

# **REPORT OF THE SCRUTINY PANEL - INVESTIGATION INTO DOMESTIC NEIGHBOUR DISPUTES**

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# **REPORT OF THE SCRUTINY PANEL - INVESTIGATION INTO DOMESTIC NEIGHBOUR DISPUTES**

## **1. BACKGROUND AND TERMS OF REFERENCE**

1.1 “Neighbours fight over six-inch strip of land”. We’ve all seen the headlines of the more extreme conflicts highlighted by the media, and have read and heard of the distress and misery that neighbour disputes cause to those involved. Understandably, neighbour disputes are one of the main factors affecting people’s satisfaction with their homes.

1.2 Research (Neighbour Disputes – The University of Sheffield 1996) suggests that many local authorities are spending increasing amounts of officer time on these problems.

1.3 As an indication of the workload, the Assistant Area Manager, Witham Area Office provided the following information on the number of neighbour dispute cases dealt with by the three Area Housing Offices:-

Braintree Area (April 2003 to November 2003)	109 cases
Halstead Area (November 2002 to November 2003)	19 cases
Witham Area (November 2002 to November 2003)	69 cases

The Assistant Area Manager informed us that a significant amount of officer time (estimated very approximately at between 20% to 40%) is involved in dealing with domestic neighbour disputes/noisy neighbours/anti-social behaviour issues.

1.4 So how do we handle neighbour disputes?

1.5 How do our partners handle them?

1.6 Is there any scope for improving our procedures and practices to find more effective ways of handling disputes?

1.7 These are the questions that we sought to answer. Our investigation has endeavoured to examine the issue of domestic neighbour disputes across as broad a spectrum as possible including both the public and private rented sector and private owner/occupiers.

1.8 Our specific **Terms of Reference** were as follows:-

- 1. To examine those forms of behaviour in domestic households that cause conflict between neighbours;**
- 2. To consider the arrangements and procedures of the Council and its partners for dealing with domestic neighbour disputes;**

- 3. To make recommendations to the Executive on any improvements that can be made to the existing arrangements and/or on any new ways of eliminating or reducing the scope for disputes.**

## **2. METHODOLOGY**

2.1 Our investigation commenced with the publication of an advert in the local press in early October 2003 inviting members of the public to submit views and comments in writing by 3<sup>rd</sup> November 2003. At the same time a poster campaign was undertaken in libraries, Council offices and other public information points.

2.2 A letter was written to every Member (excluding those on the Panel) seeking their views and, in particular, the views of any who may have been involved, as part of their constituency role, in assisting with the resolution of a dispute.

2.3 A letter was sent to a number of external organisations inviting them to participate in the investigation by providing information on their handling of disputes, and nominating an “expert witness” to talk to the panel.

2.4 All the relevant Council Departments were asked to participate and to nominate a representative to talk to the Panel as an expert witness.

2.5 We also contacted neighbouring local authorities to seek information on how they handled neighbour disputes.

2.6 A list of the individuals, Council Departments, and external organisations who made submissions to us is set out in Appendix A. From these submissions, we selected a list of internal and external “expert” witnesses as detailed below. These witnesses attended one of three Scrutiny Hearings held on 27<sup>th</sup> January, 5<sup>th</sup> and 19<sup>th</sup> February to talk to the Panel and to share with us their expertise and experience.

### **Internal Witnesses**

Mrs. B. Sipple, Legal Officer, Legal Services

Mr. C. Batchelor, Principal Environmental Health Officer – Environmental Protection

Mr. H. Bates, Principal Environmental Health Officer – Public Health and Housing

Mr. R. Scott, Assistant Area Manager, Witham Area Office

Mrs. S. Moutard, Community Safety and Development Manager

### **Councillor Witness**

Cllr. Dr. R. Evans

### **External Witnesses**

Mr. A. Wade, Trustee and Chair, Suffolk and Essex Mediation Service (SEAMS)

Ms. E. Price, Regional Director, Suffolk Heritage Housing Association

Miss J. Sullivan, Operations Manager (Customer Services), Suffolk Heritage Housing Association

Inspector N. Lee, Community Safety Department, Braintree Division, Essex  
Police  
Sergeant A. Welham, Community Safety Department, Braintree Division, Essex  
Police

### **3. THE CAUSES OF CONFLICT BETWEEN NEIGHBOURS**

3.1 Our investigation and research has shown that there are many causes of neighbour disputes. The issues that bring neighbours into conflict can vary greatly in complexity, and so can the intensity and duration of the conflict.

3.2 One particular national survey conducted to find out people's attitudes towards their neighbours revealed the following:-

- \* 1 in 5 (20%) admitted to having been involved in a 'heated exchange of words' with their neighbours;
- \* Over 1 in 14 (7%) claimed to have reported a neighbour to the police, and 6% to the Environmental Health Department.
- \* Only 1 in 25 (4%) complained of having bad neighbours and deliberately seeking to avoid them.
- \* A similar proportion (4%) had threatened to take legal action against a neighbour, though only 1% claimed to have carried out the threat and taken a neighbour to court.

3.3 The survey findings when extrapolated to the population at large were felt to indicate that conflict between neighbours affects a large number of householders – so much so that potentially for every residential street there might be at least one set of neighbours whose relationship is problematic!

3.4 The survey also found that relations between neighbours were likely to be poorer for people living in flats or maisonettes.

3.5 It also usefully listed the main causes of conflict between neighbours as follows:-

- \* Barking dogs
- \* Loud stereo or radio music
- \* Parking in front of the house
- \* Noisy DIY work
- \* Noisy children
- \* Overhanging trees
- \* Rubbish/rubble/car parts etc in front of house
- \* Banging on the wall
- \* General clashes in lifestyle

#### **4. HOW NEIGHBOUR DISPUTES ARE DEALT WITH IN BRAINREE DISTRICT**

##### **(4.1) Action taken by complainants themselves**

4.1.1 Our research sources indicate that the majority of people who are involved in disputes with their neighbours do try and resolve the matter informally first rather than to make a complaint to the Police or other agency. This takes the form of having a friendly word with the neighbour concerned or sending a letter. Sometimes a neighbour may be made to see that their behaviour is giving cause for concern if representations come from a group of neighbours. If complainants have not already made an initial approach to their neighbour, this informal course of action would be suggested by the Council and other agencies contacted unless there was the possibility that the complainant would be subjected to threats or actual violence.

##### **(4.2) THE ROLE OF THE COUNCIL'S LEGAL SERVICES SECTION**

###### **(4.2.1) Introduction**

4.2.2 The Council's Legal Services Section gives advice on the contents of the complaints involving neighbour disputes received from Housing Services when dealing with BDC tenants, advice and assistance in writing letters reminding tenants of the need to adhere to tenancy conditions, advice on the preparation of Notices of Seeking Possession if tenancy conditions are not adhered to and complaints are justified. Advice is also given to Environmental Services on the service of Noise Abatement Notices.

4.2.3 The Council's Legal Officer estimated that she spent some 70% of her time in dealing with Housing Services issues (the main bulk of the work) and in dealing with prosecutions for Environmental Services. Although these were not all neighbour disputes a substantial amount of time, nevertheless, was taken up on 'bad neighbour' issues and the workload was increasing. There was a seasonal pattern in that the workload on neighbour disputes tended to be higher in the summer months when the nights are drawn out, than during the winter. Since 2001, Legal Services have obtained 4 evictions for nuisance and annoyance to neighbours; 5 individuals have been prosecuted for breach of Abatement Notices.

