REPORT

by the

PUBLIC SERVICES OMBUDSMAN FOR WALES

on an

INVESTIGATION INTO A COMPLAINT

against

CONWY COUNTY BOROUGH COUNCIL
FOREWORD

This report is issued under section 16 of the Public Services Ombudsman (Wales) Act 2005 (“the Act”). In accordance with the requirements of the Act, I have omitted any particulars which in my opinion are likely to identify any person and which can be omitted without impairing the effectiveness of this report.

The report refers to the two complainants as Mr Thomas and Mr Davies.
SUMMARY

This report deals with two complaints made by Mr Thomas and one complaint made by Mr Davies. They complained that the Council had not dealt adequately with their complaints about anti social behaviour (ASB) in their locality.

Mr Thomas bought a house on a mixed tenure estate in May 2002. He immediately became subject to noise nuisance and ASB from his next door neighbour who was a Council tenant. Having failed to resolve matters through the Council or with the involvement of the MP, Councillors and the community association he submitted two complaints to the Ombudsman. The first in 2003 was not subject to a full investigation and he made a further complaint in 2006 as matters had still not been resolved. He said that he and his family had been subject to ASB from 2002 until early in 2007 when the Council tenant was moved. He said that these matters had impacted adversely upon his mental health, employment and the wellbeing of his family.

Mr Davies had lived on the estate from 2001 and became aware of noise and ASB associated with the same council tenant during 2002. He was involved in a correspondence with Council officers and other parties and in meetings over the problems until 2007. Despite living some 150 metres away, he was personally disturbed by the noise and was involved in giving support to Mr Thomas throughout the period. He complained that with the weight of evidence available to the Council, matters should have been resolved much earlier than 2007.

The Council submitted that the level and severity of complaints it had received was not that which was being alleged by the complainants and said that it had acted reasonably in response to the complaints it had received given that the tenant and her children were receiving statutory services.

In August 2006 I reported on the handling of ASB within Conwy County Borough Council and discovered that the Housing Department had no proper procedures
in place for dealing with ASB until November 2005 and no specific guidance for its staff until April 2006.

My investigation into the complaints of Mr Thomas and Mr Davies identified new areas of concern and doubts as to whether lessons had been fully learned from my report. I found that it had failed to comply with the requirements of its new ASB procedures and that there had been maladministration in a number of areas including an absence of inter agency working on the case between late 2002 and late 2006. I found that had the information being held by the relevant staff been shared and that had there been regular inter agency reviews of the case, there could have been much earlier resolution of the nuisance suffered by the complainants and other residents.

It was conceded by the Council that there had been no considerations by the Council under Article 8 of the Human Rights Act 1998 in relation to Mr Thomas or his family, although their rights had been engaged. I concluded that there had been maladministration in this regard and also that the Council had failed to deal appropriately with direct requests for assistance for support for his children from Mr Thomas himself and from his health visitor. It had also failed to evaluate whether the support package it had put in place in 2002 for the tenant was effective.

I recommended that the Council should evidence to me within three months of the date of issue of this report, protocols in respect of the provision of support to witnesses involved in court proceedings, improved working with the police, communication within the Social Services department and communication between departments. I further recommended that it should apologise to Mr and Mrs Thomas and make a payment to Mr Thomas and his family in the sum of £2,750 per annum for the period between January 2003 and January 2007.

I further recommended that it should apologise to Mr Davies and make a payment in the sum of £500 for the lesser, though not insignificant nuisance, to which he was subjected and also for his time and trouble in repeatedly raising
matters with the Council and corresponding with different agencies with a view to getting problems resolved.
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THE COMPLAINTS

1. Mr Thomas bought a house on a mixed tenure estate in May 2002. On moving into the property he became aware of excessive noise emanating from the next door neighbour, whom I shall refer to as Miss Charles. Having failed to resolve matters either with the neighbour or with the Council he complained in 2003 that the Council had not brought the nuisance to an end. The previous Ombudsman did not subject that complaint to a full investigation and the case was closed following the receipt of comments from the Council. Mr Thomas continued to try to resolve matters with the Council, also by contacting his MP and Councillor. He complained again in 2006 that the nuisance was continuing and I exercised my discretion to investigate his first complaint alongside the second one.

2. The second complainant, Mr Davies, moved in to the estate in 2001 and gradually became aware of the problems relating to Miss Charles. He was involved in the situation through his involvement with the community association and through offering support to Mr Thomas and his family when he came to know them. Although his property was some distance from Miss Charles, he and his partner suffered a degree of disturbance and loss of sleep from the recurrent sounds of loud music and shouting at her property. Over a four year period he was involved with extensive correspondence to the Council on behalf of the community association, also with MPs and Councillors and attended court on many occasions to give witness evidence for the Council in its proceedings.
THE INVESTIGATION

3. My investigator has viewed Council files relating to the case and has interviewed the complainants, other residents, the Council officers responsible for the management of the estate and also representatives from the Social Services and legal departments. She also spoke to or obtained written comments from six officers of North Wales Police (NWP). It has not been possible to refer to all of the correspondence between the parties within the body of this report but any document referred to has been seen by my investigator. The contributors to the investigation have had an opportunity to comment on the draft report prior to its finalisation.

4. As I have drawn from confidential files in the preparation of this report, the published version will exclude sensitive material as indicated by [..Information withheld..]. Items of sensitivity relating to Mr Thomas and his family remain in the report at his request.

THE RELEVANT LAW AND PROCEDURE

5. The Human Rights Act 1998, Article 8 sets out the right to respect for an individual’s private and family life, the home and correspondence. This is a qualified right and the definition of “private life” extends to such issues as being able to live one’s personal life as one chooses and one’s physical and mental well being. Any interference with the way a person lives needs to be justified. An individual has the right to enjoy their home peacefully. Before taking decisions affecting people’s rights under Article 8, a public authority will have to weigh all the competing interests carefully so as to justify any interference, normally through an explicit proportionality exercise.

6. The Conditions of Tenancy of Conwy County Borough Council (CCBC) require, amongst other things, that tenants must not:
- harass the occupiers of neighbouring properties, including by the use of racist behaviour or language, intimidation or use of abusive language,

- allow anything to be done in the dwelling which causes nuisance, annoyance or disturbance to any other persons, including loud music, dog barking, loud arguing or shouting, offensive or threatening behaviour, dumping of rubbish,

7. The Conditions of Tenancy also state that the Council is not prepared to tolerate anti-social behaviour and where necessary the Council will use legal remedies including court action for repossession.

8. The Housing Act 1996 provides local authorities with the power to act in relation to breaches of tenancy conditions by the right to obtain injunctions and possession orders and also, as amended by subsequent legislation, places duties upon local authorities with regard to the provision of housing in the their localities, such as to give priority to those in greatest need and the vulnerable.

9. The Children Act 1989 Part III, s17 places a duty upon Councils to safeguard and promote the welfare of children in their area who are in need and to provide services appropriate to their needs.

10. The Crime and Disorder Act 1998 allowed for orders to be made to tackle patterns of behaviour which may cause alarm, harassment and distress to the community, which are commonly known as anti-social behaviour orders (ASBO).

11. Section 14 of the Anti-Social Behaviour Act 2003 amended the Housing Act 1996 to allow a secure tenancy to be brought to an end by a demotion order and this power became effective in Wales in April 2005.

12. In January 2003 the Housing Department established an Anti Social Behaviour Review Group (ASBRG) to review cases of ASB within the community. It was chaired by the Operational Manager for Landlord Services (Operational
Manager) until January 2007 when the Head of Housing took over. Meetings were attended by local registered social landlords, representatives from North Wales Police and various Council officers.

13. The Anti-Social Behaviour Act 2003 required authorities to publish a statement of their policies and procedures with regard to anti-social behaviour no later than October 2005. It was established during a previous investigation reference number 2004/0537/AC/382 upon which I reported in August 2006 that the Housing Department had no proper procedures in place for dealing with ASB before November 2005 and had no experience of the use of injunctive procedures within the context of ASB prior to August 2005.

14. When it was introduced, the ASB procedure of the Housing Department committed it to investigating within seven days any complaints of ASB and whenever practical to complete investigations within fourteen days. Also where possible, every effort would be made to keep the identity of the complainant confidential and to keep complainants advised at every stage of the process.

15. The procedure set out three levels of complaint; firstly Category A, which are simple breaches of tenancy conditions to the detriment of neighbouring tenants, for example general domestic noise. Category B complaints are defined as more complex cases which involve a breach of tenancy conditions and unresolved category A complaints; these can also include verbal abuse and behaviour related to drug or alcohol abuse. Category C complaints are defined as very severe problems involving one or more of the following aspects, where the efforts towards resolution might involve other agencies and services and can include unresolved and escalating Category B complaints including violence and harassment, behaviour of children, visitors to the property causing serious nuisance, harassment and convictions for drug dealing and associated problems involving the use of the property. With regard to the category C complaints, the procedure set out is that on the first complaint there will be a review interview and warning and on the second complaint legal action will commence.
EVENTS LEADING TO THE COMPLAINTS

Mr Thomas

16. Mr Thomas bought a two bedroom terraced house in Heol Goch, on a mixed tenure Park estate in May 2002. It was the family’s first house purchase and at that time they had one young child and a second was due in December. The property had been unoccupied for some months prior to the family moving in and Mr Thomas understood that prior to that it had been rented out by the owner to private tenants.

17. On the family’s first night of occupation there was excessive noise from his immediate neighbour, whom I shall call Miss Charles. The next day Mr Thomas went to introduce himself to the neighbour believing that she may not have realised that the property was now occupied and he attempted to raise the matter of the noise with her but she would not engage in conversation with him.

18. The noise problems persisted and Mr Thomas began complaining to the Council about it, firstly to Public Protection and then to the Housing Department when he discovered that his neighbour was a Council tenant. As Mr Thomas began to meet other residents on the estate, he was told that the property had been the subject of previous complaints to the Council, in particular the Housing Department, for a period of some years.

19. Mr Thomas was concerned not only by the excessive noise from the property but at the nature of the sounds and dialogue he could hear from next door [..information withheld].

20. He wrote to the Council in relation to these concerns and also about the level of noise and disturbance he was experiencing from the family and their visitors, often from early evening into the early hours of the following morning. This was disturbing the sleep of his entire family and particularly impacted upon him as his job required him to get up at 4am.
21. A community association was being re-established on the estate and as people got to know each other, more information came to him of past complaints to the Council relating to two specific addresses in his street which included that of Miss Charles.

22. Mr Thomas complained, along with others, both as a private individual and as a member of the community association both verbally and in writing to Council officers, ward members and the local MP and also raised concerns with the Council. He complained to the police when matters of an apparently criminal nature were taking place such as damage to property and also used the Council’s out-of-hours hotline to report ASB as it was taking place. He installed cameras at his property, not only to assist the Council with gathering evidence, but also to give himself some peace of mind when he went to work. He also put in security equipment and fencing, the total costs of this work approached £1,000.

23. Although occasionally receiving assurances from the Council that matters were being dealt with, he gradually became disillusioned with the Council and having exhausted all the avenues open to him without success, he complained to me in 2006.

Miss Charles

24. Miss Charles, the next door neighbour of Mr Thomas, was a woman with two sons. The Council has confirmed that she had mental health problems. [..Information withheld]

25. [..Information withheld]

26. [..Information withheld]. The care plan identified the need for ongoing multi-agency working in relation to Miss Charles and her sons. There was extensive and largely continuous involvement with the family by staff from Social Services and the Mental Health team prior to Mr Thomas’s arrival on the estate.
27. The property in Heol Goch was the third secure Council tenancy that Miss Charles had held. She had been moved from her previous tenancy following one of her sons being involved in a serious act of ASB that had gained widespread press exposure. Following this her position in that community became untenable and the Council relocated her to Heol Goch. At this time the Housing Department made referrals which resulted in her being allocated a mental health social worker along with a support package.

28. The first record of problems with Miss Charles’s tenancy in Heol Goch was in 1998, a year after she moved in, when Housing Officer 1 sent her a letter confirming that there had been visits to her by him in response to complaints from neighbours about ASB and warning that action would be taken against her tenancy. This pattern of complaints, visits and warnings of legal action by housing staff was to be repeated on several occasions in response to complaints from residents on the estate in subsequent years.

29. During 2006 the Housing Department decided to commence proceedings for eviction of Miss Charles and her family. A referral was sent to the Head of Children’s Services at this time. Following the mental health social worker becoming aware of the impending court proceedings by seeing a letter from the Housing Department to Miss Charles confirming the date of the hearing, there were discussions between Social Services and Housing as to the future of the family which ultimately led to a suspended possession order being sought, rather than eviction, subject to an agreement that Miss Charles and her sons would move. [.. Information withheld]

WHAT MR THOMAS HAD TO SAY

30. Mr Thomas said that on finding the property on the Park estate, he and his family were elated. Previous house purchases had fallen through at a late stage and as the family income was limited he was relieved to have found an affordable property in time for the birth of his second child. He said that what he was expecting to be an extremely happy period for his family was short lived when the
nuisance from Miss Charles started immediately. He first complained to the Public Protection Department and was provided with log sheets to complete.

31. Mr Thomas said that he had not been given any information of any potential problems with the neighbours and was concerned when he became aware from other residents that the problem was long established. Within weeks he met Mr Hill who lived four doors away and who told him that he had been complaining to the Council for several years. When he became involved with the community association, he found from its minutes that it had been complaining to the Housing Department regarding this location for three years. Mr Hill told him of an incident before Mr Thomas moved in when he had reported to the Council that the older son of Miss Charles had set fire to a pile of tyres in her rear garden and there were aerosol cans being thrown around by youths. Mr Hill had captured this and several other incidents of ASB on CCTV and had passed this to the Council but no action had been taken.

32. Mr Thomas said that the nature of the nuisance his family was subject to included loud music, shouting, screaming, foul and sexually explicit language and behaviour from the family and also from their visitors. Youths would turn up at the property late at night and there would be drinking parties into the early hours, often involving the slamming of doors, furniture being thrown around and fights.

