

# ***Scrutiny Review***

## ***Dealing with Neighbour Disputes***

### ***Summary Report***

***February 2007***

## **1 Introduction**

1.1 The Borough Council's Scrutiny Committee carried out an investigation of the issues related to neighbour disputes and how different agencies were involved in their resolution. A scoping report for the work was discussed at the meeting of the Committee on the 31<sup>st</sup> October 2006 and evidence was received at the next meeting held on 16<sup>th</sup> January 2007.

1.2 In summary, the key issues covered by the review of this topic were:

- To focus the review on residential neighbour disputes particularly those involving some form of anti-social behaviour
- To examine the principal causes of disputes between neighbours in residential areas within the Borough and how and to whom they are reported
- To assess the current role of the Borough Council and partner organisations in the dealing with disputes between neighbours
- To assess the success or otherwise of such activities
- To explore the scope for the introduction of new or improved procedures and partnership working in dealing successfully with such disputes.

1.3 Evidence was received from a number of agencies involved in this area of work. These were: the Crime and Disorder Reduction Partnership; Environmental Health and Housing Services; the Kent Police; Russet Homes and Maidstone Mediation Services.

1.4 Following consideration of the evidence and discussion of the issues involved, the Committee decided that no formal recommendations for change would be made but that a summary report of the findings be produced and circulated.

## **2 Neighbourhood Disputes and Anti-Social Behaviour**

2.1 The review sought to concentrate on disputes where there was evidence of anti-social behaviour between neighbours. Issues related to legal disputes, planning matters, high hedges and the impact of commercial activity on residential amenity were not included.

2.2 It was agreed that the focus of the review would be on the resolution of those disputes which affect immediate neighbours. Whilst such disputes inevitably involve some form of anti-social behaviour (ASB) where an individual or a family is affected by the activities of a near neighbour, there was a need to draw a distinction between this and general anti-social behaviour which might affect a specific locality or community. In a limited number of cases, such general ASB might be directed against a known individual or household who suffer on-going victimisation from others within that community. However, for the

purposes of this review, the focus was limited to disputes involving two, perhaps three, households in close proximity.

### **3 The Extent and Type of Neighbour Disputes**

- 3.1 Evidence from the Residents' Panel indicated anti-social behaviour caused by neighbours was a significant concern locally. Over half of those in a recent survey reported that they had suffered from some form of anti-social behaviour and a significant proportion reported that this had been caused by neighbours. 12% of those in the survey reported that ASB caused by neighbours had got worse over the last three years.
- 3.2 Data from the Council's Environmental Health service indicated that the principal cause of such disputes related to noise issues (most often caused by amplified music). Additional areas of conflict between neighbours were bonfires and barking dogs.
- 3.3 The Police reported that, over the past three months, officers had dealt with 44 incidents involving neighbours. These tended to involve issues that had escalated further involving threats, disturbances to the peace and harassment.
- 3.4 The Crime and Disorder Reduction Partnership currently gathers a significant amount of information on ASB but those related to neighbour disputes cannot be isolated at the present time. The introduction of a new computer system should allow this to be done in the future.
- 3.5 Russet Homes reported that they dealt with over 350 cases per year. Cases ranged from noise, pets, vehicles, condition of properties, verbal/physical abuse, malicious damage and activities of children.

### **4 The Role of the Crime and Disorder Reduction Partnership**

- 4.1 The CDRP acts as a contact point for people to report cases of general ASB including those caused by neighbour disputes. For issues relating to tenants of Russet Homes, the housing association remains the usual first point of contact. In most other cases, an initial contact is received by the Anti Social Behaviour Officer (Sarah Taylor) and all are investigated. Often complaints reveal a complicated set of issues which are not easy to resolve. The process involves a visit to the home of the client to gather evidence (or at another location if this is preferred). Clients are encouraged to keep a diary of the events and incidents which can then be used if more formal action is required.
- 4.2 In more simple cases, offending behaviour can be dealt with by agreement between the parties without the need for any formal action being taken. However, where the ASB is more severe or the cases more complex, the ASB officer is able to call on support from a variety

of agencies to tackle the case and isolate the root causes of the dispute. This might involve the County Council, Kent Police, landlord (if property is rented) and mediation services. A protocol is in place to enable all agencies involved to exchange information on a confidential basis about the cases under investigation. Cases can be referred to the CDRP if more formal action is required eg Acceptable Behaviour Orders or Anti-Social Behaviour Orders.

