Policies, procedures and tenancy clauses against hate incidents

1. Policies
2. Procedures
3. Tenancy clauses

Social landlords' policies, procedures and tenancies are foundations for effective organisational delivery of key goals that go to the heart of housing management. These goals include not only prevention and deterrence of unacceptable behaviour, responding effectively to incidents and forensic casework but also building confidence among residents that reporting incidents is worthwhile because they will be taken seriously and that the organisation and its staff can be trusted.

The following briefing highlights the key elements of a hate incidents policy and the significance of good procedures and appropriate tenancy clauses.

Policies

Social landlords need to have a policy on hate incidents to ensure that all staff take a consistent approach and residents can have confidence that the issue is taken seriously right at the top of the organisation.

Some social landlords have incorporated their hate incidents policy into their anti-social behaviour policy (a document required by the Anti-Social Behaviour Act 2003) others into their equality policy.

The policy statement needs to incorporate the following 7 minimum elements:

- the organisation's definition of a hate incident.
- how the organisation will work in partnership to tackle hate incidents
- how the organisation will support and protect victims and witnesses
- how the organisation will encourage victims to report hate incidents.
- how the organisation will respond to hate incidents.
- how hate incidents and responses will be monitored.
- how and when the policy will be reviewed.

**Hate incident defined**

A 'hate incident' is defined in the governments *Hate Crime Action Plan* (October 2009) as a non-crime incident which is *perceived by the victim or any other person* as being motivated by prejudice or hate.

The hate element is considered to be present if the act was motivated by hostility or prejudice based on one of the ‘hate crime strands’ which may be the victim’s race, religion or belief, sexual orientation, disability status or transgender status.

A ‘hate crime’ is a criminal offence which is perceived by the victim or any other person as being motivated by prejudice or hate based on any of the same hate crime strands.

**Working in partnership**

For social landlords the 5 key neighbourhood partners are:

- police
- community safety partnerships/crime and disorder reduction partnerships
- schools
- social services
- private landlords.

**Support and protect victims and witnesses**

In addition to direct action to assist victims this may also include working with a perpetrator who may themselves be a vulnerable person, for example someone with a mental disability. The 6 key elements of support and protection are:
- Needs assessment: identifying support needs at the start of the casework process.
- Reassurance: keeping victims and witnesses up-to-date with case progress
- Floating support: helping victims and perpetrators to sustain their tenancy.
- Referral: involving other services when necessary.
- Mutual support: encouraging residents to support one another.
- Protection: ensure residents are safe from harm.

**Encouraging reporting**

Fear of the consequences of reporting or lack of belief that anything will be done are deeply corrosive of the trust that an organisation should have among its tenants. Methods of reporting should include the capacity to receive complaints delivered in person, over the phone and online. Reporting can be encouraged using diverse media to engage with residents and build confidence – everything from leaflets and newsletters to theatre and performance.

**Response to hate incidents**

Potential victims – and potential perpetrators – need to be clear about the action a social landlord will take in response to hate incidents and, ultimately, how far it is prepared to go with legal enforcement to stop harassment, for example, applying for injunctions or ASBOs or taking possession proceedings.

**Monitoring**

Organisations will want to monitor and evaluate performance on dealing with hate incidents. Both are closely related activities. Monitoring entails keeping track of and measuring input data, output data and performance indicators. Evaluation is
establishing whether objects have been achieved by finding out if there is verifiable link between a project's impact and its outcomes.

**Policy review**

The Anti-Social Behaviour Act 2003 section 12 provides that landlords must from time to time keep their policy and procedures under review and, when it thinks appropriate, publish a revised statement.

*Examples of hate policies of 30 social landlords and councils are included on RaceActionNet.*

**Procedures**

Documented procedures are part of the statutory obligation that housing providers have under the Anti-Social Behaviour Act 2003. Toolkits and protocols on hate incidents have been developed by some organisations to ensure a consistent response to tackling incidents and casework both across the organisation and in multi-agency working.

Cases brought by tenants to Ombudsman have often highlighted the failure either to have or to follow procedures. Weaknesses have been identified in dealing with reports, recording them, investigating complaints and taking appropriate action against perpetrators and to protect victims and witnesses.

*Organisations have produced procedure toolkits and protocols, examples of which - together with Housing Ombudsman rulings - are included on RaceActionNet.*

**Tenancy clauses**

The tenancy agreement is an important tool when a social landlord takes legal action against a tenant who is a hate-motivated perpetrator, crucially where the action is founded on breach of tenancy, such as for an injunction or possession.
The clause related to hate incidents should be clear and detailed in order to make it clear to tenants the expectations of the landlord and to be most useful in court proceedings when a breach of the tenancy agreement is being relied upon.

Tenancies should be drafted to cover hate incidents and attacks outside the locality of the tenant's home and to ensure protection of staff wherever they are working.

Tenancy agreements also frequently contain references to the number of visitors allowed inside properties. Cases in which vulnerable people invite others into their homes who then abuse neighbours can be tackled using these provisions.

The obligation on tenants not to be involved in hate harassment or incidents may comprehensively be defined as:

"Not to, nor to let anyone who lives in or visits your home, interfere with the way of life of, or cause offence to another tenant, visitor, neighbour, employee or agent of [the social landlord] because of their race, colour, nationality, ethnic or national origin, or because of their religion, gender, sexuality, physical disability, appearance, marital or employment status."

Guidance, case and examples of action based on breaches of tenancy are included on RaceActionNet.

All these components of good practice are treated in depth on RaceActionNet, which can be viewed by applying for a no obligation free trial at

www.RaceActionNet.org.uk

or by phoning

020 8348 8263

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