

Coast and Countryside Housing Services

Racial Harassment
Policy and
Procedure Notes
Revised November 2005



Coast and Countryside
Housing Services

Our Commitment:

Shepway District Council will not tolerate any form of racial harassment against:

- Any tenant or homeowner and members of their household
- Any person occupying a property with the tenant's permission
- Council staff and contractors
- Any one visiting the council's estate areas

We are also committed to ensuring that every tenant has equal access to the Council's services.

1.0 The Purpose of this document

1.1 The aims of this policy and procedure note is:

- Provide a clear procedure for staff to follow in identified cases of racial harassment
- To eliminate unlawful racial discrimination
- To promote equal opportunities
- To promote good relations between persons of different racial groups.

2.0 What is Racial Harassment

2.1 Racial harassment is a deliberate act which interferes with the peace, comfort, or safety of an individual's quality of life and when the act has been committed against that individual because of his or her colour, race or ethnic origin.

2.2 The CRE (Commission for Racial Equality) define racial harassment as:-

"An unwelcome or hostile act or series of acts carried out on racial grounds".

2.3 The Stephen Lawrence Inquiry recommended the universal adoption by the Police and other relevant local agencies the following definition

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

2.4 Racial harassment can occur anywhere: at home, work, and school and in public places. It can be direct or indirect and can affect anyone. It can take many forms including:

- personal abuse
- jokes, banter and insults
- racial or ethnic mockery
- damage to property
- threatening behaviour
- arson
- nuisance phone calls
- patronising remarks
- anonymous letters
- graffiti
- threatening behaviour
- murder

2.5 This list is not exhaustive and other actions can be construed as racial harassment.

It may be difficult on occasion to define racial harassment and to distinguish between neighbour disputes, general nuisance or vandalism, and activities perceived to be racially motivated.

2.6 As a guide, racial harassment will be:

- Racially motivated
- Frequently premeditated
- Frequently not carried out by immediate neighbours
- More likely to recur over a period of time

2.7 If the victim believes that he or she has been subjected to racial harassment then this must be accepted in the first instance. An opinion that racial harassment does not exist cannot be reached until the incident has been fully investigated.

2.8 The effects of racial harassment are diverse. They include fear, illness, suicide, failure to realise personal potential and strained family relationships.

3.0 Legal Requirements and Guidance

3.1 The requirement on the Council to deal with cases of racial harassment and promote good relations is contained in a number of key pieces of legislation and statutory codes of practice.

Legislation	Requirement
The Race Relations Act 1976 Sec.71 and the Race Relations Amendment Act 2000	Places a duty on local authorities to make appropriate arrangements to eliminate racial discrimination, promote equality of opportunity and good relations between racial groups.
Commission for Racial Equality (CRE) Codes of Practice for Housing Providers 1991, 1992 and new Code of Practice to be introduced in early 2006.	Sets standards for local authorities to achieve racial equality and provides practical guidance for dealing with racial discrimination and harassment.
Good Practice Guidance for Social Landlords on Tackling Racial Harassment (ODPM 2001)	Provides practical guidance to local authorities in dealing with cases of racial harassment.
Human Rights Act 1998 Security of the Person (Article 5) and to have a family life (Article 8)	Legislation that sets out the rights of the individual.
The Crime and Disorder Act 1998	Introduced racially aggravated assault, criminal damage, public order offences and harassment. Other measures include ASBO's (Anti-Social Behaviour Orders) for persons over 10 years who have acted in a manner that caused or was likely to cause harassment, alarm or distress who can now have a court order imposed on them. If breached this can lead to imprisonment. The Crime and Disorder Act introduced racially aggravated assault, criminal damage, public order In nearly all cases of racial harassment, the person who is guilty of the harassment will

	have committed a criminal offence and this should be reported to the Police. The Police will investigate and bring charges if there is enough evidence to do so. In some cases they will be able to make an immediate arrest. As a victim of a criminal offence, the individual or group under attack may be asked to give evidence in criminal proceedings that take place in either the local magistrates court or the crown court.
Internal Documents	The former Health and Housing Committee considered a report on this subject in November 2001 (Report 3832 refers).
Coast and Countryside Housing Service BME Housing Strategy and Action Plan	Sets out the council's commitment to ensuring that all section of the community are treated fairly and have equal access to the council's Housing and related services. Also sets out our commitment to dealing with racial harassment and good race relations.
Shepway District Council Corporate Diversity Policy	Sets out the council's wider commitment to equality and diversity in its service delivery.
Protection from eviction Act 1977	Sets out the Rights of Tenants to live in their homes – without harassment from their landlords.