###### **(4.2.4) Relevant Legislation**

Housing Acts 1985/1996  
Environmental Protection Act 1990  
Civil Evidence Act 1995  
Crime and Disorder Act 1998  
Criminal Justice and Police Act 2001  
Data Protection Act

###### **(4.2.5) Scope of Involvement**

4.2.6. In the context of a neighbour dispute, Legal Services become involved in

pursuing a claim through the courts for possession of a Council property where the complaints against the tenant in question for breaches of the tenancy conditions are of a serious nature and are justified. This action is generally only taken as a last resort when for example mediation or an Acceptable Behaviour Contract (ABC) has been tried, but failed.

The various stages of the eviction process are as follows:-

- \* A Notice of Seeking Possession (NSP) must be served on the tenant setting out the details of the complaints made. The details of the complaints will be substantiated in diary sheets, witness statements and any correspondence from the Police.

- \* If the nuisance persists, the Council will issue to the tenant a summons for possession setting out the details on the NSP and details of continuing nuisance.

- \* Once the summons has been issued and following any preliminary court hearings, a trial date will be set for both sides to attend the Civil Court. The Police are often consulted if the complaints are of a serious nature, to give evidence of the number of times they have been called to the property.

- \* In considering the Council's claim, the Civil Court must use the "reasonableness" test when making any decision to evict. The Court will take into account the gravity of the complaints, the effect the nuisance has had on neighbouring residents, the Agencies that have been involved in trying to prevent the nuisances continuing, and whether or not any mental health issues need to be addressed. The Judge will consider whether there is any remorse on the part of the offending tenant and whether the nuisance is likely to stop. The Court could decide to make a suspended Order and place conditions on how the person(s) must behave in the future.

- \* If the Court decides to grant the Council a possession order, and if the tenant concerned has not voluntarily vacated the property by the due date a formal eviction date will be set by the Bailiff.

4.2.7 In very serious cases where the behaviour of the tenant in question is of a very troublesome nature, the Council can apply to the Court for an injunction in advance of the Court determining the Council's claim for a possession order.

4.2.8 If a case is pursued through the Courts, the importance of complainants keeping diaries to record the dates and times of the nuisance and the type of nuisance suffered, is paramount. When Court action is to be taken, complainants are asked to give an undertaking that they will be willing to come to Court to give evidence should it be necessary. The diary notes are essential and form a major part of the evidence gathering exercise. Some complainants are reluctant to maintain diaries, but without them the Council's case in court is far less likely to be successful. Complainants are advised that they can remain anonymous. There have also been changes to the legislation where the Courts in certain circumstances will choose to use 'hearsay' evidence. It is also becoming more commonplace for professional witnesses to be used eg Housing and

Environmental Health Officers, to provide evidence to the Court in support of the Council's case. The Courts also now allow greater use of technology in presenting evidence such as digital photographs, which can assist the Council's case.

4.2.9 The Legal Officer indicated that in her experience, the most common sources of behaviour that cause conflict between domestic households leading eventually to action being taken through the Courts, were as follows:-

- \* the rowdy behaviour of children particularly during the summer months;
- \* persistent dog barking;
- \* noisy parties;
- \* drunken, aggressive, abusive behaviour;
- \* disputes where one of the parties is involved in an element of criminal behaviour.

4.2.10 Generally, the Council has more options open to it to seek a remedy where the party complained of is a Council tenant than in the cases of private tenants or owner/occupiers.

4.2.11 If the property is privately owned and there is evidence of a statutory nuisance the authority has statutory obligations under the Environmental Protection Act. If the complaint is about noise (eg music or dog barking) noise monitoring equipment can be placed in a complainant's home. If the equipment shows an unacceptable level of continuous noise, an Abatement Notice is served, taking effect sometimes immediately or within 24 hours. If the noise continues a Summons is issued and if the perpetrator is found guilty he/she will be fined.

4.2.12 Some owner/occupiers may be reluctant to take any action on a neighbour dispute because they do not want to jeopardise the potential sale of their property as they would have to make the potential buyer aware of it prior to the sale.

4.2.13 The Legal Services Officer stressed that with all neighbour disputes inter-agency working is essential. In particular, neighbour disputes that involved an element of anti social behaviour was not just a matter for landlords, but required an input from other relevant services/agencies. Where the dispute involves the behaviour of children or vulnerable adults, for instance, it may be that the support of Social Services is needed rather than punitive measures.

4.2.14 One of the key elements to the multi-agency approach is the three Area Police Community Safety Tasking Groups that meet regularly at the Braintree, Halstead and Witham Police Stations respectively. These are led by the Police and have been set up as a result of the Crime and Disorder Act which imposed a duty on local authorities and the Police to enter into sharing information protocols. In the context of neighbour disputes the Police also receive complaints about residents behaviour within a domestic household. The Tasking Groups focus on the more serious neighbour dispute issues that involve a substantial element of anti-social behaviour. The Council and other agencies are all represented on the groups. There are strict guidelines that are followed in relation to the confidentiality aspects when individual cases are discussed. The Tasking Groups

play an important role in co-ordinating a multi-agency approach to solving the most serious type of neighbour problems.

4.2.15 The Legal Officer has suggested that, in her view, it would be helpful to have a dedicated multi-skilled team of neighbour dispute officers for this Council consisting of representatives from Housing, Environmental Services, Community Services and Legal Services. This team could be convened whenever a complainant sought the assistance of the Council in resolving a neighbour dispute, with a view to identifying the best route for dealing with it. We support the formation of an inter departmental Neighbour Dispute Team and this is reflected in our recommendations.

4.2.16 Legal Services also advocate the early use of the SEAMS independent impartial mediation service as one of the key elements to effectively resolving neighbour disputes.

#### **(4.2.17) Links with other Departments and External Organisations**

Legal Services maintains close links with the following:-

Housing Services  
Environmental Services  
Community Services  
Social Services  
The Police  
SEAMS

### **(4.3) THE ROLE OF THE ENVIRONMENTAL SERVICES DEPARTMENT**

#### **(4.3.1) Introduction**

4.3.2 Environmental Services has wide-ranging powers to deal with a variety of neighbour nuisance complaints, including dog fouling, blockages to private sewers and drains, filthy or verminous premises, accumulations of rubbish, noise from premises and in the street. The Department has an obligation to investigate complaints and to inspect the District from time to time to detect any statutory nuisance. Environmental Services do not record statistics specifically relating to 'domestic neighbour disputes'. The role of Environmental Service is to investigate all complaints of statutory nuisance and, if appropriate, to secure compliance with the legislation. It is quite possible to have a statutory nuisance without there being a neighbour dispute. For instance, complaints may be received about noise, smoke, one-off bonfires, general nuisance, barking dogs, blocked drains. These may be dealt with and resolved and there will be no ongoing dispute involved.

4.3.3 There will be of course be other situations where issues raised with the Environmental Services Department are symptomatic of a longstanding and bitter dispute between two sets of neighbours. Furthermore, there is always the potential for a complaint/request for a service to escalate into a dispute either

because the complainant is unhappy with the decision that no further action is warranted or because the person being complained about is aggrieved at the action being taken.

4.3.4 Environmental Services deal with upwards of 1,000 complaints/requests for service per year. Given that most complaints will generate at least one officer visits plus associated correspondence this represents a substantial workload.