## **5 Role of the Kent Police**

- 5.1 Police attendance is usually only required where disputes escalate into more serious forms of crime such as threats and violence. At the community level, Police Community Support Officers can undertake a useful role in exposing the nature of the dispute and mediating between neighbours. There is a good working relationship in place between the Police, PCSOs, the Borough Council and other agencies to work together to resolve difficult cases. Community police officers were often called to deal with groups of youths directing ASB towards a neighbour.
- 5.2 There was no evidence to suggest that Police attendance had become necessary due to the failure of other agencies to address the problem at an earlier stage. In certain cases, the Police are the first point of contact when more serious disputes arise. However, where this happens, the Police will liaise closely with the ASB officer to ensure there is proper co-ordination and no duplication of effort. The role of the Police in attending incidents of this kind was primarily to deal with the offence. It would then be for other agencies to get to grips with the root causes. However, there remained continuing liaison between other agencies and the police throughout on-going investigations.

## **6 The Role of Russet Homes**

- 6.1 As the major housing association operating in the Borough, Russet Homes plays a key role in dealing with ASB amongst their tenants. The Association has two specialist ASB officers in place (now called Community Compliance Officers) to deal with ASB. They are supported by the Area Housing Officers who tend to deal with lower level neighbour disputes. A wide variety of cases are dealt with from very serious instances of ASB down to relatively low level complaints (mainly involving neighbours). In the latter category of cases, the majority of these are resolved by the HA themselves by invoking tenancy compliance. It was reported that the tenancy agreement was usually an effective tool in dealing with low level disputes.
- 6.2 More complex cases are dealt with in partnership with others such as the Police, CDRP and Kent Social Services. If disputes cannot be resolved via tenancy compliance, the Association has a variety of other means available including : Acceptable Behaviour Agreements, Housing Injunctions, Possession Proceedings, Demotion of Tenancy

(ie less secure with reduced tenancy rights) and Anti Social Behaviour Orders. Formal action makes up a very small proportion of the cases it deals with (0.5%). The Association has achieved successful outcomes in the majority of cases it deals with. Over 80% resulted in satisfactory 'closure' (where the original complainant was satisfied with the outcome) over the period July to October 2006.

- 6.3 The existence of tenancy agreements provided the Association with a powerful means to resolve lower level disputes more easily than can often be achieved with disputes between those in private housing. However, It was suggested that a potential cause of conflicts between neighbours in Association property was the housing of young families/single people in close proximity to older tenants, particularly where temporary accommodation was involved. Other issues arose where an occupant of a rented Association property had problems with neighbours in private housing and vice-versa. A further issue related to the level and quality of sound insulation within flats and between terraced and semi-detached properties.
- 6.4 Russet Homes reported that they were making significant improvement in the allocation of properties to avoid conflicts between different types of tenant including young and old and this was having a positive effect on the instances of neighbour disputes. It was pointed out that older residents affected by ASB could have difficulty in gathering evidence on their own sufficient to justify action being taken and support for them to do this was needed. Officers confirmed that any instance of ASB between neighbours involving non HA tenants would be treated on the same basis as those involving just HA tenants.
- 6.5 The Housing Association provided the committee with examples of the information provided to tenants regarding compliance with tenancy agreements and a 'Survival Guide' for tenants affected by ASB. The latter provided a good example that could be applied to more general circumstances in the Borough for owner occupiers etc so that an initial contact point for dealing with neighbour disputes could be better publicised locally.
- 6.6 Insulation between properties, especially flats, remained a problem and the noise sometimes generated by neighbours did cause problems for others as a result. Previous experiments undertaken to tackle the problem resulted in little positive effect on sound insulation. Redevelopment of older, poorly insulated properties is usually the only solution.