33. [..Information withheld]

34. Mr Thomas wrote letters to the Council from August 2002 onwards and has kept a detailed record of his correspondence which includes his concerns about the welfare of the younger child at the property, noise, general ASB and the fact that his neighbour was providing alcohol to under age youths visiting the premises and was tolerating rowdy behaviour in the property for lengthy periods of time. All of these matters appeared to him and to the other residents who were being affected to be in contravention of her conditions of tenancy.
35. He began to notice that people other than the family had keys to the property and would let themselves in when Miss Charles was not at home. Also he saw that some local youths knew how to gain access to the property from the back.

36. He reported to the Council that two individuals were particular catalysts for problems and these were people he came to know as the ex partner of his neighbour, a Mr Brown and his current girlfriend. They were frequent visitors to the property and sometimes stayed at the property for extended periods. Mr Thomas said this meant that there were periods when there were at least five people living in a small two bedroom house and that it would not be unusual when friends came around for there to be a dozen or more individuals in the property swearing, shouting and screaming. Events within the property could be heard clearly through the party wall and in the street outside.

37. Mr Thomas said that he was told by the Operational Manager in 2002, following a petition signed by seventy eight residents requesting action to bring the nuisance to an end, that a support package was in place for Miss Charles but otherwise he and other residents were never informed of what was happening in relation to their complaints but they were always asked to provide more evidence to the Council of the problems.

38. Mr Thomas said that the impact of these events upon his family had been serious. A third child was born to the family and he said that they all suffered from disturbed sleep which impacted upon their general health and wellbeing. Once woken his children, when babies, would cry for lengthy periods of time and once returned to sleep would often be reawakened by a further disturbance from the next door neighbour which on occasions appeared deliberate, being accompanied by the sounds of laughter from next-door.

39. He said that on occasions his children could not be sent to school as they had not slept at all on the previous night and that his work attendance and performance suffered. He was put on reduced duties at work which resulted in a
loss of income. He felt that there was a possibility of him losing his job as he was being subjected by his employer to procedures related to unsatisfactory work performance.

40. He had had to write to the head teacher of the school to explain what was happening to his children and why his older child did not attend or appeared to be very tired or distressed and he had also spoken to the health visitor expressing his concerns about his children, but he was not told what she had done about it. As a result of the stress and lack of sleep he had suffered, Mr Thomas was diagnosed with depression in 2004 and was under medical treatment from that time. He estimated that for lengthy periods he was getting only three or four hours sleep in every twenty four hour period due to disturbances centred on Miss Charles’s house.

41. Mr Thomas said that he was unable to allow his children to play in the back garden or bring their friends home [..Information withheld]. His wife would be spat upon when she was hanging washing out to dry. He brought all of this to the attention of the Housing Department both verbally and in writing, including the fact that such objects as beer bottles and lumps of wood would be thrown over the garden fence and that he feared his children would be injured.

42. Mr Thomas said that when the Housing Department began to take legal action in 2006 in relation to anti-social behaviour on the estate including obtaining ASBOs on Mr Brown and his girlfriend, he and his wife had acted as witnesses for the Council even though they had been threatened with violence and verbally abused by associates of his neighbours, who at one time said they would stab him. He said that this had placed him at some risk from individuals whom he thought were capable of doing harm to himself or his family, but he felt it was necessary for him to do so otherwise matters would never be resolved.

43. However, the stress of these proceedings and the preceding events resulted in his having a breakdown for which he was hospitalised and was off work for some months. He said he had been told to expect that he would require
medical attention for a further twelve months after this. His condition was so severe that his employer’s medical adviser had said that he should be regarded as disabled within the terms of the Disability Discrimination Act 1995 and treated accordingly.

44. When Mr Thomas was ill, Mrs Thomas had to give up her part-time job to look after the children. All of these events had impacted upon the income of the family and placed them financial difficulty including finding it hard to meet their mortgage repayments. They said that they had to downgrade the family car and currently were at risk of losing their home.

45. Mrs Thomas said that she had been verbally abused and threatened in public by Mr Brown in 2004 and had obtained a harassment order against him. She also had to take out a harassment order against Miss Charles in 2005, following threats and abuse outside the house. She said that neither her pregnancies nor the presence of young babies in the home brought any respite from the abuse she received from Miss Charles and her associates.

46. She said that they had used the Council’s out of hours hotline to report nuisance but they received no feedback after such reports even though the staff said that the procedure they followed was to fax a copy of the incident log to the Housing Department. On one occasion she rang and was told that she could not use the service as she was an owner occupier and had to ask the staff to look at previous complaints that had been accepted from her. On another occasion when she rang the hotline, she asked why no action had been taken on previous complaints and the staff had gone back through the records and told her that some of the reports the family had been making had been logged as if they had originated from their neighbour’s address rather than hers.

47. They said that they never received any feedback to as to what action the Housing Department would be taking as they were entitled to expect under the Council’s procedures and only received a copy of an incident log on one occasion after they had phoned the hotline, which again was not in keeping with the
commitment given in the procedures. This copy had shown that the complaint in question had been logged as a Category B complaint rather than the more serious Category C which the Council's procedures indicated was appropriate.

48. Mr and Mrs Thomas said that they had been disappointed from the outset with the Council's response to their complaints. The first measure had been to install noise monitoring equipment which they said was delivered to their home in the daytime and in view of the neighbours. They said that incidents occurred while the equipment was in their home and they were very surprised when they were later told that there was nothing of substance on the tape, particularly as there had been other parties present in their home on some of the occasions the tape was activated who would have been prepared to act as witnesses to the noise. They say they were told by the Operational Manager that the evidence of their witnesses was inadmissible as these people were not impartial.

49. They said that they had not received adequate responses to their complaints to the Council. Some of their letters were ten pages long and very detailed giving incidents and logs of events, but the responses were barely more than acknowledgements or words to the effect that the matter was in hand.

50. They had tried various avenues including writing to the Chief Executive and named officers in the Housing Department. If appropriate they would call the police but often the disturbance would abate when the police arrived and then re-start when they left. Even if the police had ejected someone from the property, they would be allowed back in later by Miss Charles even when damage had been caused to the property and regardless of the amount of nuisance they had caused.

51. They believed that the police had issued penalty notices on every occasion possible if the event was in the street but could do little other than issue warnings or ask someone to leave when problems were within the property. However, they found the police to be contactable, compassionate and supportive and willing to give them feedback on what was being done.
52. At one stage when Mr Thomas was chair of the community association he had invited Miss Charles to one of its meetings in the hope of building bridges; [..Information withheld]

53. Mr Thomas said as well as the other difficulties the family had suffered there was an occasion when the windscreen of their car was smashed and it cost them £200 to have it replaced and a fire had been started in their back garden near the shed which had caused the family great distress. Mr Thomas had nearly been trapped in the flames and they had difficulty getting their children out of the property in time.

54. Although it could not be proven how these incidents had occurred or who was responsible, Mr Thomas held the view that his neighbours and their associates were responsible as they had made direct threats towards him and other residents told him that fires had previously occurred in and around Miss Charles’s property. He was concerned to bring this to the Council’s attention as he knew that his opinion on such matters would have been admissible in any civil action that the Council might have taken.

55. [..Information withheld]

56. Mr Thomas said that he had become concerned that his children were being affected adversely by the impact of Miss Charles’s lifestyle and were becoming withdrawn. He went to Social Services in 2006 and reported that he felt his children were suffering abuse at the hands of the Council and his neighbour. Although there was a lengthy conversation with the duty social worker, he did not receive any follow up contact about this matter until some three months later and only after Mr Davies had written a letter to Social Services on his behalf asking for an explanation. He then received a response apologising for the delay and saying that his children were not deemed eligible for Council services as they were well cared for by himself and his wife.
57. Mr Thomas said that the only visit he received from a housing official was in late 2006 when Housing Officer 2 had been sent around to tell him the Council was intending to re-locate Miss Charles. There had been another occasion when he had noticed the Operational Manager on the estate and had spoken to him on the doorstep, otherwise there had been no contact with him initiated by the Housing Department and he had found this unacceptable given that he was the main witness to his neighbour’s repeated breaches of her conditions of tenancy and the main victim of her actions and that of the family’s associates. There had been an instance when he saw the Head of Housing and the Area Manager drive away from Heol Goch when there were two police cars at Miss Charles’s home and several officers were engaged in making an arrest at the property. He was surprised that they had not taken an interest in what was happening at a property under their management.

58. Mr Thomas stressed that he never expected any action by the Council to be immediate and had some understanding that things would take some time to be resolved but he did not think that it was acceptable that events which other residents said had been affecting the neighbourhood since Miss Charles came to the street in 1997 and had affected him since 2002 should have taken until late 2006 to be addressed and that this had been at considerable cost to his health and the wellbeing of his family. The Council had said that more evidence was needed but did nothing to collate evidence themselves. There was no offer of surveillance, even though Mr Thomas had offered his house for this purpose. Like Mr Hill, he had sent the Council CCTV footage of ASB in the street involving Miss Charles’s family but had heard no more about it, even though it was used by the police in subsequent proceedings.

59. Mr Thomas was concerned that in its formal responses, the Council had sought to explain its lack of enforcement action on the case in terms of absence of complaints and said that he had become aware through dialogue with his ward member that at one point the Operational Manager responded to a complaint from him by saying that he thought the problems with Miss Charles had been resolved and Mr Thomas had acted swiftly to correct this impression. There had
been a time when problems had abated slightly he had written to express his
thanks to the Council for its efforts but in no way had he intended this to mean
that the problem was fully resolved. He was merely trying to acknowledge that
the Council had made some efforts on behalf of the residents and the next line of
his letter went on to say that matters had deteriorated again.

60. In the same vein, he recalled a period in early 2003 after the Operational
Manager had told him that Miss Charles wanted to move to another Council area
but the policy meant that it was unlikely unless she had a satisfactory tenancy
record for six months. Mr Thomas and others took this to mean that if there were
no complaints for a period, she might move. The residents agreed to resist
making complaints for a period but Mr Thomas then received a letter from the
Operational Manager referring back to their earlier conversation and stating that
Miss Charles was no longer expressing a wish to move.

61. Other than this, he said that he could not recall any significant period of
time when either he or other residents were not complaining either directly to the
Council or through a councillor or MP. He said that he had complained to the
hotline in 2004 and 2005 and wondered how many complaints would have been
needed to trigger some lasting action by the Council without external intervention.
[..Information withheld]

62. Mr Thomas also said that he believed that as the Council’s website said
that they worked closely with the police to deal with ASB, he would have no
reason to suppose that the Council were not able to obtain information from the
police on complaints that were being made to them or the fact that harassment
orders had been issued. He said that it in any event it would not have been
unreasonable for the Council to have adopted a more pro-active role in gathering
evidence themselves in line with its responsibilities as a landlord. He said that at
no point did any Council officer ring him or visit the family to find out how things
were going or to assess whether the support package for Miss Charles in 2002
was working effectively.
63. Mr Thomas had seen the Council’s response to both his first and second complaints and said that both contained errors of fact and misunderstandings. He felt that the Council had sought to undermine his credibility in his responses and wondered why the Council had been prepared to use him as a Council witness on so many occasions if they regarded him as an unreliable person and also why he had been asked to speak on the subject of ASB at a conference organised by the Welsh Assembly Government. Mr Thomas said that his account of events could be corroborated by his neighbours, and by colleagues in the community association, also by the numerous interventions of the police in relation to his neighbour and their associates. He said,

“… The Council do not take positive action off their own backs and when reasonable requests are made to alleviate the suffering of complainants the Council are unwilling to comply until such time as the other focus of an outside source or authority and wish to take action after that scrutiny to appear to be proactive.”

Also:

“A recurring theme throughout the Council’s response to my complaint is that they have not maintained contact with the police or complainants to monitor the situation and what contact they have had has been sporadic and has been instigated by further complaints or when focus has been put upon them. Complainants are left to gather evidence and to approach the Council off their own backs.”

64. Mr Thomas said that although the formal response of the Council said that Miss Charles was the victim of uninvited callers and had been told to call the police, his and others’ observation was that Miss Charles would only call the police when there had been a “falling out” with people already in the property and it was observed repeatedly that if when the police attended and made these people leave, the same people were allowed to return to the property soon afterwards, often on the same night.
65. Further, he pointed out that uninvited callers do not have keys to one’s property and do not call repeatedly and be allowed in; also that Miss Charles was actively encouraging people to come to the property by the purchase and distribution of alcohol and possibly by there being drugs available on the premises as items associated with drug taking were often left on the ground and the Council had made reference at court to there being a drug den in the property.

66. Mr Thomas said that the Council’s assertion that Miss Charles had phoned the police on every occasion that Mr Brown called at the property was grossly untrue and he could not see how the Council could have evidence to support this statement. He said that the Operational Manager’s response to the issue of overcrowding or unauthorised occupation of Miss Charles’s property had been to write her a warning letter and advise that she must be experiencing “housekeeping” problems, which he did not feel was an adequate response to the situation given the level of nuisance that arose from it.

67. Mr Thomas also challenged the assertion of the Council that in his complaints he singled out Miss Charles’s older son as the major culprit on the estate and said that he had always done his best when complaining to identify those whose identity was known to him. Being an immediate next neighbour it was obvious that he would be easier to recognise than other youths and as time went on, he and other residents felt that Miss Charles’s property was becoming the focus for ASB on the estate.

68. Mr Thomas said that he could not understand why the Council had said in its formal response that they had not received from him a letter and a twelve day log of nuisance events he prepared in May 2006, saying that the diary was in a brown padded pack with the area office address along the front and with the words ‘Private and Confidential – Urgent Action Required’ in large red letters. He said that he had delivered the parcel to the area housing office himself and handed it over the counter. He pointed out that if the Council was able to mislay
such a large and distinctive package once their ASB policy was in place it was entirely possible that they had lost some of his earlier complaint records.