#### **(4.3.5) Relevant Legislation**

- The Environmental Protection Act 1990 – Section 79 specifies matters, which constitute statutory nuisance.
- Dogs (Fouling of Land) Act 1996 – Refers to dog fouling
- Public Health Act 1936) Various sections deal with blockages to privates ) sewers and drains, overflowing or leaking cesspools,
- Public Health Act 1961) and defective sanitary conveniences. Filthy or verminous premises. Accumulations of rubbish.
- Control of Pollution Act 1974 – Restriction of speakers in streets.
- Party Wall etc Act 1996
- Building Act 1984 – Drainage, water supply and housing fitness standard.
- Prevention of damage by Pests Act 1949 – Control of vermin in the vicinity.
- Land Drainage Act 1991 – Clearance of ditches, maintenance responsibilities.

#### **(4.3.6) Scope of Involvement**

4.3.7 In investigating potential nuisances, Environmental Services has to consider the scope of the legislation which it can apply to resolve any issue. Statutory nuisances include noise and smoke (in some circumstances), but do not include smell from domestic premises.

4.3.8 The same legislation is applied by the Dog Wardens in appropriate circumstances, in addition to specific legislation relating to dog fouling and dangerous dogs.

4.3.9 The adopted procedures require the complainants to provide basic information about the complaint. If a complainant has not already tried to approach his neighbour informally about the matter, it may be suggested that he/she should try this approach first.

4.3.10 If appropriate, the complainant will be encouraged to use SEAMS the independent mediation service to resolve the neighbour dispute. Many complaints are resolved in this way without the necessity to conduct a formal investigation with a view to taking legal action.

4.3.11 Where mediation does not resolve the problem, or where at least one of the parties does not co-operate, the complainant is encouraged to complete a diary to assist the investigation. The diary of events provides a very useful guide as to the extent of the alleged nuisance and assists the Case Officer in deciding the best way to handle the complaint. It also provides valuable documentary evidence should it be necessary to pursue matters through the Court.

4.3.12 The Case Officer's investigation will determine whether a statutory nuisance exists and, if it does, or is likely to recur, the Council will take action to serve an Abatement Notice on the offender.

4.3.13 Wherever possible, Environmental Services Officers will offer advice and education to the offender to prevent the need for formal action. There will be instances, however, having regard to the Council's enforcement policy, where the only viable course to prevent nuisances from occurring is to take legal action. The law requires the Council to lay the information on the particular offender within 6 months of the date of the offence.

4.3.14 Where the Environmental Services Department has been unable to witness sufficient nuisance for it to take successful legal action, it may be suggested to the complainant that he/she consider taking a civil action under Section 82 of the Environmental Protection Act using their own evidence. There is a lesser burden of proof in a civil action in that the plaintiff must prove "on the balance of probabilities" that a nuisance is occurring whereas the Council must prove "beyond all reasonable doubt" that a statutory nuisance exists.

4.3.15 Neighbour disputes that are related to noise complaints are common in properties with poor sound insulation. There have been instances where Housing Services in its capacity as landlord has carried out noise insulation works at the recommendation of Environmental Services. New Building Regulations have now been introduced to improve sound proofing standards in new homes.

4.3.16 Neighbour disputes may also arise from drainage problems, particularly private drainage where neighbours are in dispute over responsibility for the problem. The Public Health and Housing Team of Environmental Services use the law to ensure that appropriate liabilities are maintained and to co-ordinate the work of contractors or other authorities to ensure appropriate work is carried out. The Engineering Section of Environmental Services carries out a similar function to deal with the maintenance clearance of ditches, either through carrying out the work themselves on Council properties, or applying the law and engaging other appropriate authorities for private properties.

4.3.17 Similarly, the failure of a private water supply to adjacent properties may cause neighbour disputes and recriminations. Co-ordinating a suitable response from the appropriate authorities prevents the properties becoming unfit and ensures neighbour disputes are limited.

4.3.18 Although smell is not specified as a statutory nuisance from domestic properties, it is still the cause of neighbour dispute and alternative means of control are used where possible, such as the use of legislation covering filthy and verminous premises, accumulations and deposits, or harbourage of pests.

4.3.19 The Party Wall Act provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings. Environmental Services involvement is infrequent in this type of dispute, although occasionally "party wall" issues may be raised in the

context of extensions to properties funded by Disabled Facilities Grants. Disputes can be resolved by the parties and/or their appointed representatives without the need (in the first instance) for recourse to the Courts. The Council, however, does not have any formal jurisdiction in these types of dispute.

4.3.20 Environmental Services fully advocates the early use of the SEAMS mediation service in resolving neighbour disputes and was instrumental in helping to introduce the service to the District.

4.3.21 Public Information Leaflets produced by Environmental Services are contained in the appendices as follows:-

“How to Keep the Peace With Your Neighbours” (Appendix B)

“Noise” (Appendix C)

“Coping With Your Barking Dog” (Appendix D)

#### **(4.3.22) Links With Other Departments and External Organisations**

4.3.23 The Environmental Services Department has close links with the Housing Department to support them as landlord to resolve issues direct and prevent them from escalating. Similar contacts are made with Housing Associations to provide advice and guidance as necessary.

4.3.24 Representatives from the Environmental Services Department also have an input into various Police initiatives to promote community safety and address specific issues with problem neighbours. Specific cases may be referred to the relevant Police Community Safety Tasking Group.

4.3.25 The Department also makes recommendations to the Anti Social Behaviour Order (ASBO) Working Group. Support to the Department is also provided by Legal Services in advising and taking appropriate formal action where necessary.

### **(4.4) THE ROLE OF THE HOUSING SERVICES DEPARTMENT**

#### **(4.4.1) Introduction**

4.4.2 The Housing Service manages approximately 8,600 homes across the District. It aims to provide a neighbourhood focused Housing Service that allows tenants and/or residents to enjoy their home. Each tenant will have a tenancy agreement. The majority of these will be protected secure tenancies although a minority will either be an Interim Homeless Duty Agreement, Homeless Tenancy Agreement or a specialised tenancy. Each of these tenancies have a clause that states that the tenant is not allowed to cause or allow to be caused noise or nuisance to any neighbours.

4.4.3 Part of the Housing Services role is to enforce these tenancy conditions. In many cases disputes may involve neighbouring owner-occupiers (where the property have been sold under the Right to Buy) which can complicate matters. However, in some cases similar wording to the nuisance clause in the tenancy

agreement has been included in the conveyance when the property was sold. Another type of tenancy dealt with is Leasehold where tenants have purchased the long lease of a Council flat under the Right to Buy scheme. Within the terms of a lease a similar clause is included to ensure that leaseholders do not cause a nuisance to local residents.

4.4.4 As well as the tenancy agreement the Tenants Charter sets out the responsibilities of both the tenant and the Council as landlord. It also emphasises the need to be a good neighbour and not to cause nuisance to neighbours. It also mentions very briefly the options that are available to deal with issues should they arise. The Tenants Charter is issued to all secure Council tenants.

4.4.5 Housing Services become involved in many different kinds of disputes between parties. Not all of these will involve direct neighbours with many cases being difficult to categorise as they involve a number of different aspects. For example the dispute might include vehicles that are owned by the neighbour, but parked in a communal area, or neighbours children playing and causing a nuisance on an open space.