## **7 The Role of the Borough Council's Environmental Health Officers**

- 7.1 Environmental Health Officers deal with statutory nuisances. These are defined as

*something of sufficient nature, extent and degree so as to materially interfere with the average person's reasonable use or enjoyment of*

*their land or property. Account is also taken of the nature of the disturbance and any mitigation being employed.*

- 7.2 A judgement has to be made as to what constitutes a statutory nuisance, particularly in relation to what might be regarded as 'materially interfering' with a neighbour's property and his/her enjoyment of it. On the receipt of a complaint, the case worker has to ascertain information about the problem and advise the complainant about statutory nuisance and possible remedies. It is usual that the Officer will write to both parties about the problem and the complainant will be asked to keep a diary of episodes to ensure there is sufficient evidence available. Where appropriate, EHOs will liaise with other bodies such as the Police, anti-social behaviour team and Registered Social Landlords. Once the diary has been completed and assessed, further monitoring will be undertaken and where appropriate, an Abatement Notice will be served. If a contravention of that Notice is subsequently witnessed, legal action will be taken against the perpetrator. If the prosecution is successful, then those responsible can be liable for a fine of up to £5,000, up to 6 months imprisonment and seizure of equipment (including records, tapes, CD's, etc).
- 7.3 It was reported that in most cases, the threat of formal action is sufficient to change the behaviour of the individual or household against which the complaint is made.
- 7.4 The issue of dealing with noisy parties was raised by the Committee and the scope for EHOs to take immediate action. It was confirmed that the Council does not operate a 'party patrol' service out of hours. Some Councils (eg inner London boroughs) do this where the problems are significant. Where the instances of such events are relatively low, as is the case in Tonbridge and Malling, an immediate response out of hours service cannot be justified on cost grounds.
- 7.5 A number of issues were raised regarding controls available to EHOs on light pollution, burning of bonfires and the use of fireworks. Generally, it was reported that EHOs had to exercise a judgement as to whether an activity was sufficient to 'materially interfere' with a neighbour as required by legislation. Issues of light pollution and bonfires were often difficult to justify under this definition. Separate powers were available to control toxic burning. With regard to fireworks, controls were in place to limit their use to the hours before 11pm save for bonfire night, New Year's Eve, Chinese New Year and Diwali.

## **8 The Role of Local Mediation Services**

- 8.1 West Kent and Maidstone Mediation Services together provide a borough-wide service. Both the CDRP and Russet Homes commission mediation services from these agencies to support their work in tackling ASB.

- 8.2 Mediation is appropriate when parties in dispute are unwilling to co-operate and the involvement of an impartial third party can foster a voluntary agreement. The emphasis of any mediated discussion is on agreeing future changed behaviour rather than dwelling on the past behaviours which have led to the dispute. Often the role of mediation is to resolve a breakdown in communication between parties and to foster better understanding of the other parties position on an issue. Mediation is often used when a dispute has reached a crisis point and no other option is available.
- 8.3 Some concerns were expressed that mediation services should be brought into a neighbour dispute at an earlier stage so as to delay the need for formal action or penalties against parties. However, it was emphasised that mediation was a voluntary activity. Often it was the threat of formal action against parties that encouraged them to come to the mediation table.
- 8.4 The role of mediation in schools and for young people generally was noted as being linked to the problem of neighbour disputes. If young people were encouraged to treat their peers with respect, this often had a positive effect on relationships within communities including neighbours. Unresolved issues within a family can lead to anti-social behaviour generally within a neighbourhood when younger members of the family then choose to take their frustrations out on those who live nearby. The importance of peer mentoring within schools was also highlighted as an important way to tackle such problems before they escalated into ASB. It was reported that the CDRP has piloted a mentoring scheme for young people in the north of the Borough and it was hoped that this would be extended in the future.

## **9 Conclusions**

- 9.1 Members of the Committee agreed that the review had highlighted a number of matters that were important to their role in supporting neighbours who were suffering from ASB. In particular, highlighting the various roles and activities of the agencies involved had been beneficial.
- 9.2 Sarah Taylor, Anti-social Behaviour Officer (01732 876149) plays an important role in co-ordinating appropriate responses to instances of ASB. As her role within Crime and Disorder Team, she was able to carry out an assessment of the problem and either pass on the matter to the relevant officer/agency or, if required, take the matter forward herself involving other relevant agencies as required.
- 9.3 In the light of the findings of this review, the Committee felt that partnership working amongst the agencies involved in tackling neighbour disputes was effective and an appropriate level of co-operation, joint working and data sharing was taking place. On this basis, no recommendations for change were required.