

Neighbour nuisance

and

anti-social behaviour



ADVICE *for*
COUNCIL TENANTS

 **Epping Forest
District Council**
www.eppingforestdc.gov.uk

Are you in dispute with a neighbour, or fed up with someone's behaviour?

This leaflet has been written with the help of the Epping Forest Community Safety Partnership, which includes the Police, the Council and other public agencies. The Partnership works to monitor and tackle anti-social behaviour and crime across the District.

The Housing Service aims to make sure all its tenants take their responsibilities seriously, and that they comply with their Conditions of Tenancy. We are committed to improving the quality of life of our tenants and other residents on our estates.

What we can do to help you

Working closely with tenants and other agencies, our aim is to tackle all types of neighbour and neighbourhood problems. Generally, we try to settle any disputes informally by advising tenants on how best to sort out any anti-social behaviour problems. Dealing with disputes can be difficult.

We need to listen to all sides and take into account different points of view. Sometimes there are good reasons why we cannot, or will not, take action. We will take action where there are serious problems, often in partnership with other agencies.

Staff will always treat your complaint as confidential. The person you are making a complaint against will not be told who has complained (but they may work it out for themselves). Any names of complainants and witnesses will usually have to be made known if court action is being taken, if this is the case you will be notified beforehand.

Everyone has the right to enjoy his or her home quietly, without being disturbed or annoyed by anyone else. To this end:

- We will give you information and advice on your rights;
- We will tell you when we will act, and what our action will be;
- We will help residents to work with us, the Police and other agencies to combat neighbour nuisance and anti-social behaviour; and
- We will be honest about what we can or cannot do for you.

Types of “Nuisance”

Neighbour disputes

At some time all of us have probably experienced neighbourhood problems such as inconsiderate car parking or noise caused by loud music, dogs or children. Although these problems may not be very serious, they can be important to those who are experiencing them.

Neighbour nuisance and anti-social behaviour

Problems with neighbour nuisance and other types of anti-social behaviour are generally on a larger scale. The nature of the problem is a lot clearer, and a number of people may be affected. Examples are:

- Serious and persistent noise nuisance;
- Rubbish dumping;
- Incidents of harassment which may be based on a person’s Protected Characteristic;
- Vandalism; or
- Threats of violence.

The problem could be caused by one person, a household or a group of people.

Action can be taken more easily if there is clear information and evidence. To obtain these, we will liaise with other agencies. The Police have powers to deal with anti-social behaviour and will take action if any criminal act has taken place. If you have been threatened with violence you should call the Police and keep a record of the crime number.

What can be done to deal with problems?

Many disputes can be solved easily if people communicate and reach an understanding. Some problems persist, or get worse, and in the end the dispute is bigger than the original problem. Often this is because communications have broken down, and the dispute will continue until the cycle is broken. The parties involved need to solve the situation by talking to one another, understanding and compromising.

Before you raise problems with a neighbour please consider these questions:

- How often does the behaviour happen?
- How long does it last?
- At what time of day is it?
- Is it really affecting your life or is it just something that you do not like?
- Are there aspects of your lifestyle or behaviour that are probably reasonable, but not liked by others?
- Should you be discussing this matter with your neighbour, or reporting it to a public agency?
- If you are reporting it to a public agency, do you have firm evidence?

You may decide the problem is something your neighbour cannot avoid and that you have to accept it.

If you decide to take the matter further, we suggest you speak to your neighbour first. Try and solve your differences in a friendly and sensible way. Sometimes people do not realise how their behaviour is affecting others and an agreement can be reached, over noise levels for example. You may feel, having spoken to your neighbour, that you are able to understand them and their lifestyle better and you no longer have an issue with them.

How to settle a dispute

If no violence has been threatened these suggestions may help you:

- Speak calmly and face to face with the person. This is better than banging on walls, shouting at the other person, or talking to everyone else about the problem but not the person concerned;
- It may be better to have someone else to support you and witness what has been said (but not to outnumber or intimidate the person you are approaching);
- It is important to be clear and polite, so think beforehand about what you want to say;
- Listen to what your neighbour has to say, and think about it;
- Deal with the situation early on rather than letting it become a persistent or growing problem. Most importantly, do not lose your temper as this will only make matters worse. Walk away if your neighbour becomes unreasonable.