4.4.6 A significant amount of officer time (estimated very approximately at between 20% to 40%) is involved in dealing with domestic neighbour disputes/noisy neighbours/anti-social behaviour issues, and the three Area Offices together handling upwards of 230 cases per year.

#### **(4.4.7) Relevant Legislation**

1985 Housing Act

1996 Housing Act

1998 Crime and Disorder Act

2000 Regulation of Investigatory Powers Act (R.I.P.A.)

2002 Homeless Act

#### **(4.4.8) Scope of Involvement**

4.4.9 The Housing Services Department has developed a number of different options to deal with a wide variety of situations. Because of the cross cutting nature of many cases, the Department has developed good links with many other departments such as Environmental Services and external agencies such as the Police.

4.4.10 Housing Services in its capacity as landlord has a duty to all its tenants to allow them to have quiet enjoyment of their home without interference from other residents. This duty requires Housing Services to assist in resolving disputes that involve a wide variety of tenures.

4.4.11 Housing Services endeavours to identify a solution that is suitable to the problem. A number of options are available and Housing Services will consider carefully all the circumstances of the case before deciding on the most appropriate approach or combination of approaches.

4.4.12 The available options are as follows:-

- \* Informal resolution by Housing staff;
- \* Moving one of the parties
- \* Enforcing the conditions of the tenancy through the courts
- \* Referral to a mediation service such as SEAMS
- \* Enforcement through Environmental Services powers
- \* ABCs
- \* Parental Control Orders
- \* ASBOs
- \* Injunctions
- \* In certain cases the Police may be able to take action under the criminal law
- \* Involvement of other agencies – e.g. Social Services

4.4.13 Complainants who are involved in disputes are asked to keep a diary of events. The diary provides valuable information concerning the precise nature of the complaint and the frequency of the occurrences, and enables the Housing Case Officer to identify the most appropriate course for dealing with the complaint. In addition, the diary provides important evidence if it is necessary for the case to be pursued through the Courts.

4.4.14 Some disputes can be very difficult to resolve particularly where there are clashes in lifestyle between the respective parties, but neither lifestyle is considered to be unreasonable. Also, where there is an element of reciprocity contained within the dispute. Complainants are recommended to seek mediation through SEAMS where this is felt to be appropriate. It is estimated that SEAMS resolve one neighbour dispute per month in Braintree District.

4.4.15 Housing Services will always endeavour to seek a resolution to a dispute using as appropriate the menu of remedies that it has at its disposal, but some disputes will inevitably take some time to resolve. In some cases, the situation will quieten down for a period only to flare up again at some later date. Again, the summer months tend to see an upsurge in disputes.

4.4.16 Moving a troublesome tenant to a new location is one of the options available, but Housing Services would only take this course after giving very careful consideration to all the circumstances. The problem may simply be moved to a new location or, where the complainant is transferred, the troublesome tenant may continue to plague the new occupants. With any voluntary transfer, Housing Services would have to be satisfied that such a move is in the best interests of all the parties concerned. Housing Services preference is to resolve the disruptive behaviour itself.

4.4.17 Housing Services has not yet had occasion to use an ASBO. There are protocols that need to be followed in using ASBOs which involve a number of agencies including the Police. However, a number of ABCs have been successfully implemented.

4.4.18 Housing Services has funds for anti-social behaviour related expenditure e.g. legal costs, cost of professional witnesses, staff training, and for undertaking

physical works to a Council property that might improve a situation. There is some surveillance capability that can be organised in line with the R.I.P.A. regulations. Housing Services also monitor racial incidents in accordance with the Commission for Racial Equality Code of Practice for rented Housing and are represented on the District's Racial and Homophobic Panel.

4.4.19 We were advised that staff training is taken very seriously. Housing Services staff attend suitable training courses both internal and external, and this includes subjects such as disputes handling and implementing ABCs. Staff attending training programmes cascade their learning with colleagues through the team briefings process.

4.4.20 We were advised that the Area Manager at Witham Area Office is in the process of organising a Training Workshop for residents on one of the main estates in Witham on the subject of 'Dealing with Conflict' or 'Handling Difficult Situations'. It is anticipated that this will be delivered to a targeted group of residents who have experienced difficult situations. The range of areas to be included in the session is as follows:-

- \* conflict - positive and negative
- \* conflict – what hinders or helps
- \* hooks and triggers
- \* conflict messages
- \* listening skills
- \* perceptions based on partial knowledge
- \* connections and confusions
- \* appearance guessing

We feel this is an important initiative and, if successful, would like to see the Workshop extended to other estates in the District that would benefit.

4.4.21 Each of the Assistant Area Managers at the three Area Offices has a co-ordinating role with regard to any on-going disputes, and they maintain a regular liaison with one another so that any learning points can be assimilated and disseminated to staff as appropriate.

4.4.22 Estate Rangers maintain a very visible presence on estates and can often take early action to deal with small problems before they escalate into major disputes.

4.4.23 Housing Services have a quality procedure for dealing with disputes affecting the occupants of Council housing (see Appendix E). This covers a wide range of disputes not just those involving neighbours. Reference is made within the quality procedure to the Harassment Nuisance and Anti Social Behaviour Policy and the way in which those type of matters are dealt with and monitored.

#### **(4.4.24) Links with other Departments and External Organisations**

4.4.25 Housing Services maintain a number of both formal and informal links with other departments and agencies which are an essential element to resolving

disputes. The formal links include an information sharing protocol with other agencies such as Social Services and the Police. Representatives from Housing Services will attend the Police Community Safety Tasking Groups as part of a multi-agency approach to resolving problems. Various meetings are also attended by Housing Staff such as Social Services case conferences.

4.4.26 Housing Services may make referrals to the independent SEAMS mediation service or the parties concerned will be given information on SEAMS so that they can approach SEAMS independently. SEAMS receive financial support (£6,000 per annum) from the Council.

4.4.27 The Housing Service also participates in the operation of the Braintree Area Racial and Homophobic Incident Panel.

4.4.28 The informal links are used to understand the wider issues of many cases and are built up over a period of time when working with other professionals. These can extend into a variety of different organisations and at different levels.

## **(4.5) THE ROLE OF PLANNING SERVICES**

### **(4.5.1) Introduction**

4.5.2 As the Local Planning Authority, the Council has a statutory duty to control development where planning or building permission is required and it is within this arena that potential exists for friction and disputes between neighbours to either commence or, where it already exists, to be exacerbated.

4.5.3 Planning Officers, Building Inspectors and Planning Enforcement Officers are involved at various levels with the control of development and from time to time will come into contact with parties involved in domestic neighbour disputes.

### **(4.5.4) Legislation**

Town and Country Planning Act 1990

Planning and Compensation Act 1991

Town and Country Planning (General Permitted Development) Order 1995

Planning (Historic Buildings and Conservation Areas) Act 1990

Caravan Sites and Control of Development Act 1960

Town and Country Planning (Use Classes) Order 1987

The Building Act 1984

The Building Regulations 2000

The Party Wall Act 1996

### **(4.5.5) Scope of Involvement**

4.5.6 The consultation process that is triggered following the receipt of a planning application will often give rise to concerns being expressed by neighbours as to the effect of a proposed development upon their amenity. Both the Courts and Government advice have established that the Planning system does not exist to protect the private interests of one person over another. Within the framework of

the legislation, the Council has to try to ensure that development is allowed where it is needed, while ensuring that the character and amenity of the area are not adversely affected by new buildings or changes in the use of existing buildings or land.