3.2 Housing law can be relevant in two ways:

- In some circumstances it can be used to stop the behaviour of the person guilty of racial harassment, or even get them evicted from their home.
- It can sometimes be used to achieve re-housing where this is seen as the best option by the victim

4.0 Preventing Racial Harassment

4.1 Our approach toward dealing with racial harassment encompasses a wide rang of polices and procedures across all areas of the housing service, such as housing management services, housing need, monitoring of applications and lettings, tenant security and transfer policies.

○ Tenancy agreements and guides to home and services

Tenancy agreements and the guide to home and services contain clauses prohibiting racial and other harassment.

○ Housing need

Effective and regular monitoring of applications and lettings ensures that discrimination is not occurring and that all sections of the community have a chance to be housed, based on the detailed assessment of their needs.

○ Allocations

The potential new tenant should be given sufficient time and information to consider the accommodation offered. When signing up the tenant, the Housing Officer should ensure that the new tenant understands the rights and responsibilities enshrined in the tenancy

agreement. The clauses prohibiting racial or other harassment should be fully explained to the tenant.

○ **Tenant security and safety**

Tenants have the right to quiet enjoyment of their homes and the Council must ensure tenant security and safety wherever possible. With regard to the prevention of racial harassment, increased security is an option that can be considered by the tenant.

○ **Support for victims**

The support that we provide will:

- Provide positive help and assistance to the victim(s)
- Deal promptly with any physical damage caused
- Take prompt action against the perpetrator(s) where known

○ **Taking Action**

Racial harassment is frequently criminal behaviour and the Council has a responsibility to:

- support victims of harassment and encourage action to tackle the source of the abuse.
- Ensure that anybody suffering racial harassment is informed about the choices they have and the action that can be taken.
- Be aware that racial harassment is a significantly under reported crime and understand the help and support available to victims.
- Encourage victims of racial harassment to report the incident(s) to the appropriate agency: often the Police, but Housing, Education or other statutory authorities may be appropriate.
- Organise and provide support (frequently multi-agency) to any individual or family group who is taking action to challenge racial harassment. Support can come from friends, family, community groups and statutory and voluntary agencies.

5.0 Investigating an allegation of racial harassment in social housing

5.1 Taking effective action will usually mean taking action with the Police or other statutory agencies that can take action on behalf of the victim.

5.2 The tenant, a representative of the tenant or an outside organisation – for example a community group or the Police, may make an initial report of racial harassment.

5.3 The relevant Housing Officer should investigate the complaint as fully as possible, and pass this to the Area Housing Manager on the same working that the complaint is received.

5.4 If the victim wishes to be interviewed by someone else from a BME (Black, Minority, Ethnic) background, then his or her request should be complied with if possible. Similarly, interpreter services may be required if there are language barriers.

5.5 Initial interaction with the victim is very important. The action that will be taken must be outlined to the victim and a programme of action should be agreed with them. The objectives set will be confirmed with the Area Housing Manager and confirmed in writing to the victim requesting their consent.

5.6 The programme of action could include:

- Short term measures e.g. arranging emergency repairs or the involvement of support agencies, such as Social Services, faith or community groups.
- Explain what action may be taken including legal remedies.
- Explain that the perpetrator (if known) will be interviewed, bearing in mind the victims wishes.
- Notifying the Police, if appropriate.
- The victim should be encouraged to keep a record of further incidents (diary sheets) that can be used if legal action is to be pursued.
- Advise the victim within three days of the action taken to date.