If violence has been threatened you should call the Police.

What should you do if the problem gets worse or affects other households?

You can get advice from your Housing Officer. They will need information on what has been happening, so you may find it helpful to keep a record. Write down the times and dates of events, and what happened. You may want to take photographs if, for example, cars are being repaired or rubbish is being dumped.

Your Housing Officer can provide you with log sheets for you to complete, which may make it easier for you to record the events.

If other neighbours are affected, ask them to contact us (or pick up a copy of this leaflet for them). The more people who can give evidence, the easier it is for action to be taken if needed. This record of events will also help both you and your Housing Officer to decide how big the problem is, and how it is going to be dealt with.

What will the Council do?

This depends entirely on the type of problem. We will discuss it with you, and we may take up the case once we are happy you have done everything possible to resolve the situation yourself.

Details of the complaint must be written down. This gives us a starting point if we are investigating and dealing with someone's behaviour. We will ask you to put your complaint against your neighbour in writing so we can take the matter up formally. We can help you with this if you wish. Once your complaint has been received, and we have agreed to become involved, we may be able to do one or more of the following things:

- Advise you how to collect more evidence;
- Write to your neighbour;

- Interview your neighbour;
- Offer mediation;
- Involve other council sections or organisations; or
- Start legal action.

Mediation

Mediation is a way for you and your neighbour to talk about your problems with someone who is not involved. This may help to sort out the dispute without the use of more formal action such as going to court.

Your Housing Officer may be able to act as a mediator. We also have access to an independent professional mediation service. For mediation to work, you and your neighbour must be willing to meet at a mutually agreed place. You will discuss the problems, listen to the other person's point of view, and try to understand it. You do not have to meet with the mediator at the same time as your neighbour, (although this would be preferable) as the mediator can pass information between you. Mediation will not decide who is right and who is wrong, but will give you a chance to understand both sides of the problem. In some cases a mediator will draw up an agreement between the parties.

If you believe mediation could help, discuss this with your Housing Officer.

Legal action

Legal action will not be appropriate in most cases. You should be able to sort out the situation by yourself, or with our assistance, without having to go to court.

In some cases court action is necessary and your Housing Officer will tell you if it is appropriate. You need to be aware that court proceedings can take a long time. It may involve two or more court hearings, and in most cases

you will have to provide a signed Witness Statement for the court, or actually appear in court yourself.

The Council can take a case to court but it is important to understand that the judge will make the decision, and decide what action the court will take, if any. A court order will be given only if there is sufficient supporting evidence.

We can take action against a tenant if they, a member of their household, their lodger or a visitor, break a condition of their tenancy. For example, if they play music too loudly, have excessive rubbish in their gardens, or they abuse and harass someone.

Depending on the situation we could consider various actions. We will advise you which one we think is the most appropriate.

Civil Injunctions to prevent nuisance and annoyance

Civil Injunctions give powers to landlords to seek an Injunction against anyone over the age of 10 years for anti-social behaviour.

The Injunction provides powers to require a person to cease certain behaviours and/or take “positive action” to reform, such as joining a rehabilitation programme. Failure to do so is contempt of court which can result in a prison sentence, whilst breaching parts of the Injunction would trigger a possession order leading to eviction.

In some circumstances more than one of these actions may be taken. If the perpetrator is committing serious undisputed acts of anti-social behaviour or nuisance then appropriate action will be taken immediately with all relevant agencies being notified. Complaints of anti-social behaviour may also be referred to the multi-agency Anti-social Behaviour Tasking Group for joint intervention. Housing Managers will ensure that cases are dealt with consistently across the District.