69. Mr Thomas said that it had taken too long, until 2006, for the Council to take out an ASBO to prevent Mr Brown entering the Park estate even though it had already obtained an ASBO against him in relation to another estate within its catchment area. He did not see why the ASBO could not have covered both sites or indeed Mr Brown’s behaviour generally, given the information available about him.

70. Mr Thomas said he was involved as a Council witness in the proceedings to obtain an interim ASBO against Mr Brown but only found out by chance through the newspapers when the full ASBO was granted. He thought this was an example of poor communication in that if residents were unaware of the ASBO, they would be unlikely to report Mr Brown’s presence on the estate in breach of the ASBO.

71. With regard to the Council’s comment that Miss Charles had said she could hear noise from Mr Thomas’s property he said that this had never been brought to his attention at the time, neither had he ever been told by any agency that any of his actions in relation to Miss Charles were inappropriate. He thought it quite possible that Mrs Charles would have been able to hear his babies crying as they were so often disturbed by noise from her property. There had also been a period of building work to his property after damage from the fire.

72. Mr Thomas said that throughout his occupation of the property he had acted as witnesses both for the CPS and for the Housing Department over a dozen times. While the CPS attendances resulted in practical assistance and offers of support, he had never been offered any sort of support from the Housing Department for hearings. Notification of court dates often came at late notice and via third parties and it had been difficult for him to get time off work on occasions because he could not show his employer a letter saying that his attendance was
required at court. He had never been offered assistance in getting to the court or any form of compensation for his expenses or loss of earnings.

73. At no point did the Housing Department contact Mr Thomas to ask how he and his family had been affected by these incidents nor did they offer any support and after four years they felt that they were the ones primarily gathering evidence for the Council with police support.

74. He said that he felt that the legal department of the Council had a defeatist view in relation to proceedings; an example being that following the adjournment of the possession proceedings against Miss Charles [..Information withheld], the Legal Officer immediately commented that it was unlikely that the proceedings would be successful. Mr Thomas said that if the trial judge was unable to make a decision when there was a lack of information then he did not understand how the Legal Officer was able draw his conclusions within moments of the proceedings being halted. He said,

“It is exactly this type of defeatist attitude from Council officers and CCBC in general that has allowed this situation to deteriorate to such a degree over the years.”

75. Mr Thomas refuted the statement being made by the Council in its formal response that there were few complaints prior to his arrival on the estate. The minutes of the original residents association said that complaints had been made for three years, predating his arrival. Also the Operational Manager had sent him a letter in August 2002 saying that he had personally visited Miss Charles due to ASB on occasions as complaints would be made every three to six months and this sequence of events would also have predated his arrival in the street. Further, he also did not understand if there was not a problem why 78 residents would have been prepared to sign a petition in August 2002 that said,

“This petition has been drawn up in order to voice the feeling of the residents of the [Park]. Due to the extreme level of social abuse experienced over the last few years and
the local authority’s lack of commitment to solving the problem sooner, we insist that Conwy County Borough Council must take immediate and lasting action against the tenant of [Miss Charles’s address].”

76. Mr Thomas and other residents were disappointed when the Operational Manager wrote back saying that the petition was unhelpful to the situation and felt that there had been no consideration through the years by the Housing Department of the impact of events at his neighbour’s property upon him, his family or others saying,

“I have been diagnosed as suffering depression and anxiety reaction to social stress. The only social stress I have suffered is that brought on by the circumstances and behaviour I have endured over a prolonged period as a result of my neighbours. I have been told by medical experts that they expect to have to treat me long term and I’m told my medication for my illness will continue for at least twelve months. My employers have sent me to see their own doctor for an assessment; he has recommended that my illness is so severe that I am to be treated under the Disability Discrimination Act. All of this is as a result of the behaviour of my neighbour. I am currently losing pay and my wife has had to give up work.”

77. In summary, Mr Thomas said that he felt that it was unacceptable, given the amount of evidence available from him from mid 2002 and from other residents in the previous years, that the Housing Department had taken no legal action against Miss Charles, Mr Brown and his partner (effective on the Park estate) until 2006 and that he, his wife and other near neighbours had to wait until that time to have the opportunity to put their evidence before a court.

WHAT MR DAVIES HAD TO SAY

78. Mr Davies said that he had lived on the estate since 2001 and become aware of problems in relation to anti-social behaviour in 2002. He said that he would hear people running through the estate late at night and would find broken bottles in the street in the morning. The noise of screaming, shouting and
partying at Miss Charles’s house meant that windows could not be left open at night and the noise would keep him awake even though he was about 150 metres away.

79. He started to spoke to his neighbours about it and was told that there had been meetings with Council officers in the past and that people had been complaining to the Housing Department for some time and had always been told to get more evidence. He said that he had made the Council aware of how it was affecting him by ringing Housing Officer 1 and the Area Manager. He recalled an occasion in 2003, when there was a walkabout on the estate with these officers when the problems and other general estate matters were discussed.

80. He heard that Miss Charles had a history of ASB and he went to her previous home location to make enquiries. He went to a shop and some people there said they knew her and that she had caused nuisance in the community and had been relocated by the Council as a result. They said they were prepared to as witnesses if she was causing problems in the new location and were very sympathetic to him.

81. However, Mr Davies was keen to go through what he regarded as the proper channels and to try to work with the Housing Department who assured him that they would be taking appropriate action. The community association was re-launched and anti-social behaviour featured on a regular basis although he was keen to keep personal details and complaints out of the minutes.

82. He recalled that things were particularly severe just before Christmas 2002 when residents had been disturbed by a party at Miss Charles’s house late at night and around 20 of them had stood in the street so that the police would know when they arrived how many people were being affected. The next day, he went with Mr Thomas to the Operational Manager and they expressed their disappointment with the lack of action by the Housing Department. They also went to the police station to see the inspector. They had already involved the
local Councillor who had communicated with the Housing Department on their behalf but another resident involved the AM as well from this time, which opened up another avenue of communication with the Council.

83. He said that he felt the communication from the Council on these matters had been inadequate, the only time he found out any information was by going through the Community Beat Manager and he was never given a focal point within the Housing Department or a contact officer to speak to about these matters on behalf of the association. He said that he also felt that the support offered by the Council fell far short of the support and action they were receiving from the police and he felt that things started moving forward significantly only after the Community Beat Manager did a door to door exercise in mid 2005 to gain more information about what was happening on the estate as ASB was escalating generally at this time.

84. Mr Davies wrote to the education authority to report that children who appeared to be of school age were frequenting the locality during school hours and asked what was being done to secure their attendance at school.

85. At the time of the proceedings against Miss Charles’s tenancy in late 2006, Mr Davies was the secretary of the community association and wrote to the Housing Department in October 2006 complaining about the lack of support to witnesses involved in the recent court hearing and this letter included the following:

“We enjoy a good working relationship with NWP who keep in touch as much as is humanly possible throughout seven days; their local Inspector, Sergeant and Constables are available to visit or phone to update us and respond to information we provide or answer our queries. They also use their initiative in solving new problems, adapting to fit in with new legislation and employing it speedily and imaginatively. In other words they have actively and visibly sought to help us and have gained our trust, a successful hearts and minds campaign. CCBC could start
to improve its response to ASB by instructing its front line officers to emulate them.”

86. Mr Davies thought that the Council’s advocate was very poor at court and did not marshal all of the evidence that had been supplied to him. He said that support to witnesses was non existent and that people were disappointed when proceedings were adjourned without having an adequate explanation of why this had occurred, particularly as they had taken time off work and made their own way to court without any offers of assistance or expenses from the Council.

87. Mr Davies said that as well as being personally affected by the noise from the property, he had been the main support for Mr Thomas and had found it extremely distressing to note the deterioration in Mr Thomas’s health over the period of time he lived there, and was concerned about the impact that the nuisance might be having on his children. He had been present when Mr Thomas had physically collapsed at one court hearing having been told that proceedings which they had been led to believe were to obtain a possession order for Miss Charles property were adjourned to another date, being only a hearing for judge’s directions and he thought that the Council should have clearly explained the nature of the proceedings to its witnesses so that they were prepared for this eventuality.

88. Mr Davies said he was concerned to learn that even after Mr Thomas had approached the Social Services department for help being concerned for his children, he had not received any assistance other than being advised to phone the police and had not had a proper response from the Council. He wrote to the Council about this and a response and apology were then received by Mr Thomas, some three months after his approach.

89. Mr Davies said that he had gone, on behalf of the community association, to speak to the ASB Officer at Clwyd Alyn Housing Association to find out how it dealt with ASB and came away with a better understanding of the remedies available to landlords and a deeper appreciation of the extent to which CCBC’s
Housing Department was failing the residents. He did not understand why it was not seeking to emulate the approach being taken by other organisations and adopt best practice from a local registered social landlord.

90. Mr Davies said the Council had let down the community association because it had promised to take action to bring the nuisance to an end on many occasions but had not done so. He said that the community association had tried to cooperate with the Council in continuing to provide evidence of the problems year on year and had been understanding of the difficulties that could be encountered but eventually came to understand or believe that the Council would not be taking any firm action to control events at the property and would need to have its hand forced by an external agency.

91. He said that this was not the kind of relationship that the Council promised to foster in its literature on its relationship with residents’ groups. He said that he had spent a considerable amount of time which he could ill afford, being in part time work, on conducting correspondence and attending meetings over the years when the issue should have been resolved within months. He did not believe that it should have been necessary for residents to go beyond the Housing Department in order to get them to do their jobs.

92. He said that he had found the formal response of the Council to his complaint to be inadequate in that it did not address directly the matters complained of. He thought that the response to his complaint related solely to matters concerning Mr Thomas’s situation. Even then, he said there were inaccuracies that he could point to; for example, he had kept notes of what had been said at court and questioned why in its formal response the Council had alluded to an absence of complaints in 2004 and 2005 when the Area Manager had told the court during the proceedings against Miss Charles that complaints were received in 2003, 2004 and 2005, which was more in keeping with his recollections and that of other residents.
93. Mr Davies also supplied further correspondence for consideration in the investigation including a letter of complaint to the Council from Mr Smith, a resident of Heol Goch and a retired police officer, on behalf of residents complaining about lack of support and information to witnesses in recent court proceedings. He also supplied a copy of a letter from the Head of Housing that he had received in December 2006 referring to NWP having “prevaricated in dealing with ASB and then passing the buck to the Council”. He also had an email from the Legal Officer to the MP in which he said there were factual inaccuracies, inconsistencies and a reference to the case as being a “success story” for the Council which suggested to him that no lessons had been learned from the situation.

WHAT OTHER RESIDENTS HAD TO SAY

Interview with Mr Hill

94. Mr Hill said that he had lived in Heol Goch for about eleven years, initially as a Council tenant but that he had bought his house about four years ago. He said that Miss Charles had moved in four doors away, about nine months after he moved in and said that she and her family were a problem from the first day of occupation in 1997 to the day of their departure in 2007 and a source of regular complaints to the Housing Department by his family and other residents.

95. He said that Miss Charles had an extremely noisy party on the night she moved in, which he would normally have let pass but this one went out of control and spilled out into the street where Miss Charles’s son smashed a television set, leaving broken glass on the pavement and in the road. He reported this to the Council the next day and later saw Housing Officer 1 sweeping the mess up. He said that damage to the value of £2,000 was also done to a car belonging to one of his visitors by associates of the family.

96. Mr Hill said that he was a regular complainant to Housing Officer 1, the Area Manager and Operational Manager about Miss Charles and another family
in the street, the Greys, over a period of some years and that there had been meetings in his house with these officers concerning the nuisance prior to Mr Thomas moving in. He had been involved with the first community association in the nineties and could recall meetings with officers and councillors on the problem.

97. He said that when it became apparent to him that the Housing Department would be doing nothing, he set up video equipment to protect his property and that sometimes he recorded events around Miss Charles’s property and in the street. One such tape had recorded a fire in her back garden and incidents of assaults between family members and general ASB over a period of some months.

98. Mr Hill said he had copied these videos to the Council but the nuisance continued even though he had a letter from the Environmental Health Department saying that as the tape showed several acts of ASB, they were forwarding it to Housing. He said that his wife had written letters of complaint to the Operational Manager and that they had both complained directly to someone from the Council whom he believed to be Miss Charles’s social worker. [..Information withheld]

99. He said that when he complained, he had received an assurance from the Operational Manager that Miss Charles would be moving; otherwise he would not have bought his house and was aggrieved to have been misled. He said that he had dealt personally with some threats directed at his family in 2005 by Miss Charles’s older son and that he had warned Mr Brown about this and had no direct threats after that. However, he had continued to be subject, along with other neighbours, to the noise from the house in terms of loud music, shouting, swearing and disturbances in the street on a regular basis. Due to his living at the far end of the street he said that he had to drive past Miss Charles’s house at least twice a day and was regularly subject to the detritus from the previous evening’s activities including broken bottles.
100. Mr Hill said that he had heard that Miss Charles had been a problem at her previous address and he could not understand why, knowing this, the Council had located her in a quiet street. He said that the woman who lived in Mr Thomas’s home before him still lived in the vicinity. She had told him that she had once had to telephone Social Services as Miss Charles’s younger son been left alone in the property. He said that he could easily obtain a statement from this woman about the nuisance she had suffered whilst in the property.

101. Mr Hill said that he had a heart attack five years ago which he personally attributed to the stress of the situation. He said that there had been an incident when the Operational Manager had effectively called him a liar in front of Mr Thomas and other residents, when he had told him that armed police officers had attended an affray at Miss Charles’s house on the previous evening. He had little confidence in this officer as a result. Nevertheless, he said that he had been prepared to go to court to act as a Council witness when the Council eventually took action in 2006. My investigator noted that his witness statement, which the Council used in evidence at court, reflected the fact that he had been making complaints about Miss Charles since she had moved in.

