

Policy for the Handling of Nuisance Complaints about Tenants of Social Landlords

1.0 Introduction

1.1 This policy seeks to ensure co-operation and consistency between the various Social landlords and the Environmental Protection Group of South Lakeland District Council when investigating complaints of domestic nuisance.

2.0 Policy of the Environmental Protection Group on Receipt of Complaints from Tenants of Social landlords

2.1 It would be the policy of the Environmental Protection Group to encourage tenants to seek informal solutions to their disputes. The offer of mediation can be made during the initial discussions and if interested the Resolve leaflets can be sent to the complainant with a note stating that if mediation does not prove acceptable the Group can again be contacted.

2.2 The Environmental Protection Group would prefer formal complaints to be initially investigated by the relevant Social Landlord. Statutory Nuisance investigations for domestic complaints can be lengthy and difficult to gather evidence. The Social Landlord has greater opportunities to resolve initial complaints.

2.3 The aim of the procedure is to ensure clarity in the responsibilities of the various authorities. No two authorities should be investigating the same complaint at the same time. Complaints can be transferred between authorities in writing and when this is done details of the previous investigatory work should be attached. The complainant must always be informed in writing of the Officer and Authority responsible for the investigation of their complaint.

2.4 Diary details should contain the following information: Date; time nuisance started and stopped; description of nuisance; where witnessed and who else present and, complainants comment on how nuisance affected them.

2.5 Mediation can be an option at any stage. It would be for Resolve to decide whether to agree to take up a complaint that has already had a degree of investigation. Where mediation is taking place no further investigatory work will be undertaken and the complainant would be directed to Resolve. Resolve will confirm in writing the completion of the mediation process and indicate the likely success of the process.

2.6 Where the Environmental Protection Group completes monitoring and an Abatement Notice is served the appropriate Social Landlord will be advised and given a copy of the Notice. Discussion can then occur between the two Authorities, subject to any appeal against the Notice, on whether it is quicker to resolve the nuisance by pursuing the Abatement Notice or whether the Social Landlord can resolve the nuisance quicker by pursuing a breach of the tenancy conditions.

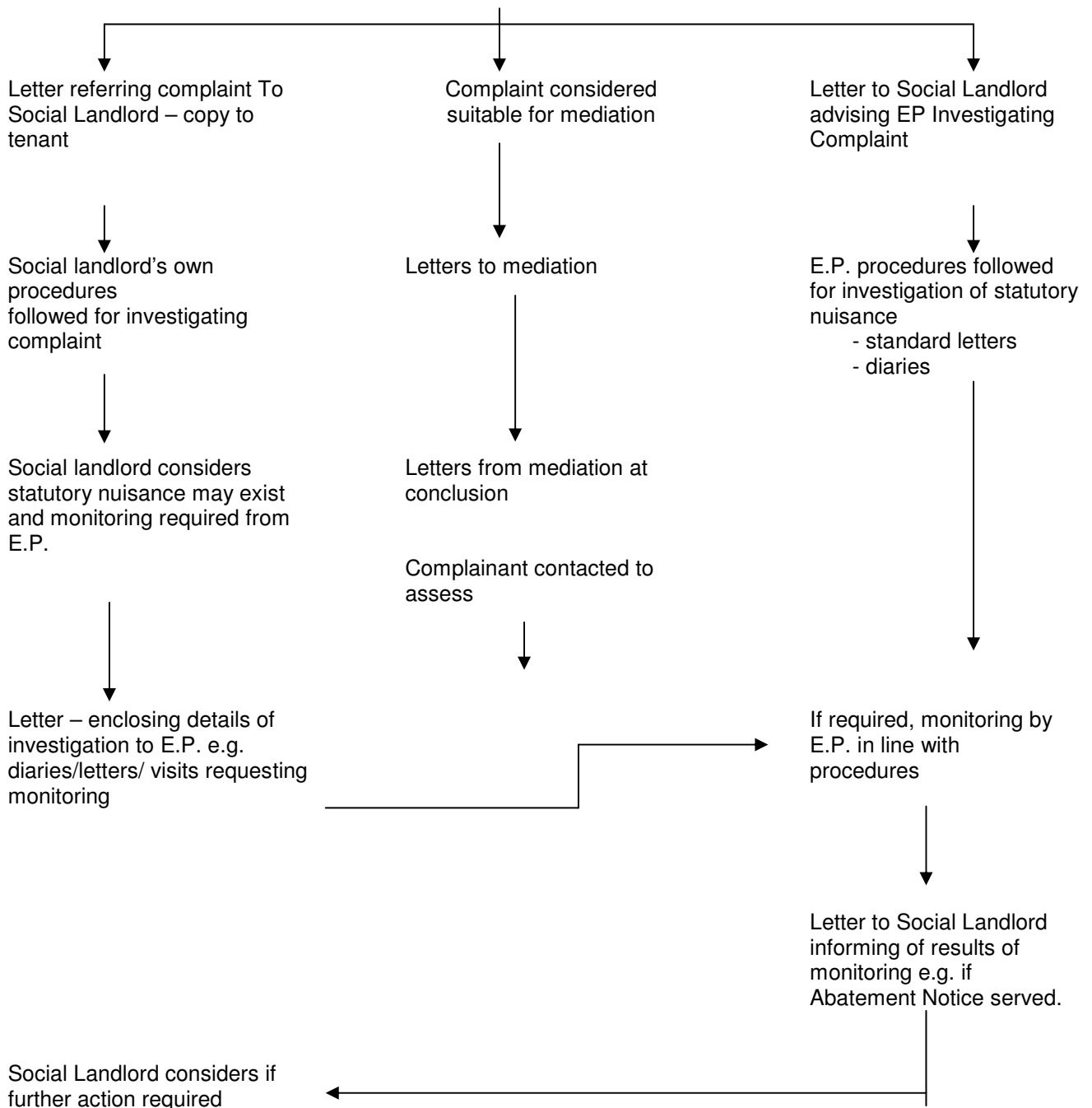
2.7 The following flow chart represents the policy to be adopted by the Environmental Protection Group and Social Landlords in co-ordinating the investigation of domestic nuisance complaints.