Criminal Behaviour Orders

A Criminal Court may make a Criminal Behaviour Order (CBO) in addition to a sentence imposed or an order discharging the person conditionally for a relevant offence if it is satisfied that the tenant has engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person and that the Court considers that making such an Order will prevent the tenant from engaging in such behaviour. The Order prevents the tenant from doing anything described in the Order and requires the tenant to do anything described in the order.

Introductory Tenancies

- All tenancies created by the Council after April 2006 are “Introductory Tenancies”.
- These only become “Secure Tenancies” one year after they have commenced.
- During the introductory period the Council can evict tenants more easily than if they were secure tenants - if they or their families or visitors cause anti-social behaviour.
- In the event of problems occurring, the introductory period can be extended by six months.

Tenancy Demotion Order

If there is enough evidence of persistent or extreme nuisance, or anti-social behaviour, the Council could apply to the court for a “Demotion Order”. A Demotion Order ends the person’s Secure Tenancy for a period of 12 months. It is replaced with a Demoted Tenancy which is less secure. If the tenant re-offends during this period they can be taken to court and evicted from their home relatively quickly. After 12 months their tenancy will automatically revert back to its original secure basis if they do not re-offend.

Possession Order

Only a court has the power to decide whether someone can be evicted. This is done by issuing a Possession Order. If the Council decides to take this course of action, it must first get advice from its solicitor. There must be enough firm evidence to proceed with court action. You need to be aware that:

- Complaints and evidence will usually be needed from more than one household to show how severe the problem is (unless it is very clear that you alone are experiencing a very high level of nuisance or harassment);
- Witnesses will usually need to provide Witness Statements, or maybe appear in court;
- The process can take a long time and may involve two or more court hearings;
- The judge may decide not to grant an order that takes away someone's home; and
- The person may be evicted from their home if the case is proved, or a judge may give a "Suspended Possession Order". This gives your neighbour time to resolve matters and show they can abide by their conditions of tenancy.

Absolute Ground for Possession

Possession action may be taken through the County Court under the Absolute Ground for Possession for anti-social behaviour where:

- The tenant has been convicted of a serious offence in the locality of the property;
- The offence is elsewhere against a person who has a right to reside in or occupy the property;
- The offence is against the landlord or a person employed by the landlord

when exercising the landlord's housing management functions either in the locality or elsewhere;

- That the tenant or a person residing in or visiting the property has breached an Injunction (under the Act) subject to certain provisions;
- That the person has breached a provision of a Criminal Behaviour Order subject to certain provisions;
- That the property has been subject to a Closure Order; or
- That the tenant has been convicted of an offence under Environmental Protection legislation (statutory nuisance).

When a Notice of Seeking Possession is served on this Ground, the tenant will be advised of their right to seek an officer Review of the decision. The tenant will be invited to attend a Review hearing which will be chaired by a senior officer who will decide whether possession proceedings should continue.

If court proceedings are taken on this ground then providing all the conditions are met, the Court will be required to grant a Possession Order.

A further discretionary power of possession is available where a tenant or a person living with the tenant has been convicted of an offence committed at the scene of a riot.

Housing Act 2004

This legislation gave (new) additional powers to Local Authority Landlords. The Act allows them to:

- Refuse a tenant's request to exchange their home with another tenant;
- Refuse to sell the home to the tenant under the Right to Buy; and
- Extend the period of an Introductory Tenancy for a further period of six months.

Policy on dealing with domestic abuse

The Council works with "Safer Places" to assist and support people experiencing, or at threat of, domestic abuse to remain safely in their own homes, rather than seeking to move. It can also be used to support those moving on from a refuge. Support is intensive and of the same extent and standard as that given in a refuge. Meetings take place away from homes and, on average the support worker will spend around three hours per week on each case. Tailor made plans are made, setting out the action required to provide the practical support, and the information, advice and guidance needed in each case.

The Council, working in partnership with London and Quadrant (L&Q) Living has provided a refuge on a site provided by the Council in the District. It provides three two-bedroom and two one-bedroom flats. The Scheme employs three staff through L&Q Living who manage the Scheme.