**Interview with Mrs Price**

102. Mrs Price lives about 60 metres from Miss Charles’s house. She told my investigator that she lived there for about eight years, so moved to the location after Miss Charles. Her first contact with the family was when she found the older son in her garden stealing produce. She remonstrated with him and he did not trouble her directly after that, however she said that she had been subject to the noise and disturbance from Miss Charles’s house during the day and at night and could hear the shouting and foul language from her property.

103. Mrs Price said that she had not always complained directly to the Council but she was aware that others were doing so from her involvement with her neighbours and the community association. She says that the noise was continual from the time the family moved in to the time they left.
104. She said she had always been very concerned about the younger son and said that he always appeared to be nervous and neglected. [..Information withheld].

THE FORMAL RESPONSE OF THE COUNCIL TO MR THOMAS’S COMPLAINTS

First Complaint (2003)

105. The Council responded to Mr Thomas’s first complaint by outlining the actions it had taken. At that time this included action following the receipt of the petition when a meeting was held and a referral to Social Services [..Information withheld] and a support package was put in place. It said that there had been noise monitoring equipment in Mr Thomas’s home for a period of three days and there was insufficient evidence to support any action.

106. It also said that the Operational Manager had contacted the school and the police regarding the complaints about the older son’s behaviour and that there were intentions to have individual counselling for the boy and more intensive involvement by the Youth Offending Team. It also said that there had been consultation with the legal department regarding a possible injunction and that advice had been that there was insufficient evidence at that stage. It was felt that Miss Charles was the victim of unwanted callers.

107. At this time the Council said that the ASBRG had been established and a residents association was being set up on the estate.

Second Complaint (2006)

108. The Council’s formal response to this complaint said that there had only been two complaints about Miss Charles prior to Mr Thomas moving into his property and these were in September 1998 and October 1999. It went on to say that Miss Charles had been phoning the police between July and October 2003
about unwanted callers to her property and that it was unfair to blame her for any police activity outside her home at this time as she was only acted as instructed by her support worker. The support worker had been working with the family to help them make their home secure from unwanted visitors until June 2005 when it was thought that complaints had ceased.

109. The response goes on to say that in October 2003 the Housing Department were checking with the police about reported incidents of anti-social behaviour in regard to the property and the Operational Manager visited the estate to talk to parents of children implicated in the ASB. It then says that there were only two further calls to the anti-social behaviour hotline about noise regarding Miss Charles’s property. It says that there was only one report to the hotline in January 2004.

110. The response then said that at this time the area housing office and Operational Manager were in close contact with the police and that the police also made referrals on behalf of the family with regard to issues concerning the children. A further warning of action against her tenancy was issued to Miss Charles in June 2004.

111. The response said that between February and August 2004 only one complaint was received relating to an incident when Mr Brown had thrown a brick through the window of Miss Charles’s property and there were no calls to the ASB hotline or the police. There was then a further complaint made to the ASB hotline on 11th August 2004 about excessive noise and this was followed up by the Area Manager. It said that the Housing Department received no further complaints about Miss Charles in 2004 and no reports were made to the hotline in 2005.

112. The response said that the Housing Department was not aware that Mrs Thomas had obtained a harassment order in 2005 until they received an email from a councillor on 9th February 2006 which mentioned it. On 6th March 2006 the police informed the Operational Manager that there was insufficient evidence
to progress an ASBO against Mr Brown and his partner but recommended that 
the Housing Department should seek an ASBi to exclude them from Miss 
Charles’s property. On 14th March 2006, the Area Manager wrote to Miss 
Charles warning her about her behaviour with reference to her encouraging 
drinking parties in her home and that, although no complaint had been received 
about this, she must abide by her tenancy conditions.

113. The response says that the case was monitored through the ASBRG from 
1st June 2006 onwards and that on 2nd June 2006 a complaint was received by 
the Housing Department relating to children kicking a ball against Mr Thomas’s 
house. It did not say who the children were or whether Miss Charles’s children 
were involved. The Council said that the Housing Department did not receive Mr 
Thomas’s letter of 25th May 2006 with its accompanying twelve page diary of 
nuisance events but that it was receiving reports of problems from NWP at this 
time.

114. The Council’s response acknowledged a communication error in that an 
MP was given incorrect information about what had been agreed in relation to 
action against Miss Charles’s tenancy and apologised for the confusion at that 
time between the intended eviction and tenancy demotion. The report also 
acknowledged that a small number of callers had, like the Thomases, been 
misinformed about the ability of those other than Council tenants to use the ASB 
hotline and said that it had ensured that this would not happen again.

115. The Council went on in its formal response, to say that further complaints 
to the hotline were received on 10th June and again on 11th June 2006 regarding 
loud music, noise and underage drinking with around fifteen youths believed to 
be in Miss Charles’s home. It points out that the behaviour did not solely 
emanate from Miss Charles’s property and also asserts that she was the victim of 
this event. At this time legal action was instigated against Mr Brown, his partner 
and six youths to obtain ASBOs.
116. The response says that in July 2006, a large number of boxes were delivered to the Legal Officer by NWP following a phone call and that he did not know what they were or what he was expected to do with them. They contained evidence collected by the police between January and July 2006 in respect of potential criminal proceedings. It said that there had been no formal consultation and the Legal Officer did not understand why the police had not obtained an ASBO with this level of evidence.

117. The Council’s response stresses the Council’s statutory obligations to people in Miss Charles’s circumstances, particularly its duties with regard to children under s17 of the Children Act 1989 Part III and its duties to house the vulnerable under the Housing Act 1996. [..Information withheld]

118. It confirms that the Operational Manager did advise Mr Thomas that if there were no complaints about Miss Charles for six months there might be a possibility of her moving but denies having told Mr Thomas that she had asked for a transfer in the first instance. It says that Miss Charles told Mr Thomas this herself.

119. The official response goes on to say that the preparation of cases and actually obtaining the desired court decision is very time consuming and on occasions the results are disappointing. And that this can result in the victims of crime and anti-social behaviour being the impression that nothing is being done quickly to assist them. It denied Mr Thomas’s assertion that he had been suffering ASB for four years as it was able to demonstrate that between January 2004 to January 2006 there were almost no complaints to the Council, either to the ASB hotline or the Housing Department about Miss Charles. It then goes on to say that none of these complaints were serious enough to warrant the Council seeking a demotion of tenancy or a possession order and that the Council was not made aware of problems on the Park estate until they were raised in the Anti-Social Behaviour Review Group meeting in January 2006 and Miss Charles was not mentioned as a particular source of problems.
120. However, in apparent contradiction of its earlier statement recounted in para 115, the Council’s response went on to say that the police had agreed to share its evidence to support legal proceedings by the Housing Department against those individuals responsible for the problems. However, when the Council received the paperwork from the police, as it was not in the correct format for civil proceedings, it was returned to them. The Council considered it was the job of the police, not the Council, to format the evidence for civil proceedings. Despite the evidence returning from the police still in the wrong format, the Council’s legal department pressed ahead with starting proceedings to obtain ASBOs on a number of individuals and began possession proceedings on Miss Charles. Two ASBOs were obtained and the court asked for reports before dealing with some of the applications.

121. The response points out that a number of complaints to the police had not been passed on to the Council. It says that the evidence demonstrates that although Miss Charles was part of some of the anti-social behaviour taking place in 2006 she was also the victim herself of harassment and attacks on her property from both local youths and unwanted visitors. It says [..Information withheld] and asserts that her family were not the main protagonists of problems on the estate and there were other families involved with ASB on the estate.

122. The response also outlines the involvement of Social Services and mental health services staff with Miss Charles dating back to 1997. It also advised of specific actions taken by the Youth Offending Team from 2004 in relation to the older son, including seeking supervision orders. [..Information withheld]

FORMAL RESPONSE OF THE COUNCIL TO MR DAVIES’S COMPLAINT

123. The Council’s formal response to this complaint was initially a copy of the Council’s response to Mr Thomas’s complaint which it was requested by my investigator to edit to exclude sensitive material relating to Mr Thomas. The response after editing still mainly repeated its response to Mr Thomas’s complaint. It points out that Mr Davies focuses on Miss Charles as being the
target of problems on the estate, yet there were hardly any complaints about the family from January 2004 until March 2006 and that although Mr Thomas had made 62 complaints to the police about ASB in Heol Goch, only 7 related specifically to Miss Charles property, the first being in March 2006.

**WHAT CONWY COUNTY BOROUGH COUNCIL HAD TO SAY**

**Interview with Operational Manager**

124. This officer confirmed that Miss Charles had held three secure tenancies with the Council [.Information withheld]. He said that he first became aware of problems at Heol Goch in 1999 when there were complaints to the Area Manager and that there were records of him visiting in 1999 regarding those complaints. His view was that the complaints had been dealt with appropriately and that there were very few complaints in 2003. He said that there were lots of interventions and a support package was in place at that time. He also said that he had referred the case to Legal for advice on possible action for possession or an injunction in early 2003 but was advised that it was not appropriate at that time on the evidence then available.

125. In response to the comment that he had given residents the impression that Miss Charles would be transferred if she had no complaints against her for six months, the officer said that he did not make the comment as described but that he did tell Mr Thomas that there was a policy that meant that nobody could move if there were complaints about them and that Miss Charles had expressed an interest in a transfer but he said that this was not in any way intended to suggest to them that they should withhold complaints in order to enable her to move. He denied having told Mr Hill that Miss Charles was likely to move (para 99).

126. The Operational Manager denied the allegations that had been made against him in the bodies of the complaints, saying for example that he had not refused to look at video evidence presented by the residents as alleged but said
that he had looked at the video evidence but did not regard it as suitable for use in court.

127. In response to a question about the absence of inter agency meetings on the case he said that there were review meetings at the time the possession proceedings were initiated in 2006 and said that he felt that the ASBRG is itself a inter agency group that reviews cases and can act as a trigger for action. He said that there was now an action plan in place to improve the Council’s response on ASB cases and that they were introducing new software which would be used to monitor cases.

128. Asked about the change in direction on the case resulting in Miss Charles being relocated rather than evicted, he said that the initial decision of the Council had been to evict following a meeting with the residents and the MP but that as a result of later input from Social Services following the judge asking for a [..Information withheld] report, it was decided that relocation was more appropriate given the needs of the family.

129. [..Information withheld]

130. He said that he had heard a number of adverse comments about the motivation of the residents in making complaints and said that Mr Thomas had been intent on getting her out of her property. He acknowledged that it must have been difficult for him at times but basically felt that Mr Thomas did not want someone like her in the community as it could affect property values and his ability to sell his property.

131. Asked about the fairly long periods of intervention without any formal action, the Operational Manager said that there were fairly continuous complaints about Mrs Charles but that these were not always of the range for action to be taken. He said that the police did not flag the issue up with the Housing Department until last year, this being 2006. The officer said that he was aware that things had moved on in terms of dealing with ASB but that he was no longer
directly related in these matters, having been seconded to other duties. He said that he had found the criticisms directed towards him to be hurtful and unwarranted and that he had always tried to go the extra mile to help people.

**Interview with Area Manager**

132. This officer said that he had first become aware of the problems with Miss Charles in the summer of 2002 when he had complaints from Mr Davies and from Mr Thomas. Also, at this time there were complaints from Mr West, who owned the property on the other side of Miss Charles. The officer said that throughout 2002 and 2003 there were informal interventions, and warnings were given but no legal action. He said that things were sporadic and in 2004 he had to visit again, with the social worker, regarding risk to the tenancy despite Miss Charles having been given a support package and a range of advice.

133. With regard to whether there had been any inter agency meetings on the case, the officer said that he recalled having a meeting with the Community Beat Manager and had met the support staff from Social Services. In response to the comment that this case appeared to have featured many warnings but with legal remedies only being applied very late in the day, the officer replied that this was how things were at that time but obviously things were moving forward now and there were improved procedures and structures in place.

134. He said that there had been some contact between the Operational Manager and the Head of Children’s Services regarding the impact of eviction on the family and that he had not been aware of the full extent of Miss Charles’s mental health problems prior to going to court. He said that the decision to relocate her was made following discussions with Social Services and he thought it was a fair way to get it resolved for all concerned.
Interview with Mental Health Social Worker

135. This officer confirmed that she had been the mental health social worker for Miss Charles since 1997 [..Information withheld]. She said she was involved early on in her dealings with Miss Charles over problems that were threatening her tenancy because of behavioural issues, but as far as she was concerned these were resolved after 2002 and she was not aware of any problems after that until Miss Charles showed her a letter she had received from the Council regarding possession proceedings late in 2006.

136. When asked about any instances of inter agency meetings on the case the mental health social worker said that she could recall a meeting at the time of the neighbours petition in 2002 when she went to see Miss Charles with the Operational Manager and thought that there had been a meeting much earlier when she went there with the Area Manager; otherwise, there was no inter agency meetings that involved her until Miss Charles was subject to proceedings in October 2006 that were at that time intended to result in her eviction. She said that she had not been made aware before this of the apparent continuation of problems or the escalation of problems, either by Housing or from Social Services. [..Information withheld].

137. She recalled that in 2005 Miss Charles began disengaging from a new parental support worker with whom she had failed to bond as her working methods were different from that of the previous worker.

138. The mental health social worker said that she visited Miss Charles throughout the period of her involvement on a weekly or at least fortnightly basis. However, she said that she had two lengthy periods of sickness of about three months in 2004 and another in early 2006 when her cases were not reallocated to another mental health social worker. Also, when she came back to work in 2006 it was on a phased basis on reduced hours.
139. When asked what she felt her approach would have been had she been aware of the continuation and escalation of ASB complaints, she said that she may have been able to reintroduce the measures that she thought had been successful earlier on when things appeared to have calmed down a lot and Miss Charles was thought to be coping better.

140. [..Information withheld].

141. [..Information withheld]

142. She said that her role at court was primarily being available to support her client but she was also asked to provide information to assist the judge’s deliberations. She said that she was not there to oppose the proceedings as had been suggested subsequently.