4.5.7 Unfortunately, some people do have misconceptions about the role of planning. Some think that the planning system should be used to prevent any change in their local environment while others think that planning controls are an unnecessary interference with individual rights. Planning issues can therefore act as the spark in igniting a neighbour dispute.

4.5.8 A householder who wishes to carry out an extension or alteration to his/her property is encouraged by Planning Services to discuss with and let neighbours know about any intended works prior to the submission of a planning application. This can reduce the likelihood of a neighbour dispute.

4.5.9 Officers in the Planning Enforcement Team who deal with breaches of planning control have the greatest potential for involvement in domestic neighbour disputes. A complaint will often be made by one neighbour in respect of development by another as part of an ongoing neighbour dispute. There have been well publicised instances of such disputes resulting in major assaults and/or civil court actions whereby persons have been imprisoned for failing to comply with court orders.

4.5.10 The planning system also gives rise to frustrations to some neighbours insofar as there are a number of instances where householders can exercise Permitted Development Rights to carry out alterations and extensions to properties without needing planning permission.

4.5.11 There is also a perception on the part of the general public that a breach of planning control is an unlawful act whereas, save for Listed Buildings and Tree Preservation, criminal acts are not committed unless and until an Enforcement Notice has been served and is not complied with.

4.5.12 Similar considerations arise under the Councils' duties to carry out its Building Control function. The Building Regulations exist to ensure that where development is carried out it is properly constructed and meets Health and safety requirements. It is not a means to protect a third parties private interests.

4.5.13 Party Wall disputes are also a significant area of potential neighbour dispute and many such issues are referred to Building Control and/or Planning Enforcement. The Party Wall Act, however, provides civil remedies for aggrieved parties to resolve disputes and "party wall" issues are beyond the scope of the legislation under which either Development Control or Building Control operate.

4.5.14 Government Guidelines and Best practice advice advocate that, where appropriate, a mediation approach is adopted to resolve breaches of development control and this will often involve Enforcement Officers in mediating between neighbours. Where appropriate, information in respect of the SEAMS mediation service will be provided to the disputants.

4.5.15 A copy of a public information leaflet concerning the Planning Enforcement function is included in Appendix F. An explanatory booklet on The Party Wall Act is also available for the public from Planning Services.

#### **(4.5.16) Links with other Departments and External Organisations**

4.5.17 In the context of neighbour disputes, other departments are consulted where appropriate to determine whether remedies may be available under their powers (Housing, Environmental Services, Essex County Council Highways, Historic Buildings and Conservation Officers).

### **(4.6) SEAMS – THE ROLE OF THE INDEPENDENT COMMUNITY MEDIATION SERVICE**

#### **(4.6.1) Introduction**

4.6.2 SEAMS is an independent community mediation service that is available locally to assist and encourage people to resolve their dispute through the process of mediation. It has been operational for over 6 years and has assisted in the resolution of a vast number of disputes. SEAMS has charitable status.

4.6.3 SEAMS' main funders are Braintree District Council, St. Edmundsbury Borough Council and Colchester Borough Council.

4.6.4 Of those disputes where all parties agree to mediation, SEAMS statistics indicate that 73% reach a successful conclusion.

4.6.5 Mediation seeks to be non-judgemental in its approach. It acknowledges that there may be two sides to most disputes, but also recognises that even where one party appears to be acting totally unreasonably this may be symptomatic of more fundamental problems that may need to be addressed if harmony is to be restored. Disputes, in other words, are often not what they seem, and for mediators the behaviour giving rise to them may frequently be considered to be symptomatic of 'the real problem' rather than the cause.

4.6.6 The process of mediation is also distinctive in seeking to vest control over, and responsibility for, the dispute firmly in the hands of the parties themselves, rather than having one imposed on them by any outside body or agency.

4.6.7 Approximately 1/3<sup>rd</sup> of enquiries received by SEAMS lead to active mediation. The discussions that take place within the mediation process itself are conducted in strict confidence.

#### **(4.6.8) Scope of Involvement**

4.6.9 SEAMS provide a public information leaflet inviting individual disputants to make contact and to provide brief written details of the problem (see copy in Appendix G). Disputants may also be referred to them by an agency.

4.6.10 Upon receipt of a request for assistance, the process commences with SEAMS sending two volunteer, trained mediators to visit firstly the person ('Party A') who reports a problem and secondly the neighbour ('Party B') with whom the problem seems to be connected. These visits take place on the same night and allow the two parties to give their account of the situation and how they feel about pursuing mediation.

4.6.11 If both parties wish to participate in mediation in order to try and resolve the problem a face-to-face meeting is arranged and facilitated by the mediators at a neutral venue. If one of the parties has difficulties in understanding the concept of mediation, e.g. a person with learning difficulties, it would be suggested that a friend or relative attends with them for support.

4.6.12 The mediators role is to help to define the issues and also the common ground between the parties, and to encourage them to exchange views and feelings, and then negotiate a mutually agreeable solution to the conflict. Where the parties refuse to meet face-to-face the mediators may still be able to act through a "shuttle" process by conveying messages and responses between the parties and so facilitate the process of exchange and negotiation. From SEAMS experience a face-to face meeting is the preferred method of mediation as it is most likely to achieve a successful outcome. The role of the mediators calls for a great deal of tact, diplomacy, patience, self discipline and active listening skills.

4.6.13 SEAMS on average deal with approximately 80 cases a year in respect of Braintree District.

4.6.14 Insofar as timescales are concerned, the initial 'Party A' and 'Party B' visits will take about two weeks to set up. The subsequent face-to-face meeting will take a further two to three weeks to arrange depending on peoples' availability and the availability of an independent venue. If a mediated settlement is agreed and if the parties so wish, there will normally be a follow up by SEAMS in one to two months time to check that there have been no further problems.

4.6.15 There are occasions when despite the best efforts of the SEAMS mediators it is necessary to draw the mediation process to a close because of irreconcilable differences remaining between the parties.

4.6.16 SEAMS strongly advise disputants (and agencies who make referrals to them) to take advantage of the independent mediation process at the earliest opportunity. There is a greater chance of an amiable settlement during the early stages of a dispute as opposed to later when both parties may have become entrenched and the animosity between both sides is intense.

4.6.17 The effectiveness of mediation is demonstrated in the following statistics submitted by SEAMS for the year ending 31<sup>st</sup> March 2003.

	%
Agreement reached on all issues	25
Partial agreement	22
Situation improved	21

Greater awareness	9
Resolved without visits	4
Mediation inappropriate	5
One or both parties withdrew	10
Ongoing	4

4.6.18 The main reason given for withdrawing from mediation is that whilst the individual parties are initially willing to try mediation one or both of the parties are ultimately unable to accept the principles involved, and see court proceedings or legal action as the best way to resolve the dispute.

4.6.19 Where mediation has taken place, but has not been successful SEAMS does indicate to the respective parties that it would be willing to re-open mediation at some later date if both parties felt that this would assist.

4.6.20 All SEAMS mediators undertake comprehensive training to equip them with the necessary skills for undertaking the work. Once fully trained, mediators will be given a variety of case work.

**(4.6.21) Links with other Agencies**

4.6.22 SEAMS takes an active role within the Community Safety Strategy attending the Community Safety Support Group. As such, SEAMS has formed partnerships with the Police, Social Services, local authorities (including Braintree, Colchester, St. Edmundsbury, Ipswich, Mid Suffolk, Uttlesford and Babergh) and many voluntary and statutory organisations.

