co-ordinator, the Community Safety Officer and the South East Essex Racial Incident Panel, which is a multi-agency support system including Essex Racial Equality Council, Education Welfare Officers, Victim Support, Social Services, Local Authorities, Registered Social Landlords and Essex Police.
- 6.8 Incidents having fascist involvement or British Nationalist Party activity, must be reported to the Community Safety Officer, the Anti-social Behaviour Co-ordinator, the police and the South-East Essex Racial Incident Panel, although details of the victim must be withheld if requested.
- 6.9 Wherever possible, subject to the availability of evidence, the strongest action should be taken against perpetrators of racial harassment, including injunctions and evictions.
- 6.10 Tenants who are at risk of violence, and are requesting immediate re-housing must be provided with temporary accommodation whilst the allegations are investigated. Tenants have the right to return to their property once the problems have been resolved.
- 6.11 Tenants who wish to be transferred must, after substantiation of the allegation, be given extra points under the transfer policy. In exceptional circumstances the Corporate Director (Finance & External Services) may grant welfare points. Permanent offers of housing must be of a similar quality to their present home.
- 6.12 Any history of racial harassment must be taken into account when letting properties to black and ethnic applicants or offering transfers.
- 6.13 Victims who wish to remain at home must be monitored closely to ensure that the support option is working. They must also be kept informed at each stage of the investigation and advised of action taken, in particular the dates and outcomes of any court hearings.
- 6.14 Victims will be referred to specialist counselling and support agencies such as victim support groups.
- 6.15 Emergency 'make safe' repairs will be carried out to the victims' home and appropriate extra security made to locks, windows and doors, wherever possible.

6.16 Racial graffiti must be removed within 72 hours of notification.