143. [..Information withheld]

144. [..Information withheld]

145. With regard to communications about the case, the social worker said that poor communication was frequently a problem, not just within her department but within the authority. Specifically, she said she had not seen any of the complaint correspondence from Mr Thomas and others nor the referral from the Operational Manager to the Head of Children’s Services regarding the initiation of legal proceedings in 2006.

146. [.. Information withheld]

147. [..Information withheld]

148. The officer said that when she saw a letter from the Council regarding the tenancy breach and giving Miss Charles the date of the court proceedings she could not get Miss Charles to explain clearly how things had got to this point as
she was too distressed and the social worker had to make direct contact with the Operational Manager to ask what was happening and was then told that there was a court date in October for possession of the property, some four weeks away. From this point she and the Head of Children’s Services were invited to meetings to discuss the case with the Head of Housing and Operational Manager.

**Interview with Housing Officer 2**

149. The officer said that he had been in post for about a year and was still undergoing training. He had taken over from Housing Officer 1 when he retired at the end of 2005. He said that he had not had any direct dealings on the case as it was already well above his level by the time he took on the patch and that his first and only contact with Mr Thomas was when he was asked to go and see him by the Area Manager in late 2006 to tell him that the Council had decided to move Miss Charles.

150. He said that he had not received any instructions from his line management with regard to the case other than that, but had been involved with Miss Charles over rent arrears and had some dealings over the condition of the house and arranging for rubbish to be removed from the garden periodically. The officer said that he had had training on dealing with complaints from tenants but nothing specifically on anti-social behaviour but thought that it was on the way. He had seen the procedure and the toolkit but felt that no-one had gone over it properly with him.

151. With regard to links with Social Services he said that he had seen the mental health social worker once [...Information withheld].

**Interview with Head of Housing**

152. This officer was asked to outline what progress had been made in terms of setting up the ASB team and he said that it was intended to launch it formally in
about six weeks time and that an ASB Co-ordinator had been appointed and two members of staff had been seconded from NWP, a technical specialist and a sergeant. He said that there was now a system of regular case review and a formal process whereby referrals can be made to the ASB Co-ordinator and the case is considered for action.

153. The officer said that staff had a day of training on the complaints policy which included dealing with complaints of anti-social behaviour and harassment. He said that he now chaired the ASBRG and that the composition of this group had been changed to include the Head of Social Services, Head of Public Protection, Head of Licensing and Registration, also the Youth Offending Team Manager, the Legal Officer and two inspectors from NWP.

154. With regard to the future role for Housing Officers he said that they will be the usual recipients of ASB complaints and would be able to make referrals to the ASB team. The budget allocation for further training on ASB training was currently being finalised and then the date for the training would be confirmed. He said that they needed to have the right structures in place before knowing what training to commission. He said that the ASB Co-ordinator does a monthly review of cases on ASB and he believed that having the liaison with the police at inspector level was proving to be beneficial as there was more continuity and strategic focus.

155. This officer was asked about his expectations of the police which from the formal response of the Council suggested that he had very high expectations of the police in terms of their involvement in civil matters and was asked whether there was any protocol in place to support this. The officer said that there had been a lot of tensions around expectations on both sides in the past but now that there was a stronger partnership in place both sides were keen to support the development of the partnership.

156. The Head of Housing said that he still believed that the police “dumped” evidence on the Council inappropriately and did not take forward action on cases
as they might have done. He said that there was more of a shared agenda now and more success in cases going forward to court and that lessons had been learnt. He said that he did appreciate the differences between civil and criminal proceedings and the understood that the police would need to concentrate their efforts on criminal matters. He hoped that matters would improve with better communication in the future.

157. With regard to the fact that Mr Davies, as expressed in his complaint and the community association had felt let down by the Council’s response to so many issues involving ASB which had impacted upon them, he said that there was a tenant compact in place and that the new structures and procedures the Council had put in place would bring about improvements; these had been fully consulted upon with residents groups.

158. He also said that he felt that communications with Social Services could be improved and that the Housing Department needs to have a full understanding of the package being delivered to clients. He said that Housing had a need to know for example when Miss Charles withdrew from support as her behaviour deteriorated at that time.

159. Asked about any formal considerations under the Human Rights Act in relation to Mr Thomas’s right to home and family life, he said that he was not aware of any specific considerations, but thought that these would have informed the decision making process in a general way.

160. The officer agreed that there was possibly a need for a formal protocol for dialogue between departments and a need to be informed when intervention has failed by another agency. [...]Information withheld], he said that the community often does not understand the Council’s statutory responsibilities to individuals with certain needs, particularly in terms of care for children.

161. The officer maintained that there been a low level of complaints for significant periods of time as demonstrated by the graphs produced as part of the
Council’s formal response and his assessment was that there were successful interventions by housing staff from January 2004 to mid 2005, with problems then escalating in 2006.

162.  [..Information withheld]. He said that the Council had decided that they were a vulnerable family to whom the Council had statutory obligations.

**Interview with Social Services Complaints and Standards Officer**

163. This officer was asked to outline the process that was followed when Mr Thomas presented to Social Services requesting assistance as he felt that his children were being abused by his neighbour and by the Council. She said that there had been no formal assessment of need due to the information that was presented by Mr Thomas and that a decision had been reached that he was not eligible for a service.

164. She said that over 6000 referrals were received in a twelve month period in relation to child protection and the statutory requirement when somebody approaches the Social Services department is to screen the case. Mr Thomas’s case had not progressed beyond the screening stage; if it had then an initial or formal assessment would have been made. However, what he had told Social Services was that his children were well cared for by himself and his wife and that the abuse was from a third party. Based on this information, he and the family were not eligible for a service.

165. She said that the lack of a written response to his presentation was due to pressure on work on the team, there being a very high sickness rate at the time and a maternity leave. The officer outlined the difficulties in recruiting and retaining the right level of staff and that the demands upon Social Services far outweigh the resources available. Asked to clarify that Social Services would only deal from abuse within the family, the officer confirmed that this was the case and there was no indication of abuse taking place within the family but the allegation was that it was from outside therefore no services were offered.
My investigator noted that in its records of deliberation on the situation, Social Services staff thought that Mr Thomas was suffering ASB from the Grey family not the Charles family.

166. With regard to the Child in Need Referral to Social Services (Children’s Services) from the family health visitor, the officer advised that the health visitor should have referred the family to the Child and Adolescent Mental Health Service (CAMHS) and then they would have been assessed; effectively the referral had come to the wrong department. She said that CAMHS would have carried out an assessment and looked for treatment if necessary. She said it was not appropriate for the referral to come to Social Services because the children were not at risk from their family. However, my investigator noted that there was no indication on the records that the health visitor had been advised of this or that the referral had been forwarded to CAMHS for their consideration. Also, there was no subsequent contact with Mr Thomas by CAMHS.

167. With regard to any considerations under the Human Rights Act the officer said that she had not found any evidence of that in her review of the case [.Information withheld]. She said that people did not like living next door to anyone with mental health problems and that she believed that Mr Thomas just wanted her out and so did the rest of the estate.

168. She said that Miss Charles could be regarded as the victim in this matter rather than Mr Thomas or any of the other neighbours and re-iterated that the Council has responsibilities to people in receipt of statutory services. [.Information withheld]

169. Asked about the fact that Mr Brown was resident in the property for periods of time, despite being identified as a trigger for Miss Charles’s mental health problems, she responded that she did not believe that Social Services were aware of those facts at the time.
170. She confirmed that she thought that Mr Thomas’s letters to the Chief Executive and other officers had been passed down the line within Social Services so that everybody was aware of them. Asked whether she had found any evidence of consultation and communication through Social Services with regard to the potential eviction of Miss Charles, she said that she had noticed there had been communication to the Head of Children’s Services but did not think there was adequate communication to the mental health social worker and that there was certainly poor communication between the departments and within the Social Services department on key aspects of the case. She said that she felt that there was no proper consultation before possession proceedings were initiated and when there was Social Services input, it influenced the change of direction in terms of going for a suspended possession order and relocating the family rather than evicting them, in line with statutory responsibilities.

171. The Social Services Complaints and Standards Officer said that her own review of the case had identified a lack of communication within Social Services and between Social Services and Housing staff. Social Services did not tell Housing for example when the parental support stopped in 2006. She said that she did however regard from what she had seen on the files that Miss Charles was being bullied and victimised by her neighbours and by her children. She said that people tended to scapegoat individuals when there is mental health involved and she was not convinced that there was the level of complaints that had subsequently been claimed and she believed that all complaints received by the Council were acted upon.

172. She confirmed that it was unlikely that there would have been any unannounced visits to the property by the mental health social worker as it would be outside the ethos of building a relationship with the client and there would be a risk of disengagement. [..Information withheld

173. She said that she thought that she could produce a communication protocol for Social Services within three months and her final comments were that she thought that Mr Thomas had focussed too much on Miss Charles as
being the source of the problem; that there was a lot of anti-social behaviour on
the estate and another family, the Greys, were far worse in many regards and
this under-pinned her view that Mr Thomas had been motivated to get Miss
Charles out of the property rather than deal with the primary problem on the
estate.

Interview with Legal Officer

174. With regard to comments from the complainants and others that the
Council had not been providing inadequate notification or support to its witnesses
in legal proceedings, he said that he had regarded the police being as the lead in
this particular case and saw nothing amiss with police providing notification to
witnesses of court dates if they were also involved. He added that he did not
regard it as appropriate for his department to be directly involved with witnesses
as it would prejudice his relationship with the courts.

175. My investigator asked the Legal Officer if he now had adequate resources
to perform his role and he said that as the new ASB team would be taking on the
task of collecting evidence this would free up more of his time to concentrate on
court applications in which case he believed that he would have adequate
resources.

176. The officer said that he had regarded the presence of a social worker at
the court proceedings in relation to Miss Charles’s tenancy as helpful to the
Council in the long term, although it had been queried by the judge at the time
and subsequently by the complainants. He said that it gave the judge the
opportunity to ask the mental health social worker to explain Miss Charles’s
problems [..Information withheld].

177. [..Information withheld].. following discussions about the needs of the
family and the likelihood of success in the proceedings, a suspended order rather
than outright possession was then pursued.
178. With regard to his often quoted complaints about the lack of responsiveness of the courts, he was asked whether any representations been made by the Council to the courts on this matter. He said he thought that the Chief Executive may have raised it

179. With regard to an email from him to an MP where he refers to Miss Charles as having been evicted (rather than relocated) he said that he must have been confusing her with another person of the similar name who was evicted from another estate. It was noted by my investigator that in the same email the officer refers to the courts as doing their utmost to assist in cases of ASB.

180. He was also asked why this same email mentions that evidence had been “requested of the police” in connection with civil proceedings for ASB and then received, when the formal response of the Council says the information was “dumped” on him unexpectedly. He said that although he became aware subsequently that the information had been requested by another officer, he had not been made aware of this prior to the evidence arriving.

181. When asked whether there had been any specific considerations under the Human Rights Act with regard to Mr Thomas’s rights to a home and family life, he said that he could not point to any but said that Mr Thomas had brought up the matter himself when giving evidence in the possession proceedings [..Information withheld].

**WHAT NORTH WALES POLICE (NWP) HAD TO SAY**

182. My investigator spoke to or received written comment from six officers currently or recently based at Colwyn Bay and Abergele Police Stations in connection with their personal experience of dealing with anti-social behaviour in conjunction with CCBC.
Colwyn Bay Police Station

183. The first officer’s personal experience had commenced in 2005 when NWP were handling a large number of complaints about anti-social behaviour on the Park estate.

184. Because the complaints they were receiving at that time were of a general nature, NWP conducted a door to door exercise in mid 2005, asking residents about their perception of local problems and from this they began to identify the key perpetrators.

185. NWP took action in relation to any identifiable criminal activity by these individuals and then felt that it was appropriate to contact the landlords of the estate to discuss civil measures including possible action in relation to the tenancies of the people being identified as linked to the perpetrators of ASB and criminal activity on the estate.

186. In November 2005, NWP invited the Operational Manager for CCBC and a representative from NWHA to meet to discuss the way forward in relation to specific individuals. The meeting took place between the station sergeant, the Community Beat Manager, the Operational Manager for CCBC and a representative of NWHA. As a result of this meeting NWP agreed to provide future evidence from their criminal files to support civil action by the landlords, including possible action against the tenancies of perpetrators of ASB.

187. In May 2006, the police submitted their criminal files to both bodies with a request to consider the eviction of Miss Charles and an ASBi, together with an ASBO against her older son and various injunctive measures against other individuals who were regularly causing problems on the estate, including Mr Brown and his girlfriend.

188. NWP said that the response of the two main landlords of the estate was in marked contrast. While NWHA immediately engaged an external legal practice
and obtained all of the orders that the police had recommended in respect of their tenants, the Legal Officer at CCBC, on receiving the files said that he did not have the resources to go through them. NWP agreed to take the files back and select the documents they thought might be most useful for civil proceedings.

189. NWP was disappointed to learn later that the Operational Manager had apparently not told the legal department to expect the police evidence, as had been discussed and agreed at their meeting in November 2005 and have pointed out that the formal response of the Council overlooked the fact that this meeting took place in that it says that the evidence was delivered to the Council when “there had been no formal consultation”. The agreement to share this evidence was recorded in the ASBRG minutes of 9th May 2006.

190. NWP said in May 2006 there had been a meeting attended by the local MP on the estate and a subsequent meeting of the ASBRG which agreed that possession proceedings and demoted tenancy action would be initiated in respect of Miss Charles. Also there was a further meeting between NWP and the Operational Manager to discuss the way forward with a prioritised list of actions being provided by the Operational Manager. NWP have pointed out that again the formal response of the Council ignores the fact that this meeting took place, in that it says that,

“……[Operational Manager] was never asked in any sense that could be regarded as partnership working to get an ASBO/i against [Miss Charles]……..”

when this issue had in fact been discussed by NWP and Council officers.