5.7 Where repairs and/or graffiti removal is required, this should be dealt with within 24 hours. Evidence of damage (e.g. photographs) should be collected before repairs are carried out. Additional works may be required to improve the safety and security of the tenant's home, for example:

- Provision of fireproof letterboxes.
- Additional locks.
- Improved lighting.
- Strengthened gates, doors and windows.
- Installation of a Shepway Lifeline telephone or panic alarm.

5.8 Alternative accommodation

5.9 Where the tenant fears for their safety (life or limb cases), alternative temporary accommodation should be arranged. However, the victim may feel that the only effective action is to move on a permanent basis. Alternative housing options should then be discussed.

6.0 Action against perpetrators

6.1 A range of actions can be taken against perpetrators. This will hinge on the nature of the incident and the tenure of the perpetrator. The quicker the Council acts in cases of racial harassment, the stronger the case against the perpetrators.

6.2 After a complaint has been registered, and if the perpetrator can be identified and a racial element is present, the primary warning letter should be sent.

6.3 The issue of a blanket letter to an estate or block may sometimes precede individual warning letters. This would be in those cases where the perpetrators are not clearly identified.

6.4 It may be necessary for the Area Housing Manager to see the alleged perpetrator personally to spell out the consequences of his or her actions.

6.5 After investigation, it may be determined that the matter is not of a racial nature and therefore would not merit further action. However, there must be recorded justification for this recommendation.

- 6.6 If more of the above options are successful or appropriate, the Area Housing Manager should seek advice from the Council's solicitor with a view to issuing Notice of Seeking Possession and/or possibly seeking an injunction.
- 6.7 To seek an order for possession, action may be taken under Housing Act 1985 Schedule 2, Ground 2, which are grounds relating to "nuisance or annoyance" to neighbours. However, there are some important points to note when using this ground.
- Practically, it can be difficult to obtain possession on this ground. It may be possible to take action on other grounds, such as rent arrears.
 - Almost every act of racial harassment can amount to nuisance or annoyance.
 - The Court can grant possession even though the nuisance has stopped by the time the case comes to Court, or the victim has been rehoused.
 - Neighbours do not have to be tenants of the Council.
 - Possession can be obtained because of the conduct of children, lodgers or sub-tenants.
 - If a Court of an incidence relating to racial harassment has convicted a tenant, this should be deemed as sufficient grounds to serve a Notice of Intent to Seek Possession.
- 6.8 An injunction restraining the perpetrator from returning to harass the victim can be used as an interim measure. Injunctions are discretionary remedies of the Court and non-compliance may be punishable by a fine or imprisonment. Depending on the circumstances, injunctions can be sought either by the victim or the Council. They are useful in various ways:
- It may permanently restrain perpetrators from repeating acts of harassment.
 - It may temporarily prohibit harassment until a possession order is obtained.
 - It may restrain proposed harassment, such as a mass protest before a BME household moves into a tenancy.
- 6.9 Advantages of injunctions are that they provide immediate protection for the victim and demonstrate that the Council is prepared to act quickly. The disadvantage is the potential risk to the victim and the difficulty in proving breaches on injunctions.
- 6.10 In addition, where there is specific evidence, the Council could and should refer the case to the Police, if the victim agrees.

Examples of criminal activity where the Police would recommend prosecution include:

Action	Crime	Legislation
Smashing a window	Criminal damage	Criminal Damage Act 1971
Racial abuse	Insulting words and behaviour	Public Order Act 1986
Assault	Assault or assault causing actual bodily harm	Common Law Offences Against the Person Act 1861
Graffiti	Criminal damage	Criminal Damage Act 1971
Pushing lighted paper through the letterbox	Criminal damage or attempted arson	Criminal Damage Act 1971
Incitement of racial hatred	Incitement of racial hatred	Section 70, Race Relations Act 1976

The fact that these activities are racially motivated is not relevant to whether an offence has been committed.

- 6.11 A full report prepared by the Housing Manager, together with statements from victims and witnesses and the Police (if applicable) should be forwarded to the Director of Housing Services. The case should be submitted to the District Secretary for Housing for consultation purposes before the matter is forwarded for Court action.