Nuisance Complaint from Tenant of Social Landlord
(Housing Association/Council Tenants)

Full complaint details recorded – C/E generated

Tenant advised of
- Statutory nuisance (EPA)
- Civil powers re tenancy agreements (Social Landlord)

Tenant decides which Authority initially investigates



N.B Letters – includes e-mails sent only to approved addresses' for E.P. – deh@southlakeland.gov.uk

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3.0 Legislation

3.1 The Environmental Protection Group investigates complaints of alleged Statutory Nuisance. The Environmental Protection Act 1990 – Section 79 specifies the following as being statutory nuisance.

- (a) *Any premises in such a state as to be prejudicial to health or a nuisance.*
- NB (i) There need not be any building or other permanent structure on the land for it to be considered premises.
- (b) *Smoke emitted from premises so as to be prejudicial to health or a nuisance,*
- (c) *Fumes or gases emitted from private dwellings so as to be prejudicial to health or a nuisance.*
- NB (i) Fume is restricted to small airborne solid matter smaller than dust.
(ii) Gas is extended to include vapour and moisture.
(iii) Has to effect other premises.
- (d) *Any dust, steam (other than from railway locomotive engine), smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance.*
- (e) *Any accumulation or deposit which is prejudicial to health or a nuisance.*
- (f) *Any animal kept in such a place or manner as to be prejudicial to health or a nuisance.*
- (g) *Noise emitted from premises so as to be prejudicial to health or a nuisance*
- (h) *Any other matter declared by any enactment to be a statutory nuisance.*

3.2 Nuisance investigations undertaken by the Environmental Protection Group are restricted to those likely to be specified Statutory Nuisances.

3.3 Prosecutions and appeals in respect of statutory nuisances are usually heard in the Magistrates Court.

3.4 All tenants of a Social Landlord are subject to the terms of their tenancy, which will require them to behave reasonably and not to cause a nuisance to others. Failure to adhere to this may result in the Social Landlord seeking an injunction or pursuing possession proceedings in the County Court.

3.5 Definitions

- (i) Prejudicial to health – “injurious, or likely to cause injury, to health” (S79(7)).
- (ii) Statutory nuisance – “Divisional Court in *NCB v Thorne* held that statutory nuisance was to be given the common law interpretation of nuisance, i.e. either a private nuisance or a public nuisance”.
- (iii) Private Nuisance – “An unlawful interference with a persons use or enjoyment of land or of some right over or in connection with it”.
Public Nuisance – “Something which affects the comfort and quality of life of the public at large”.

4.0 Group Leaflets (Nuisance)

DETR - Bothered by Noise
NSCA - Minimising Neighbour Noise
NSCA - Neighbour Noise Problems
SLDC - What is a Statutory Nuisance?
SLDC - You may be Alarmed
SLDC - A Step-by-Step Guide to Nuisance Complaint Investigations
SLDC - Private Nuisance Action
NSCA - Garden Bonfires
NSCA - Domestic Smoke
RESOLVE - Resolve Mediation Services

5.0 Group Procedures and Enforcement Policies

Environmental Health Enforcement Policy (General)
Enforcement Policy for Stray Dogs
Enforcement Policy for Dog Fouling
Enforcement Policy for Part B Processes
Enforcement Policy for Dark Smoke Complaints
Nuisance Procedures
Burglar Alarm Procedures
Car Alarm Procedures
Procedure for Applying for Warrants and the Seizure of Goods
Dog Barking Procedures
Procedures for Dealing with Stray Dogs
Policy for Dealing with Dark Smoke Complaints
Compliance with the Regulation of Investigatory Powers Act 2000

Website – www.southlakeland.gov.uk