191. NWP said that it had found that cooperation from the Housing Department of CCBC over anti-social behaviour was poor in comparison with that of the Licensing and Trading Standards Department of the Council with whom they had been able to forge an effective and constructive working relationship, saying:
“Whilst Licensing and Trading Standards were equal partners in everything we sought to achieve and grasped the opportunities and legislation presented to bring about reductions in crime through control, Housing’s view was and clearly still is judging by the content of [the Council’s response to the Ombudsman] that dealing with anti-social behaviour was police work”.

192. NWP said that they had frequently given advice to the Council on legal remedies as they had found that the legal department was not always aware of changes in legislation. NWP said that it was not uncommon for CCBC’s front line staff to approach them for advice on how to deal with ASB cases, with housing officers saying that there were no mechanisms in place within the Housing Department for moving cases forward. Some housing staff told the police that they were unaware of the existence of the ASBRG and it could be seen from the minutes of the ASBRG that cases were never referred to the group by housing staff, only other agencies.

193. NWP said that it had employed a number of initiatives to help the Housing Department deal with ASB effectively. For example, based on the best practice information it had gleaned from the Home Office and other bodies, it had presented suggestions to the Council for a dedicated ASB team structure but the Council had selected a model which is heavily dependant on input from NWP officers. Also they had invited housing staff to a training session they had arranged with an expert on ASB from the Home Office, but this had not been well attended. Further, the Community Safety Partnership had given the Council £5,000 to assist in the legal costs of dealing with ASB.

194. The Community Beat Manager said that she had become involved with the Park estate in 2005 and had sent an email on the 28th August 2005 to the Operational Manager, the YOT Team and the legal department advising them of a high level of ASB complaints on the estate. The response from the Operational Manager said that they were not aware of any problems. A further email was sent to Housing Officer 1 and the Area Manager on 27th October 2005 again informing them of problems with juveniles on the estate and asking for general
letters to be sent out. There was no response. The level of general ASB at this
time was so high that Miss Charles’s property did not particularly stand out to the
police but gradually there was recognition that her property was a focal point for
antisocial and criminal behaviour, including drug use and distribution.

195. The Council files show that in January 2006, NWP flagged up a range of
problems at Miss Charles’s property to the Operational Manager [..Information
withheld]. A further email was sent in February 2006 recommending action
against Miss Charles’s tenancy or that the Housing Department should secure an
undertaking from her not to allow Mr Brown into her property.

196. In March 2006 there was an email exchange between a Councillor, NWP
and the Operational Manager where the Councillor was highlighting problems
with Miss Charles’s property and suggesting that the ASBO the Council had
obtained for Mr Brown and his partner in relation to another site be extended to
this estate. The Operational Manager responded saying he was unaware of
problems at the property.

197. In further exchanges between these parties the Councillor emailed the
Operational Manager on 8th March 2006 including the following comment,

“I don’t know too much other than this has been going on for years, as you know
there has been intervention after intervention. [Mr Thomas] got to the stage of
being totally disillusioned with everything and has put his home on the market. I
have tens of emails between myself and officers going back three years.”

198. NWP said that at this time residents were regularly asking the police to
close down a tunnel through the estate as it was a focal point for youths loitering
and some residents found it intimidating. The Community Beat Manager said that
she asked the Area Manager to look into this but he declined to do so as it was a
Right of Way. Having the awareness that Rights of Way can be varied, she then
leafleted the estate for the views of residents. Although this exercise was
ultimately inconclusive in that there were equal numbers of people for and
against the proposal, she felt that the response from the Housing Department was typical of its lack of proactivity and a reluctance to even investigate an issue that was causing concern to residents.

199. On 18th April 2006, NWP sent an e-mail to the Operational Manager detailing all of the problems on the estate, including those at Miss Charles’s address, and two others specified in the same street. The Operational Manager responded asking where specifically the problems were occurring.

200. NWP were disappointed with the lack of adequate responses from the Operational Manager on these issues, particularly as he was the nominated contact officer for ASB issues within the Housing Department and the chair of the ASBRG. A further example of an unwillingness to take ownership or initiative was when the police tried to take forward a suggestion from Mr Davies that a by-law be introduced to deal with the consumption of alcohol and playing of ball games in the vicinity of Mr Thomas’s street. NWP emailed the suggestion to the Operational Manager who responded saying he would forward it to Licensing but queried whether it was a high priority. Licensing referred them to the legal department who referred them to another officer (whom it has not been possible to identify) and this officer responded by referring them to the Ward Councillor and the matter returned full circle to NWP.

201. NWP was surprised when the Head of Housing referred Mr Thomas to them to help him make a further impact statement for the courts in relation to proceedings against Miss Charles in early 2007. They had received no request from him to do this and no explanation of why the Head of Housing’s staff could not have performed this task. They did not see it as their responsibility but assisted Mr Thomas in the interests of getting it done. It was cited to my investigator as an example of CCBC having unrealistic and unjustified expectations of NWP’s involvement in civil matters. It is all the more surprising given that an inspector from NWP had in June 2006 offered to train CCBC staff on collection of evidence and statement taking, an offer that was never taken up.
202. NWP also said that they had been concerned at incorrect information being given to witnesses who had attended for Miss Charles’s possession hearing. They were told after the proceedings by the Legal Officer that Miss Charles would be evicted immediately when in fact a suspended possession order had been obtained.

203. Generally NWP felt that the Council’s advocate failed to get remedies appropriate to the evidence available to them and did not apply consistently for interim orders, even when their court dates seemed to be delayed or postponed on a frequent basis. In general NWP felt that the performance and success of the Council at court compared unfavourably with that of local registered social landlords, who used the same courts and had reported success in obtaining orders with powers of arrest at ASBRG meetings. NWP also had success in dealing with same courts, often obtaining orders by telephone.

204. They were concerned that against their advice, the Council had not obtained any form of legal restraint on Miss Charles behaviour, which meant that when she was re-located from her property the Council would have to start afresh if this remedy was required in the future. They also expressed concern at the October ASBRG meeting that having flagged up their concerns about Miss Charles’s mental health early in the year, things had got to the stage of possession proceedings being initiated without this aspect being fully considered by Housing and without partner agencies being fully informed of the situation.

**Abergele Police Station**

205. Staff at this location were seen in connection with their past involvement in my public report referenced 2004/0537/AC/382 of August 2006 in which I upheld a complaint of maladministration against CCBC over its handling of ASB and they were asked whether they had noticed any improvements since the issuing of that report in the Council’s handling of anti-social behaviour complaints.
206. The Community Beat Manager said that he had not noticed any improvements either in handling of the case mentioned above, in which problems were still ongoing or otherwise in the Council’s conduct of ASB cases. He said that action by the Council continued to be tardy and that there was inadequate support and information for witnesses. He said that he had had cause to complain to his inspector and to the Council that he was not being kept informed of any action on the case in question but nevertheless the Council had high expectations of him collating information for them when required, helping their witnesses with statements and attending court himself as required. The inspector had expressed concerns to the Council on this matter and asked for him to be kept informed but things had not improved.

207. He said that the Council tended to collate no evidence itself and would have little to present to court other than information from members of the public and the police. Although he and the senior staff at this location were aware of new measures being put in place to improve the Council’s response to ASB, they could not point to any impact at local level and this was some eight months after the issuing of the above report. In particular NWP commented that CCBC housing staff did not know how to go about collating evidence or taking statements from witnesses and that training was required. He had offered to help with training on past occasions although it was not his role to do so.

EVIDENCE FROM EXAMINATION OF COUNCIL FILES

Additional Housing Department Correspondence

208. **7 September 1998** - Housing Officer 1 wrote to Miss Charles saying that she is in breach of her tenancy conditions as a result of ASB and making reference to the fact that he has made visits to her following complaints from neighbours regarding her son’s behaviour and reminding her that she is responsible for members of her household and visitors. It goes on to quote the appropriate sections of the Conditions of Tenancy and to say that she is evidently
in breach of the above tenancy conditions through her son’s behaviour and that failure to address these matters will result in a Notice of Seeking Possession.

209. 1999 - In a position on the tenancy file with other documents dated from 1999, there is a letter to the Operational Manager from Mr West who is the non resident owner of a property in Heol Goch near to Miss Charles and in it he complains about constant vandalism to his property by the older son of Miss Charles and his associates who are allowed access to the property unsupervised. He said there was loud abusive language in use which intensified towards anyone trying to intervene. It says that he has spoken to Miss Charles on more than one occasion and had a meeting with Council staff and telephoned the office about the problem, with no effect.

210. 15 August 2002 - Mr Thomas wrote a six page letter to the Head of Housing giving detail of the noise nuisance and ASB emanating from Miss C’s property.

211. 28 August 2002 - The Operational Manager wrote to Mr Thomas in acknowledgement of a complaint and a petition relating to Miss Charles and it says,

“I personally have visited Miss Charles on occasions in relation to complaints about noise nuisance, however, I must say that the complaints are not always of a regular nature but may have complaints every three to six months, then the situation quietens down and then the noise happens again. I do intend to call a meeting of various professionals in relation to this matter, which will include colleagues from the Social Services department. I am not in a position at this moment in time to say what the outcome will be, but I take on board your concerns with regard to the noise nuisance”.

212. 20 September 2002 - e-mail from Environmental Protection Office to Tenant Participation Officer confirming that noise equipment placed in Mr Thomas’s property did not pick up anything actionable under the Environmental Protection Act but that she has seen some CCTV footage provided by Mr Hill.
Again this tape did not provide evidence of noise nuisance but she said she has seen several examples on the tape of incidents of ASB involving the occupants of Miss Charles’s property and will forward it for action. The tenant participation officer obtains the tape from her and later confirms he has passed it to the Operational Manager, although the Operational Manager did not consider it to be of use.

213. **8 September 2004** - The Operational Manager wrote to Mrs Hill, apparently in response to a letter from her dated 15 August (which is unfortunately not on the Council file) and saying that the Housing Department is aware of complaints in relation to ASB against Miss Charles but that Miss Charles has also been making complaints about ASB directed at her from other people and that the police are aware of the situation, saying that the situation continues to be monitored.

214. **15 November 2004** - Mrs Hill wrote to the Operational Manager again concerning Miss Charles and another resident, Mrs Grey, saying that she is herself disabled and questions what the Council will do about the noise and abuse including being called a “crippled old whore” and having her 11 year old daughter called a “slag” by one of the mothers. The letter says,

“…………as for [Miss Charles], I just give up, seven years I’ve put up with this woman and her two lads and your not doing anything to protect me from her, so why am I optimistic that you will do anything about Mrs [Grey] is totally beyond me”.

215. **2 December 2004** - The Operational Manager replied to Mrs Hill,

“I would refer to your letter dated 15th November 2004 which in many ways I find offensive. I did not feel that you have to write such a sarcastic and offensive letter to officers of the Council.”
The letter goes on very much to say that there have not been any complaints in the last couple of months regarding the property and pointing out that no action would be taken unless information was forthcoming from the police on this matter.

**Legal Matters**

216. **28 July 2006** - The Statement of Truth of the Area Manager for court proceedings in connection with possession of Mrs Charles’s property says as follows,

“Periodically during 2003, 2004 and 2005 there were episodes of noise disturbance reported to the ASB call line. The disturbances consisted of shouting, arguing and banging of doors and youths running in and out of [Miss Charles’s house]. Young children in [Mr Thomas’s] property were regularly disturbed and the noise often continued into the early hours of the morning.

“…following complaints of disturbances in 2003, 2004 and 2005 there were visits to [Miss Charles]. Much of it concerned older sons’ friends calling from late at night and this activity causing disturbance to neighbours”.

“… on 19 January 2006 the police carried out a search warrant of Miss C’s property and discovered a den in the attic, there was evidence of drug taking in the attic and use of naked lights which could have set light to cushions being used in the den”.

217. The statement goes on to say that the property has suffered damage as a result of the rowdy behaviour going on in and around it and that there is pictorial evidence of damage to the front door, side gates, rear door and brickwork of the property and also to the fence. It says that youths staying in the property had set fire to rubbish in the garden during 2006 and that in a six month period from January 2006 there have been forty two incidents to the police regarding anti-
social behaviour occurring in or around the property which has given neighbours cause to suffer alarm and sufficient distress to warrant police intervention.

218. **14 December 2006** - The Legal Officer’s speaking notes for court in connection with Miss Charles’s possession proceedings includes the following,

> “During the period 2003 to 2005 records show that the claimant received numerous complaints regarding the behaviour of persons visiting the defendant’s property. The defendant’s ex-partner, Mr B and his new partner, would visit the property and would stay overnight resulting in considerable disturbance to adjoining occupiers. Despite warnings regarding the behaviour of visitors to her property and assistance from professional agencies [...Information withheld], together with the police, the problems continued. In March 2006 the North Wales Police obtained a warrant to carry out a search of the property. [...Information withheld]. Neighbours have suffered from constant and sustained disruption to their daily lives to the extent that it has impacted on their health and well being”.

**Records of Calls to Council’s Out of Hours Service**

219. The Council’s files held some calls logged to the out of hours service or “hotline” in respect of Miss Charles. It was noted by my investigator that some of the log sheets were incorrect or incomplete. For example, some log sheets of calls from Mr Hill and the Thomases did not show the address being complained about and some showed the address of the complainant as being the address complained about. The files also held a record of 65 calls to the hotline about rowdy behaviour in Heol Goch between August 2005 and December 2006 from a resident not associated with this investigation. During the same period the police reported to the Council that they had 27 calls to the house regarding ASB.

**Report on Miss Charles**

220. [...Information withheld]
221. [..Information withheld]

Contents of CCTV tape submitted to the Council by Mr Hill

222. The tape was said by Mr Hill and others to show the following:-

2 May 2002 8.55 p.m.
223. Older son has set fire to tyres in the back garden of Miss C’s property and throws aerosol cans onto the flames and there are explosions. He and his friends run away just before the fire brigade arrive.