**(4.7) THE EXPERIENCE OF SUFFOLK HERITAGE HOUSING ASSOCIATION IN HANDLING NEIGHBOUR DISPUTES**

**(4.7.1) Introduction**

4.7.2 Suffolk Heritage Housing Association is a non-profit making charitable registered social landlord, which was formed in 1991. It was established to manage the transferred housing stock from Suffolk Coastal District Council and the majority of its properties are within the Suffolk Coastal District. The Association maintains approximately 7,500 tenancies spread across 17 different local authority areas including some in Braintree District, but with most of the housing stock contained in Suffolk Coastal District. It is registered with the Financial Services Authority, the Housing Corporation and the National Housing Federation.

4.7.3 The Association is a member of the Flagship Housing Group, which provides central services (eg accounting, development, information technology) and monitors general performance. The Association is run by an unpaid voluntary Board of Management, which includes members from relevant professional backgrounds and tenant representatives. It also has members including a tenant representative who sit on the Flagship Board.

#### **(4.7.4) Relevant Legislation**

Housing Act 1988  
Crime and Disorder Act 1998

#### **(4.7.5) Scope of Involvement**

4.7.6 The Association provides assured tenancies under the Housing Act 1988. Outlined in Section Seven of the Act are the grounds under which the Association can apply for repossession of a property. In cases of persistent and/or serious neighbour problems the Association considers seeking possession. The grounds usually used are Grounds 12 and 14 as set out below:-

##### Ground 12:

Any obligation of the tenancy (other than rent payment) has been broken or not performed.

##### Ground 14

The tenant or a person residing in or visiting the dwelling-house:

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of:
  - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
  - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.

4.7.7 Although the law provides for repossession as a response to neighbour nuisance, this action is only taken as a last resort. The Association's aim in cases of domestic neighbour disputes is to keep tenants in their homes and resolve the problem via early intervention. This can be via non-legal remedies, such as offering mediation (most cases are referred to SEAMS), setting up support for tenants via 'Supporting People' and/or the signing of ABCs. ('Supporting People' for Suffolk Heritage tenants located in the Suffolk Coastal Area is provided by an organisation called CHAG. Further consideration is being given to setting up 'Supporting People' for the Association's tenants in other areas including Braintree District).

4.7.8 Legal options are also considered such as injunctions, ASBOs, or the service of a Notice of Seeking Possession.

4.7.9 The signing of an ABC is undertaken where there is a willingness and an understanding on the individual's part that they have to make a change to their behaviour. This is an essential pre-requisite if the ABC is to be successful. If necessary, support will be provided to that individual to assist him/her to make those changes if it is felt that the person concerned is unable to make those changes on his/her own.

4.7.10 As regards ASBO's, the Association works alongside other partner agencies within local protocols for the consideration of ASBO's as introduced by the Crime and Disorder Act 1998. The Association is one of the partners of the Waveney Anti-Social Behaviour Group. A copy of the Waveney protocol that is followed to ensure that there is consistency in the approach to, and the application for, ASBOs is included in Appendix H. Other similar protocols apply or are in the process of being established, in other local authority areas where the Association has housing stock. The Association has not had occasion to date to apply for an ASBO. An ASBO can be made against anyone who is at least 10 years old. However, the actual process of the various agencies meeting together to talk about specific cases and problem areas is very helpful in identifying an appropriate way forward to a possible solution. That solution may not necessarily be to apply for an ASBO.

4.7.11 The Association advocates the early use of the SEAMS mediation service in resolving disputes. In the Association's experience, the parties to a dispute see SEAMS as truly independent from the local authority and the Police. As such, there is a greater chance of a mutually acceptable outcome being achieved with the assistance of a neutral third party. The Association makes a financial contribution to SEAMS.

4.7.12 Complainants are requested to keep diaries. It is emphasised to complainants that recording incidents that they see and hear in an incident diary is the most important way of collecting evidence. Other witnesses, such as neighbours, will also be asked to complete incident diaries. If the case has to be pursued through the Courts, the incident diaries provide essential evidence and the Association has a far greater chance of achieving a successful outcome.

4.7.13 The Association will very occasionally move the tenant who is being subjected to a nuisance from their neighbour to a fresh location. However, the Association is also mindful that any new tenants may face similar problems. A move is therefore only normally made on the understanding that the tenant will continue to assist the Association in resolving the root cause of the problem and will attend Court if necessary to give evidence. The person causing the nuisance is rarely moved as the Association feels that an individual should not benefit by their anti-social behaviour.

4.7.14 As regards taking action to prevent disputes escalating, the Association believes that early intervention is the key. The Association also endeavours to provide the right image for its estates and to make people realise the standards of behaviour that are expected. Regular estate inspections are carried out by officers to deal with items such as graffiti, vandalism, abandoned vehicles, dumped rubbish, untidy gardens etc. and residents are encouraged to maintain a pride in their environment. Members of the Association's Customer Services Team including Community Rangers have a very visible appearance on the estates.

4.7.15 In the Suffolk Coastal area, the Association runs the Common Housing Register and has a Suspensions Policy. This suspends people from registering for a home if, for example, they have a proven history of anti-social behaviour and the Association believes the person concerned would create a high risk of de-

stabilising or causing nuisance to the community. In some areas where there have been particular problems with anti-social behaviour, Local Lettings Policies have been adopted to try and address those issues by re-balancing the community. For example, making allocations to more mature people to reduce child densities.

4.7.16 The Association maintains a regular liaison and has a good working relationship with all the local authorities in whose area it has housing stock.

4.7.17 The Association gives all of its tenants a handbook which amongst other things provides guidance about being a good neighbour. In addition, the Association is currently investigating the possibility of producing a video for tenants which will focus on the good neighbourly aspects and will highlight what is and is not acceptable.

4.7.18 The Association has an Enforcement Team that deals specifically with the more serious neighbour nuisance cases. At any one time, the Team will normally be dealing with approximately 60 cases.

4.7.19 The Association's leaflets are contained in the appendices as follows:

Dealing with anti-social behaviour/racial harassment – Guidance Notes for Staff (Appendix I)

Dealing with anti-social behaviour/racial harassment – Being a witness (Appendix J)

Dealing with anti-social behaviour/racial harassment – How Suffolk Heritage Housing Association can help (Appendix K)

#### **(4.7.20) Links with other Agencies**

4.7.21 The Association is represented on the Suffolk Coastal Crime and Disorder Reduction Officer Working Group. The Group has recently signed up to an ASBO protocol.

4.7.22 The Association is also a member of the Waveney Anti-Social Behaviour Group, the Maldon District Community Safety Partnership and the Colchester Crime and Disorder Reduction Partnership, all of which have strategies and a protocol for the use of ASBOs.

4.7.23 The Association is a member of the Multi-Agency Forum Against Racial Harassment and by working with this group has adopted a multi-agency protocol and incident reporting proforma. An Association representative also attends the Suffolk Coastal Domestic Violence Forum.

4.7.24 When dealing with specific cases of domestic neighbour disputes the Association liaises with many agencies, including Social Services, tenancy support agencies, Youth Offending Teams, the Police and schools. This liaison can be on an ad hoc basis or via case conferences.