- 6.12 It is essential that any possession proceedings should be pursued diligently and with minimal delay. The time scales for the preparation, service and presentation to Court for eviction should be in line with other possession proceedings.

7.0 Monitoring and review

- 7.1 Each case of reported racial harassment must be recorded on the appropriate form. All cases are to be discussed with the Area Housing Manager, and an agreed course of action to be taken.

- 7.2 It is important that reports are immediately submitted, as issues relating to racial harassment are important to other aspects of housing and the Council's Race Equality Scheme.

7.3 Private Tenants

- 7.4 Private tenants have rights in accordance with the Protection from Eviction Act 1977, which states that you have the right to live peacefully and safely in your home. Harassment from landlords can take many forms and any incidents should be recorded. Witnesses prepared to give evidence on a victim's behalf are important. Serious incidents should be reported to the Police and immediate advice sought from the Homeless team or local advice centres.

8.0 Asylum seekers, refugees and unaccompanied minors

- 8.1 Asylum seekers, refugees and unaccompanied minors (a child or young person under the age of eighteen who is an asylum seeker or refugee and has no parent, relative or other suitable adult in the UK to care for them) can be particularly vulnerable to incidents of racial harassment. Their uncertain position may also contribute to a reluctance to report problems they encounter.

- 8.2 Where asylum seekers, refugees and unaccompanied minors suffer racial harassment, they are entitled to the same protection as permanent UK residents under criminal and civil law.

9.0 Taking individual action

- 9.1 In some cases victims of racial harassment may be able to apply for a Court Order to protect themselves or their family from harassment when the Council are unable to assist them. To take this action it is essential to seek the advice of a solicitor.

10.0 Racial Incident Reporting Line

- 10.1 Shepway in partnership with Thanet and Dover is part of a multi-agency commitment to addressing racial harassment in the East Kent area.

- 10.2 The Racial Harassment Incident Reporting Line is a freephone number 0800 138 1624. The call line offers a message recording service in ten different languages, where victims or witnesses of racial harassment can report the incident they have been affected by. Callers can leave a message in complete confidentiality, or, if they wish, leave their contact details and the relevant agency will get back to them.

- 10.3 The messages that are left will be recorded and translated where necessary and forwarded on to the relevant agency that can best help. Callers will be asked to leave details regarding the nature of the incident, the time, date and location it took place. The message will also ask

the caller to leave their contact details, if they feel they want to. The recorded message can be listened to in ten languages, 1 Kurdish, 2 French, 3 Czech, 4 Albanian, 5 Turkish, 6 Farsi, 7 Mandarin, 8 Russian, 9 Hindi and 0 English.

10.4 Telephone interpreting service

Coast and Countryside Housing Services have a subscription with Prestige Line, the community translation service.

11.0 Prevention and Publicity

11.1 In addition to the procedure set out above, the Council and its partner agencies will implement a range of measures to prevent and publicise its commitment to deal with racial harassment and encourage victims to report incidents. These measures include:

- Joint working with the police and the Crime Reduction Team to map racist incidents and identify any local trends.
- Provide prominent posters in reception areas to publicise our commitment to dealing with racial harassment and encourage victims to report incidents.
- Corporately work with local agencies involved with young people to highlight the negative impact that racial harassment can have within the community.
- The development of effective and inclusive tenant and leaseholder involvement policies to ensure that all sections of the community are able to inform the development of the housing service.
- Where appropriate the sharing of information with other local housing partners to prevent and deal with cases of racial harassment.
- The use of good quality temporary accommodation for housing the victims and witnesses of racial harassment if they fear for their immediate safety.
- Work with the police to ensure that the victims of racial harassment have access to effective counselling services.

12.0 Document Summary

12.1 This policy and procedure document sets out the Council's commitment to effectively deal with cases of racial harassment that occur on the Council's housing estate areas.

12.2 The document also provides staff with clear procedures to follow when dealing with racial harassment incidents that are reported to them.

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