20 May 2002 11.10 p.m.
224. Arguments between older son and Miss Charles on the doorstep disturbing the Greys, Thomases and the Hill family. A Play Station is being smashed in the road, Miss Charles locks the older son out of the house and he then starts to kick the door of the house violently to be able to gain access, another argument results in milk bottles being smashed and he threatens to attack his mother.

225. Further incidents of ASB are recorded on 15 August 2002, another two on the 31 August 2002 and a further incident on the 5 September 2002, most of these incidents involve police and/or fire brigade and more than one witness.

Minutes of ASBRG and other Council Meetings

226 13 March 2003 - The minutes of the ASBRG record that NWHA flag up the older son of Miss Charles as a being a problem on the estate. There is no apparent follow up to this referral. The same officer from NWHA flags up in September 2003 that the names of the same perpetrators have been appearing for some time on the minutes of the group with nothing being done about them. The Operational Manager accepts an action to form a sub group to consider this further but there is no apparent follow up to this.
227.  **10 November 2004** - The minutes show NWP referring the older son of Miss Charles to the group as he is causing problems in the locality. No indications of any follow up.

228.  **3 March 2005** - The minutes show that the representative from NWP, an inspector, expresses concern that on occasions it seemed to take a lengthy period of time for appropriate action to be taken by the Council against known perpetrators of ASB. No indications of any follow up.

229.  **1 June 2006** - NWP refer Miss Charles to the Group (which was formed in January 2003) when they report details of their meetings with Council staff and a meeting with the MP about ASB on the Park estate. The minutes note that Mr Brown has been causing problems at the property and there is resultant ASB from arguments and that there is under age drinking taking place in the property. The minutes also note that there is a possibility of the Council employing a dedicated solicitor for work related to ASB but there was no further reference in the minutes to this.

**The Cabinet Sub Committee – Anti-Social Behaviour**

230.  **1 June 2006** - The minutes show that an inspector from NWP attended the meeting and offered to provide formal training to CCBC Housing staff on statement taking and collection of evidence.

**The Cabinet Sub Committee – Anti-Social Behaviour**

231.  **5 May 2006** - The minutes record the following,

   “NWP are calling for identification of a person who would become the identified lead for anti-social behaviour within CCBC with the ability to commit resources to tackle agreed problems and the authority to hold to account all stakeholders for failure to progress an agreed course of action”.
Also,

“Following discussion of the issues which could include inter departmental involvement:
All parties recognised that there was a need to balance different needs but the sub committee questioned whether the competing agenda within the local authority [e.g. evicting a family involved with Social Services] was resulting in the interests of the perpetrator out-weighing those of the victim”.

**ASBRG Meeting**

232. **25 January 2007**- Minutes show that the group is now chaired by the Head of Housing, with NWP represented at inspector level and the Legal Officer is present for the first time since May 2003. In relation to the case of the teenage son of the Grey family in Heol Goch, the Legal Officer reports that it is unlikely that the action to obtain an ASBO will now be successful. He says the evidence is eight months old and the difficulties had arisen due to problems with a neighbour [Miss Charles] who is now being moved from the estate. The Head of Housing says the matter needs to go to court and the Legal Officer, as the case owner, is advised to contact the witnesses to attend court.

**ASBRG Meeting**

233. **1 March 2007**- Minutes show discussion regarding youth Grey, again the Legal Officer seeks agreement to withdraw ASBO proceedings against him as no further incidents have been reported and “[Miss Charles] had been at the centre of problems on the estate – she has now been moved”. The meeting again agrees to pursue the ASBO (which is later granted by the court).

**Health Visitor Referral**

234. **23 June 2006**- The Social Services files held the Child in Need Referral to Social Services (Children’s Services) by the health visitor for the Thomas family which includes the following words,
“…[child] has become very quiet and withdrawn at home following frequent bouts of ASB from [Charles and Grey]. This ASB is impacting on the whole family’s emotional state.”

And,

“I feel that these 3 children are and will be affected emotionally should this anti social behaviour continue at the rate it is escalating at present. I would therefore be grateful if Social Services could assess the needs of these 3 children.”

**Referral by Youth Offending Team**

235. **29th September 2007**-An officer in the Youth Offending Team made a referral to Social Services-Children’s Services on behalf of the younger son of Miss Charles saying,

> “The family are still being threatened with eviction. Social Services should be working with Housing on this issue. Please contact me regarding this referral. I have no had no response from you regarding the Child Protection Referral.”

**Police Intelligence Information**

236. On 8th November 2006 the Operational Manager made a request for information about calls to Miss Charles’s property from 14th November 2004 onwards. The response showed ninety three separate incidents of calls to attend Miss Charles’s property. During this period of time there are no calls recorded in January or February 2005 nor in May 2005 or July 2005; other than that every month has at least one call to the property with some months there being six and peaking with seventeen calls in the middle of 2006.

Of these calls sixty one percent were received between 6pm and 1am and twenty nine percent of the incidents related to rowdy inconsiderate behaviour and with ten further reports of criminal damage being received.
COUNCIL RESPONSE TO THE DRAFT REPORT

237. The Council submitted further information with regard to the support offered by the Social Services Department and Youth Offending Team to Miss Charles and her family. Although it did not accept failure with regard to its handling of Miss Charles tenancy breaches or care, it accepted that the Authority’s handling of recurrent antisocial behaviour on the estate in general could have been better and more robust and that its liaison with witnesses had been poor. It accepted that there was insufficient internal multi agency action on the case but it did not accept that there were inadequacies in its handling of Mr Thomas’s or the health visitor’s referral to Social Services on behalf of Mr Thomas’s children. However the latter was accepted at interview by the Social Services Complaints and Standards Officer.

CONCLUSIONS

237. I must first turn to the official responses of the Council to the complaints and am disappointed to have to comment for a second time in a public report on Conwy County Borough Council in relation to inaccuracies and inconsistencies in its formal response, the matter having previously been mentioned in report number 2004/0537/AC/382 on ASB handling in the Housing Department.

238. Whilst it would not be practical in a report of this nature to comment on every instance I have noted, I will provide some examples of discrepancies between the official response of the Council and the information held on its own files.

239. Firstly, in its formal response the Council said,

“… there were only two complaints in regard to [Miss Charles’ property] prior to Mr [Thomas] moving in on May 31st 2002”.
240. However, I note that the Council files hold a warning letter from Housing Officer 1 to Miss Charles in September 1998 in which he refers to his having received complaints about her and having made visits to her in regard to ASB.

241. Also in 1999 there was a copy on the Council file of a call from Mr Hill to the hotline about Miss Charles saying,

“….trouble from neighbours, been going on for two years. Complained in writing to Council numerous times”.

242. Also on the Council file is a letter of complaint from Mr West and although this is undated and not date stamped as to when the Council received it, it was placed on the tenancy file next to items from 1999.

243. The Council file also shows a file note dated 29th October 1999 following the Area Manager having visited Miss Charles as a result of complaints about bad behaviour by the older son, massive arguments and fireworks being let off in the vicinity of the house on numerous occasions. Later, the file holds a letter dated 28 August 2002 when the Operational Manager wrote to Mr Thomas in response to his complaints and which says,

“I have personally visited [Miss Charles] on occasions in relation to complaints about noise nuisance.”

The letter goes on to refer to complaints having been received about her every three to six months.

244. I must therefore conclude that the statement given in the Council’s response is factually incorrect, even from the information available on its own files. Further, I have considered the additional evidence from the complaints and other residents of the history of complaints as detailed, for example, by the minutes of the community association and the councillor’s email referring to his having raised the matter repeatedly with Housing for years.
245. A second statement that from the Council’s official response that gives me concern says,

“… from January 2004 to January 2006: there were almost no complaints to the Council, either to the ASB hotline or the Housing Department, about Miss Charles and her family”.

2004

246. The above statement is at variance with the Council’s records which show that in March 2004 the Families Support Services Co-ordinator for Social Services was approached directly by Mr & Mrs Hill who listed problems being caused by Miss Charles family and offered her a viewing of CCTV footage showing incidents of ASB around the property. At this time Mr Hill, also complained to the Area Manager and made him aware that Mr Brown and his partner were living with Miss Charles. This is followed by record on the Council files of the Area Manager visiting Miss Charles on the 24 March 2004 in connection with “a recent upsurge of complaints” and a note of Mr Thomas reporting vandalism of Miss Charles’s property by Mr Brown.

247. In June 2004, the Social Services file shows an awareness of the older son’s music being played too loudly and this matter being discussed and a letter from Mr Thomas to the Area Manager detailing continuing problems regarding nuisance. In August 2004, the Operational Manager responded to a complaint letter from Mrs Hill, unfortunately the original letter from Mrs Hill is not placed on the Council file. By 18 August, the Area Manager had visited Miss Charles regarding further complaints and later in the month received more complaints.

248. In September and November 2004, the Council files show the correspondence continuing between Mrs Hill and the Operational Manager regarding her complaints of nuisance against Miss Charles and Mrs Grey and in
the ASBRG of November 2004, NWP flag up the older son of Miss Charles as appearing on their ASB database.

2005

249. The Social Services files record that in February, March and April problems are once again occurring with the older son’s music being played too loudly, that there has been damage done to the front door and that there have been problems with the older son’s friends shouting at the front door to be let in and the file notes that there are “behaviour issues with callers”.

250. In August NWP e-mailed the Operational Manager and others in the Council about youths roaming the estate and in September, the Area Manager recorded on file that he has seen Miss Charles regarding a complaint about her son.

251. In October 2005 when Mr Thomas says that Mr Brown and partner are permanently residing with Miss Charles, the mental health social worker records that Miss Charles is “stressed out” over the presence of Mr Brown and partner but that Housing has told them not to visit.

252. The Council’s formal response also conflicts with the Operational Manager’s response at interview when he said that complaints about the family were fairly continuous throughout the tenancy and also with the Area Manager’s Statement of Truth for the court proceedings in September in which he said,

“…..periodically during 2003, 2004 and 2005 there were episodes of noise disturbance reported to the ASB call line. The disturbances consisted of shouting, arguing and banging of doors and youths running in and out of [Miss Charles’] property”.

253. Further on in the Statement of Truth, he says,
“…..following complaints of disturbances in 2003, 2004 and 2005 there were visits to [Miss Charles’ property]”.

254. Additionally there are letters and emails from a Councillor in mid 2006 (para 197) in which he refers to having sent tens of emails to the Housing Department for the previous three years in connection with complaints about Miss Charles.

255. I will not labour the point further but include these matters so that the parties will understand why I am sceptical about the accuracy of the Council’s submission as to a lack of complaint during these periods of time and why I prefer the evidence of the complainants and other parties with regard to the level and frequency of complaints about Miss Charles.

256. It is my view that if all of the agencies who were involved with Miss Charles had been sharing the information that they held independently of each other, a different perspective could have emerged. For example, Housing was holding the information that Mr Brown and his partner were at times resident for long periods in the property and had free access but the mental health social worker said she was not informed of this. This is of particular concern given that the presence of Mr Brown had been identified previously by Social Services as a trigger for deterioration in Miss Charles’s condition, which was in turn reflected in a worsening of the ASB problems as far as the residents were concerned.

257. It is difficult to summarise the events of some five years duration and it is not possible or practicable to reproduce in this report all of the evidential material that has been seen or provided. However, to summarise the issues as I see them, the essence of Mr Thomas’ complaint against the Council is that he suffered extreme ASB from the family and associates of Miss Charles from the end of May 2002 until her departure from the Park estate in early 2007 and that except for a limited period of time in early 2003 he was complaining regularly to the Council about these matters or others were complaining on his behalf.
258. He feels that whatever action the Council took in relation to Miss Charles was not effective in remediying the nuisance within a reasonable period of time or in a lasting manner and that the failure to do so resulted in general ASB escalating in the locality as Miss Charles’ home became a focal point for nuisance and criminal activity, and indeed this view was shared by the Council’s Legal Officer (paras 219,236). Further he complained that that the Council did not act on his direct complaints and did not work adequately with the police to collate complaints that he and others were making to them as it commits itself to do in its published information on the subject.

259. Whilst other near neighbours were part of the general picture of ASB and his complaints made reference to them, it was Miss Charles, as his immediately adjoining neighbour, who had the major impact on the quality of life of himself and his family. Aspects of her lifestyle as attested to by the Area Manager in his Statement of Truth for the court (paras 216,217) attracted others to her property and this resulted in ASB which she then did not adequately control, resulting in repeated breaches of her tenancy conditions.

260. The essence of Mr Davies’ complaint against the Council is that it did not enforce the conditions of tenancy in relation to complaints made by himself and others of ASB. While Mr Davies does not focus solely on Miss Charles, he echoes the sentiments of Mr Thomas and other residents that Miss Charles was the major focus of difficulties on the estate. Mr Davies feels that he was misled by the Council, not only as an individual but also as a key member of the community association from 2002 onwards. The association had resolved to work with the Council, MPs and Councillors to address the problems on the estate, which making detailed complaints and collating evidence for the Council. However, he said that the Council had not acted on the complaints in a visible manner until mid 2006.

261. In summary, the Council’s position is that there were only two complaints regarding Miss Charles prior to Mr Thomas’ arrival and that he was motivated to have her relocated because he was an owner occupier. It holds that the level of
complaint alleged to have been made is not consistent with its own records and that when complaints were received these were acted upon in a reasonable manner.

262. It believes that problems at the property were largely related to the mental health of Miss Charles who was a vulnerable person and was not able to deal with the stronger personalities within her social network. It also believes that information held by the police was not passed on.

263. The Council holds that the measures put into place in support of Miss Charles in 2002 were largely effective as there was a reduction in complaints after this time. The Council does however acknowledge a lack of multi agency working on the case and at interview it conceded failings in internal communication within the Social Services Department and between Social Services and Housing. It has also conceded that its actions to address the ASB could have been more robust and that it failed with regard to communication with witnesses.