The Council has a Priority Transfer Policy whereby if any tenant is confirmed as being either a victim, or a potential victim, of domestic abuse they will be given additional priority for a move to like-for-like accommodation in another area.

The Council's twenty-four hour emergency Careline Alarm Service offers alarms to those victims or potential victims of domestic abuse, which enables them to summon help should they need urgent assistance.

Under the Council's Housing Allocations Scheme, an offer of a tenancy will be made in certain circumstances to a victim of domestic abuse who lives outside of the District in accordance with the Council's Tenancy Policy (on either a flat or maisonette) on a reciprocal basis.

Independent action

You could take independent action without involving your housing office. You could employ a solicitor to write to your neighbour, or tell you about applying for an Injunction. The Citizens Advice Bureau, the Council's Environmental staff or the Police may also be able to help. A Residents' Association may also be able to offer support, if there is one in your area.

What other powers does the Council have?

The Council has powers under the Environmental Protection Act 1990 to take action where neighbours are causing a problem "prejudicial to health or a nuisance". The common sorts of complaints they can deal with include:

- Noise** – regular playing of loud music, noisy car repairs, other unreasonable noise.
- Animals** – constantly barking dogs or dogs fouling properties or gardens.
- Rubbish** – people dumping household rubbish in their gardens.
- Smoke** – neighbours having an unreasonable number of bonfires. There are no legal restrictions on the time of day that a householder may have a bonfire. The law simply says that you must not cause a smoke nuisance to your neighbours.

What can the Police do?

The Police can take action in a variety of cases and some common examples are:

- **Harassment** – this covers all forms of (racial and sexual) harassment as well as physical attacks, threats of violence and verbal abuse. All incidents of racial harassment and attacks and other types of hate crime based on a victims background should be reported to the Police and to the Council and they will be investigated.
- **Area based anti-social behaviour** – in extreme situations the Police may be able to consider a Dispersal Order for an area for a period of up to 48 hours if there is a problem in a particular area with anti-social behaviour. Examples are vandalism or intimidating behaviour from youths. This would prevent groups of people gathering and would provide the Police with powers to remove persons under 16 years of age from a public area (state that juveniles under the age of 16 years should not be in the area at all after 9:00pm).
- **Criminal damage or burglary** – all damage to your property or someone else's property should be reported promptly to the Police.
- **Dogs** – the Police can only take action if it is known that a dog has “a propensity to bite”. This means the dog is likely to bite more than once. You should report any incidents to the Police so they can consider action if any further incidents occur.
- **Car repairs** – it is an offence to constantly repair cars on the “Public Highway”. Essex County Council's Highways Division deal with any misuse or obstruction of roads.
- **Graffiti** – the Police can prosecute the writer of offensive graffiti. The Council will act promptly to remove any graffiti, particularly if it is of racist or offensive nature.

The Council's Graffiti Hotline number is 01992 564272.

Further information

This leaflet advises you of the current powers given to us to deal with anti-social behaviour. New powers are made available to us from time to time and your Housing Officer can advise you of our latest procedures. In more urgent or threatening cases you may decide to contact the Police directly.

Our policies are set out fully in the 'Strategy and statement Anti-Social behaviour Policies and Procedures' available from any of our Housing Offices or our website.

How to contact us:

Area Housing Office (North)

Civic Offices, High Street, Epping, Essex CM16 4BZ.

Phone: 01992 564545

Area Housing Office (South)

63 The Broadway, Loughton, Essex IG10 3SP.

Phone: 01992 564186

Housing Office

The Limes Centre, Limes Avenue, Chigwell, Essex IG7 5LP.

Phone: 01992 564765

Tell us if you would like a copy of this leaflet in large print or any other format.

The information given in this leaflet was correct at June 2018. Please be aware that there may have been changes since that time, such as new laws or council policies.

Epping Forest District Council

Civic Offices, High Street, Epping CM16 4BZ.

Telephone: 01992 564000

www.eppingforestdc.gov.uk/housing