## **(4.8) THE ROLE OF THE POLICE**

### **(4.8.1) Introduction**

4.8.2 Braintree Police delivers 24 hour policing covering the Braintree and Uttlesford Districts. It is based at 5 locations namely Braintree, Witham, Halstead, Saffron Walden and Great Dunmow. The policing style is one based around the communities it serves. There are dedicated Community-Policing Teams who specialise in resolving long term policing issues. It is further supported by Criminal Investigation Departments (CID) and more recently by officers with specific skills in dealing with vulnerable sections of the community. A Community Safety Department for the Braintree Division has recently been set up.

### **(4.8.3) Relevant Legislation**

4.8.4 Essex Police make full use of all legislation available in dealing with domestic neighbour disputes. These include legislation on prevention of harassment, assault, criminal damage and public order etc.

### **(4.8.5) Scope of Involvement**

4.8.6 The Police Community Safety Section was set up in recognition of the increasing importance at national level that was attached to 'liveability' issues, the problems with disputes, including neighbour disputes, and the need to effectively tackle anti-social behaviour issues at an early stage. There are four constituent parts to the Section as follows:-

- \* Anti-Social Behaviour Section
- \* Domestic Violence and Minorities Section
- \* Crime Reduction Section
- \* Liquor Licensing Section

The first two sections would cover issues raised in the context of domestic neighbour disputes.

4.8.7 We were advised that the word 'domestic' when used in a policing sense means people that are involved in a relationship or have been involved in a relationship, and generally relates to violence within the home.

4.8.8 In relation to domestic neighbour disputes, the principal involvement would be by the Anti-Social Behaviour Section. There are currently 2 Anti-Social Behaviour Case Workers who have been in post for a relatively short period of time, and their involvement at present is in relation to nuisance youths and in particular nuisance neighbours. They maintain a close link and liaison with the Council's Community Safety Section.

4.8.9 The Police have an input into the signing of ABCs. There are also a number of post conviction ASBO's that the Police are currently pursuing.

4.8.10 When neighbour disputes attract the attention of the Police they have normally become fairly serious in nature, often resulting in a 999 call being made. The Police's primary concern when attending "live neighbour disputes" is that of protection of life and property, and ensuring the Queen's peace is kept. The policies and practices operated by the Police support the ethos of positively dealing with any obvious criminal offences initially, and offering advice as necessary in terms of civil remedy. Braintree Police is fully committed to the partnership approach when dealing with all Crime and Disorder. Neighbour disputes are seen as no different to any other dispute and as such a longer term partnership may well be suggested. This could include mediation, advice from the Council's Housing Department, liaison and collaboration with local schools.

4.8.11 Although the Police do not collect any data specific to neighbour disputes (these would be collected under a more general civil dispute category) the actual types of behaviour nuisance that occur can be broken down into five specific categories:

- \* a low level nuisance (eg youths playing football, loud music etc.)
- \* disputes (eg car parking and boundary issues etc. )
- \* minor crime (eg criminal damage to vehicles etc)
- \* moderate crime ( eg minor assaults etc)
- \* serious crime

4.8.12 The most common types of nuisance tend to be at the lower end of the scale such as noise, boundary disputes, unruly children and car parking issues. Incident response times are graded according to the seriousness of the incident.

4.8.13 There are some patterns in relation to neighbour nuisance incidents that attract police attention. Incidents are more frequently reported during the summer months on Sundays and Bank Holidays, and also at times where there is a greater consumption of alcohol e.g. Christmas, and during major sporting events such as the football World Cup. Urban areas, particularly high density estates, record the highest frequency of incident. The experience of the Police was that alcohol abuse was a bigger cause of anti-social behaviour than drugs.

4.8.14 ASBOs have been used by Essex Police quite effectively. An application for an ASBO is a civil procedure and therefore the civil standard of proof applies (i.e. on a balance of probability). In certain circumstances the use of hearsay evidence is permissible. The actual threat of an ASBO can in itself be an effective deterrent to curbing anti-social behaviour in relation to a neighbour dispute. Similar to other agencies the Police stress that an ASBO may not always be the answer and it is important not to see ASBOs in isolation from other ways of dealing with anti-social behaviour. It was important for all the relevant agencies involved to decide what warrants an ASBO and what should be dealt with in other ways.

4.8.15 A multi-agency conference was recently held at the Town Hall in Braintree concerning the use of ASBOs and ABCs which proved to be extremely useful. The Police are currently in the process of drafting business processes and

protocols for both the issue and enforcement of ABCs and ASBOs.

4.8.16 The Police stressed that early intervention is essential to prevent disputes escalating. Partnership working is also key to finding the most effective way of handling disputes and associated anti social behaviour issues so that all the relevant options can be considered. The Police Community Safety Tasking Groups are now well established forums attended by all the relevant agencies and help to facilitate this partnership approach.

#### **(4.8.17) Links with other Agencies**

4.8.18 Essex Police maintains good relationships with many other partners in resolving issues of dispute including Citizens' Advice Bureau, mediation services, community or residents associations etc.

### **(4.9) THE ROLE OF THE COUNCIL'S COMMUNITY SAFETY AND DEVELOPMENT TEAM**

#### **(4.9.1) Introduction**

4.9.2 The Community Safety and Development Team within Community Services is involved with domestic neighbour disputes that involve anti-social behaviour. The team itself is quite new and is in the process of developing its role. Briefly, members of the team work in partnership with other officers, Councillors, local Agencies, the Police and community members to help address anti-social behaviour within the District. Members of the team attend the three Police Community Safety Tasking Groups. This is where potential 'persistent offenders' are identified and solutions discussed by all the relevant agencies with a view to agreeing a plan of action.

4.9.3 The emphasis is on providing a pro-active and joint multi-agency approach to tackling anti-social behaviour particularly on ABC signing and in respect of any ASBOs that are issued.

#### **(4.9.4) Scope of Involvement**

4.9.5 Essentially, a partnership procedure is operated by the Community Safety and Development Team and the Police for dealing with reports of Anti Social Behaviour.

4.9.6 On receipt of a report of anti-social behaviour, a process is followed to:-

- \* identify which service/agencies need to be involved to address the problems;
- \* refer the matter to the relevant Police Community Safety Tasking Group if appropriate. The Group will:
  - assess all the evidence and consider options available;
  - consult with partners as appropriate;
  - decide course of action to be undertaken;
  - undertake frequent reviews.

4.9.7 Since November 2003, the Team has been involved with helping to put two ABCs successfully into place.

4.9.8 Once again, it was emphasised that the signing of ABCs and ASBOs is seen as very much a last resort in terms of taking remedial action to solve problems. Often the process of seeking an ABC or ASBO may identify other more appropriate ways of dealing with the problem such as mediation. Partnership working between all the agencies involved is crucial in considering whether to pursue ABCs and ASBOs.

4.9.9 There is no compulsion on the part of an individual to sign an ABC and there must be a recognition by that individual that his/her behaviour needs to change. However, if an individual refuses to sign an ABC or subsequently breaches the agreement then that can be used in evidence to support an application for an ASBO.

4.9.10 An ASBO has to be applied for by the lead agency which would normally be the Police. As a preliminary to applying for an ASBO all the relevant agencies would have discussed the circumstances and the options available, and would need to be satisfied that an ASBO was the most appropriate course to take.

4.9.11 The lead agency that applied for either the ABC or ASBO would be responsible for undertaking monitoring although all of the agencies involved would be supportive and would share any relevant information as appropriate.