264. There are many points of disagreement between the parties involved in this situation and I do not expect that a full consensus of views can be achieved. My role in this matter is to draw my conclusions from the evidence put forward and to comment upon the administrative and procedural aspects of the case.

**ANTI SOCIAL BEHAVIOUR PROCEDURES**

265. I have already established from an earlier investigation that the Housing Department had no proper procedures in place until November 2005 for dealing with ASB, this period covering the main period of time during which Mr Thomas, Mr Davies and others were complaining. Indeed there is documentary evidence of the Operational Manager for Landlord Services having advised complainants that the Housing Department was not able to act independently of the police on ASB and this was fallacious.
266. I can therefore only repeat my earlier finding of maladministration in regard to the absence of adequate policy and procedure at this time.

267. It is of concern to me that even after a procedure was introduced in April 2006 together with a toolkit for staff to follow, it was apparently not adhered to in terms of the timescales provided for action on cases and the commitments given in relation to communication with complainants. Neither was there adequate administration and follow up of calls to the hotline as promised by procedures. This was further maladministration in relation to Mr Thomas and Mr Davies who were complaining regularly from mid 2002 without receiving feedback on their complaints or any indications of positive action until mid 2006.

268. In my earlier investigation on this subject, failings were identified in relation to keeping information about the exact timing of the use of noise monitoring equipment from the alleged perpetrator and this error was replicated in this case. Also in my previous investigation it was acknowledged by the legal department that it had not used injunctive powers in relation to ASB until after August 2005. I find that these failings were also replicated in this case and were not corrected even after the ASB toolkit was in place.

269. I am mindful that the Council has accepted the recommendations of my earlier report and has implemented them, together with other actions resulting from its own internal investigation following my report. I understand that further training of its staff on these matters is underway and that some management changes have been made.

270. I would however wish to register my particular concern at the repeated occasions in the chronology of this case when the Operational Manager has told parties, including on one occasion an MP, that he has received no complaints regarding nuisance from Miss Charles when there is documentary evidence to the contrary. His repeated assertions to complainants that Housing was unable to act independently of the police were fallacious and reflect a serious lack of expertise on the subject. His failure to put before the court the CCTV footage
provided by Mr Hill in 2002 which had been confirmed by an Environmental Protection Officer (para 212) as providing evidence of incidents of ASB is inexcusable.

271. There is a wealth of guidance available to landlords on remedies and approaches for ASB as referenced in my Annual Report for 2006/7 and landlords have sufficient powers to take action independently of the police. The Housing Department had in my view more than sufficient evidence from residents to have enabled it to take action in the early years of the tenancy in Heol Goch but it did not do so until mid 2006.

272. The lack of proactivity in evidence gathering has been commented upon by the complainants and other residents and I would echo this concern; I see no evidence of a single visit to the site by an officer of the Council after normal working hours or at weekends, when the bulk of the problems occurred nor did it employ professional witnesses to perform this function on its behalf.

273. I am disappointed that in its formal responses and comment to me the Council has sought to impugn the motivation and undermine the credibility of the complainants and other witnesses, despite having previously relied upon the veracity of these individuals in a court of law on many occasions. The culture prevailing within the Housing Department that allows this to happen may prove worthy of further internal consideration by the Council alongside the procedural failings I identify.

274. The Housing Department would in my view do well to seek structured feedback from residents and partner agencies as to their perception of its handling of complaints regarding ASB. I would hope that this would be examined positively and constructively with a view to informing future improvements in its handling of these matters and I also suggest that it reviews the confidence of its own frontline staff in dealing with reports of ASB and seeks to compare its performance against that of, for example, a leading RSL or another Council in its locality.
COMMUNICATION

275. I am grateful to the Social Services Complaints and Standards Officer for identifying and acknowledging communication failings on the part of the Social Services Department and the commitment she showed to work to develop a protocol to improve internal communications within the department. I would also concur with her view as expressed in her submission within the formal response of the Council that had inter agency meetings been held earlier than October 2006 then matters may have turned out differently for both Miss Charles and for Mr Thomas’s family.

276. The mental health social worker for Miss Charles’ care has said that she was unsighted after 2002 as to continuing complaints about her client’s behaviour and was shocked to discover in September 2006 that possession proceedings were imminent and that the Housing Department at that time intended to evict her client and further that this decision was based on evidence obtained throughout the period of her involvement with Miss Charles. The Council has provided no evidence to dispute her assertion in this regard; indeed it has acknowledged that she was not aware of what was going on.

277. This was, in my view, a key failing in the case in that this person was in a position to recommend additional resources for her client or to ease the communication path with her client which may have improved handling or resulted in an earlier solution being identified.

278. Similarly, there are periods of time in the chronology of events of different departments such as September 2003 and May 2005 when the Housing Department was receiving complaints about Miss Charles but the mental health social worker and psychiatrist recorded on the case files that she was stable and quite well. I draw the conclusion from this that information held by officers about the situation was not being shared by officers who had key roles to play in understanding and alleviating both the problems of Miss Charles and the impact of these issues upon her neighbours.
279. Social Services records show that at least as early as 1997, Miss Charles and family had been identified as needing a multi agency approach to plan the care for the entire family. This appears not to have been followed through and specifically the Council files and evidence show no inter agency case conferences involving all of the bodies engaged with Miss Charles between September 2002 and September 2006, being the bulk of the period during which Mr Thomas and others were reporting problems.

280. Further, there was no reference of Miss Charles to the ASBRG by the Housing Department at all, despite the number of complaints that it had received throughout her tenancy and it was ultimately NWP who identified Miss Charles to the group in June 2006 and provided evidence to the Housing Department, from which time action in relation to her tenancy ensued. Opportunities were therefore missed for inter agency engagement in previous years and for regular reviews of the case by the agencies who were involved with her.

281. Although the Council stresses that Miss Charles has mental health problems and was the victim of the situation, I note that [.. Information withheld] she was found by an appropriate professional to be capable of managing her affairs and giving instructions to a solicitor at the time of the possession proceedings.

282. In the same vein, I note that much earlier in his dealings with local youths on her behalf, the Area Manager received information that Mr Brown was being allowed into the property regularly late at night and this led him to warn her about her behaviour giving legitimacy to the expectations of local youths. He also had occasion to warn her about making alcohol available to youths within her property which was in turn giving rise to ASB in the street and causing complaint. Also, Mr Thomas’s evidence speaks of repeat calls to the police when people were ejected and allowed by Miss Charles to return to the house later and that his observation was that Miss Charles only called the police when matters were getting out of control in relation to people already within the property. I have taken these factors into account in coming to my final view.
283. It is evident from the formal responses of the Council that the Housing Department had high and unwarranted expectations of NWP’s involvement in civil matters such as collating evidence for the Council for its legal proceedings and it has put forward no local protocol to support these expectations. It is not the job of the police to collate evidence for civil matters on behalf of the Council or format it for them, as the Housing Department appears to believe. I am concerned that the formal response of the Council failed to identify the fact that the offer from NWP for the Council to use its files had been made and accepted during a meeting between officers from NWP and from the Council and NWHA and that this was referred to at interview (para156) as NWP having “dumped its evidence on the Council” when in fact it was an act of partnering and generosity.

284. I am also concerned that the Head of Housing chose to write in derogatory terms about NWP (para 93) to Mr Davies, a member of the public, in December 2006, this being all the more inappropriate coming some six months after my aforementioned public report on the subject of ASB in Conwy in which I criticised the Housing Department’s poor partnering of the police.

285. Clearly when police intelligence about Miss Charles’s property was requested by the Housing Department in October 2002 and June 2006, it was provided speedily and I have no reason to suppose that this information would not have been made available to the Housing Department had it been requested on a more regular basis.

286. NWP have pointed out the difficulties it has experienced in the past in working with the Housing Department in comparison with another department of the Council and the assistance it has offered or provided to the Housing Department. The minutes of the ASBRG show that both NWHA and NWP raised concerns early after its inception that ASB was not being handled well by the Housing Department and there were concerns about the functioning of the
ASBRG but there is no indication of this concern being addressed corporately by the Council.

287. It is of concern to me that NWP having offered in June 2006 to train CCBC staff on statement taking and collation of witness evidence, are commenting to my investigator a year later that this remains a major weakness on the part of the Council and the offer of training was not taken up.

288. I am advised that strategic changes have been made to support the relationship between the Housing Department and NWP and that they are committed to working more closely in the future and this is confirmed by a recent letter to me from a senior officer of NWP.

HUMAN RIGHTS ACT 1998

289. The Council has admitted that it did not conduct any considerations under the Human Rights Act in relation to Mr Thomas’s situation and in my view these were of particular relevance. There is no evidence of the Council having interviewed Mr Thomas or his family to ask how their well being and mental health was being affected by her lifestyle. Had they done so, Mr Thomas would have been able to inform them and provide medical evidence on these matters. The Council in my opinion allowed its view of its duties to Miss Charles to override consideration of the needs of Mr Thomas’s family and those of the wider community. Whilst the Council was obviously obliged to consider its statutory duties to its client, it has a statutory duty to consider the proportionality of the decisions it makes in order to assess how these decisions can impact on other individuals.

290. Mr Thomas has suffered mental health problems as a consequence of this situation and has had his home and employment put in jeopardy as a result, further there has been an impact upon his children sufficient to warrant his and a health visitor’s concern. Further, his wife has been abused and put in fear to the extent of taking out two harassment orders. These in my view are the consequences of the Council’s failure to pay due regard to the requirements of
Article 8 of the Human Rights Act. I made similar criticisms in another public report about the Housing Department of C.C.B.C. which was referenced 2006/00636 of March 2007.

**SOCIAL SERVICES REFERRAL**

291. Following on from the above, it is documented that Mr Thomas approached the Social Services department directly as he was concerned about the impact upon his children of the ASB they were subject to and although spoken to at length he did not receive a decision in relation to this request for help for some three months and this only occurred after Mr Davies had made a direct complaint on his behalf. I note that Social Services made an apology for the delay and it is to be hoped that it will ensure that any internal review will ensure that it deals more promptly with such presentations in the future.

292. Although the Social Services considered his request for help at a screening level, it is clear from the documentation that they thought that his problems were emanating from the Grey family and not the Charles family and therefore a further opportunity to alert Miss Charles’s mental health social worker to the situation was missed.

293. Also at this time the health visitor made a Child in Need referral of the children of Mr Thomas to the Social Services department as she was concerned that the eldest child in particular was showing signs of being withdrawn and her view was that the children were suffering, and would suffer, emotionally if the situation regarding the ASB continued. This referral was screened and there was no evidence of follow up with regard to the agency that the Council said should have dealt with this matter (CAMHS), giving another example of a failure of interagency working.

294. At interview, the Social Services Complaints and Standards Manager said that the referral should have gone to CAMHS, in which case Mr Thomas’s children would have had an assessment of their needs. There was however no
evidence on file of the health visitor being advised that her referral had been misdirected nor of the referral paperwork being passed to CAMHS or of any feedback to Mr Thomas as to the appropriate agency to deal with this matter. I conclude therefore that this was maladministration in that the referrals were not handled properly by the Council and Mr Thomas' children lost the opportunity for an assessment as a result.

**WITNESS SUPPORT**

295. During the course of this investigation and indeed in the follow up to my previous investigation and report involving Conwy, many residents have expressed concerns about the lack of support and information which the Council offers to witnesses who are attending court proceedings. This view has been echoed by the police officers who have been involved in the respective cases. Witness expectations of court hearings have not been managed well and the practicalities of understanding what is going to happen at court has not been communicated to them by Council officers.

296. People have said that they do not receive adequate notification of court dates and that when notification is received it can be at short notice and only in verbal form which made it difficult for them to obtain time off from work. They have not been told whether they may claim expenses for their attendance and have had to make their own way to court without any offer of assistance. The Council has no protocol in place for managing its relationship with witnesses, who are in the main also victims of the situation, and I find this unacceptable and maladministrative given the heavy reliance the Council has to place on the availability of witness evidence in support of court proceedings.

**GENERAL COMMENTS**

297. I have no doubt that the communication failings, absence of procedure, failure to observe procedure and lack of inter agency working demonstrated in this report together with the failure to have due regard to the fact that the human
rights of Mr Thomas and his family were engaged, have led to a situation of maladministration leading to injustice to Mr Thomas. I uphold his complaint in that, had matters been dealt with in a more effective manner, the nuisance suffered by his family could have been ameliorated or resolved at a far earlier stage.

298. Similarly, I uphold the complaint of Mr Davies due to his lengthy role in raising concerns about the problems as they impacted upon himself, Mr Thomas and the rest of the community.

RECOMMENDATIONS

299. I recommend that the Council apologises to Mr Thomas and makes a payment to him in the sum of £2,750 per year for the four years from January 2003 to January 2007 in recognition of the stress he has suffered and the impact on his health and the wellbeing of his family. I further recommend that it reviews its procedures in respect of referrals to avoid any repetition of the difficulties experienced by Mr Thomas and the health visitor.

300. With regard to Mr Davies, I recommend that the Council apologises to him for its handling of these matters and makes a payment to him of £500 for his time and trouble.

301. I recommend that within three months of the date of this report, the Council evidences to me,

- An agreed protocol for dealing with support to witnesses involved with court proceedings
- Measures for improving communications both within Social Services and between Housing and other partner agencies for cases requiring an inter agency engagement.
- That it has reviewed its Anti Social Behaviour Policy and Procedures to include consideration of the Human Rights Act and its impact upon both victim and perpetrator.
• That it has reviewed the administration and follow up of calls to the Hotline and
• That it provides an assurance to me that every current case of ASB is being appropriately monitored.

300. I further **recommend** that it demonstrates to me how it intends to achieve an improved understanding with the police in relation to joint working and sharing of information.

301. I **recommend** that Council considers whether a further internal management review should be prompted by these matters.

Adam Peat
Ombudsman

Date: 22 November 2007

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