4.9.12 If an ASBO is breached it constitutes a criminal offence and the Police would be the lead agency in undertaking an investigation. Responsibility for prosecuting a breach of an ASBO lies with the Crown Prosecution Service.

#### **(4.9.13) Links with other Council Departments and External Organisations**

4.9.14 The Community Safety and Development Team works closely with Housing Services, Environmental Services and Legal Services. As part of the Braintree District Community Safety Partnership it also works closely with a number of external organisations regarding community safety. An 'agency consultation' system is used to ensure that a high level of liaison and co-operation is maintained with all the relevant partners on community safety issues.

4.9.15 The Team has good working relationships with all its partners, and in particular with the Police in respect of the policies and procedures that are followed in respect of ABCs and ASBOs.

#### **(4.10) THE ROLE OF THE MEMBER**

4.10.1 Members may be involved, as part of their constituency role, in assisting with the resolution of a neighbour dispute either at the request of one of the parties or in an 'honest broker' role.

4.10.2 The degree to which an individual Member decides to become involved is

of course a matter of discretion for the Member concerned.

4.10.3 Some Members may wish to act purely in an advisory role by simply directing disputants to the relevant agency e.g. the Council, the Police, the SEAMS mediation service etc. In this case, the Member would have no other involvement apart from being advised of the outcome.

4.10.4 We have discussed the issue of Member involvement in neighbour disputes and we have mixed views as to the degree of participation that it would be prudent for Members to have in dealing with disputes.

4.10.5 Cllr. Dr. R. Evans has made a series of recommendations to us in his submission concerning a number of issues including Member involvement, and specifically attended the Scrutiny Hearing on 19<sup>th</sup> February to present these. The recommendations were as follows:-

“\* A clear policy should be developed which recognises the need for Ward Members to be advised that a neighbour dispute has been triggered. He/she should be informed what action has been or will be taken by the officer dealing with the case and whether there are specific difficulties to be overcome such as, whether any legal considerations are present like; The Criminal or Civil Law, Human Rights, Equal Opportunities, Tenancy Agreements etc. and whether the Police or other agencies are or should be involved. It is important for Ward Councillors to know what is happening on their “patch”;

\* Such a policy should set clear guidelines and time limits for progressing the complaint and consideration should be given for a dedicated officer at Area Level with specific responsibility for dealing with neighbour disputes. This person should receive a thorough training in mainstream methods of neighbour dispute/complaint handling;

\* Clear guidance should be set out as to the use of SEAMS and the referring of complainers – if at all – to private solicitors;

\* Consideration should be given to joint site meetings and interviews with a clear role for the Ward Member which should be one of support to both Officers and others as appropriate and also the person bringing the complaint;

\* Guidance for the use and value of diary records, surveillance cameras and witness testimony should also be available which together with the other recommendations above would form a systematic and clear way to deal with neighbour disputes.”

4.10.6 We are mindful that there are implications where Members wish to become actively involved in neighbour disputes and that this is an area that needs to be approached with some caution. The confidential nature of disputes has to be maintained and, for instance, there are strict confidentiality protocols that are observed in the discussions that take place at the Police Tasking Groups and Social Services case conferences. There is also a need to adhere to the Data Protection Act throughout the information sharing process. It is also important to

remain impartial when dealing with the respective parties even though one side may be perceived as the victim and the other the perpetrator. Both sides may see themselves as “victims”. If a case is best suited to mediation care needs to be taken also not to prejudice any future involvement by SEAMS. Setting precise timescales for the resolution of neighbour disputes can be very difficult particularly where the dispute is a complex and contentious one and there are a number of agencies involved.

4.10.7 We feel there is a need to produce guidance for Members on their role in relation to neighbour disputes and on the information to which they are entitled. This is reflected in our recommendations.

## 5. CONCLUSIONS AND RECOMMENDATIONS.

5.1 Neighbour disputes are commonplace and can have a very detrimental effect on peoples lives.

5.2 Dealing with disputes between neighbours is a very delicate issue, be it an argument over car parking, children playing ball games or continuous loud music and parties.

5.3 Neighbour disputes affect all sectors of housing and are not restricted to social housing.

5.4 Officers spend a substantial amount of time in dealing with disputes and it is not always easy to resolve disputes quickly.

5.5. Mediation can be an effective way of dealing with neighbour disputes and can help disputes from escalating into more serious problems. We commend the service provided by SEAMS and strongly support the continuation of funding.

5.6 Not all cases will be suitable for mediation if serious neighbour disputes are associated with obvious social and health care needs, and there is a risk of abuse or violence to one of the parties.

5.7 Many neighbour disputes tackled by means of legal process are not just neighbour disputes, but problems of anti social behaviour.

5.8 The partnership approach to resolving the more serious disputes involving serious or extreme anti-social behaviour is supported, and we endorse the efforts that are being made by the Council and its partners in this respect.

### **5.9 We make six specific recommendations to the Executive as follows:-**

- 1. The Council should continue to provide funding to SEAMS at least at the current level (£6,000 per year);**
- 2. The Council should set up an inter-Departmental Neighbour Disputes Officer Team (consisting of representatives of Legal Services, Housing Services, Environmental Services and**

**Community Services) to ensure better cross referencing of information and action;**

- 3. The Council should provide written guidance on good neighbourliness (by means of an advice leaflet and expanding the information contained in the Tenants Charter) to new tenants when they receive their new tenancy agreement. A similar document should be included in the proposed Residents Welcome Pack;**
- 4. The Council should provide Guidance for Members on their role in relation to neighbour disputes and on the information to which they are entitled;**
- 5. If recommendations 3 and 4 are agreed, the text of these documents should be submitted to a future meeting of the Panel for endorsement;**
- 6. The initiative by the Area Manager at Witham to hold a Workshop for residents on ‘Dealing with Conflict’ or ‘Handling Difficult Situations’ should, if the initial one proves to be successful, be taken to other estates in the District which might benefit;**
- 7. The Scrutiny Panel should review the position on neighbour disputes in 12 months time.**

6. **APPENDICES (NOT ATTACHED)**

**Appendix A** – List of Individuals, Councillors, Council Departments and External Organisations who made submissions.

**Appendix B** – Environmental Services Public Information Leaflet – “How to Keep Peace With Your Neighbours”.

**Appendix C** - Environmental Services Public Information Leaflet – “Noise”.

**Appendix D** – Environmental Services Public Information Leaflet - “Coping With Your Barking Dog”.

**Appendix E** – Housing Department Quality Procedure – Steps for Dealing With Disputes Affecting Occupants of Council Housing.

**Appendix F** – Planning Department Public Information Leaflet – “Planning Enforcement – A Customer Guide”.

**Appendix G** – SEAMS Public Information Leaflet – “Neighbours – Can We Help?”.

**Appendix H** – Waveney – Anti Social Behaviour Orders – District Protocol

**Appendix I** – Suffolk Heritage Housing Association Leaflet – “Dealing With Anti-Social Behaviour/Racial Harassment – Guidance Notes for Staff.

**Appendix J** - Suffolk Heritage Housing Association Public Information Leaflet – “Dealing With Anti-Social Behaviour/Racial Harassment – Being a Witness”.

**Appendix K** - Suffolk Heritage Housing Association Public Information Leaflet – “Dealing With Anti-Social Behaviour/Racial Harassment – How Suffolk Heritage Housing Association can help.