

## **SCHEDULE 8**

### **Complaint Handling Procedure**

#### **Introduction**

In applying the Allotment Rules, all Allotment Associations have a responsibility to ensure that tenants observe their conditions of tenancy. This includes dealing with complaints and, where it arises, harassment. Most Associations automatically deal with low-level everyday issues, but in more serious cases a formal approach will be required by both the complainant and the Association.

A formal complaint is one made in writing (or by email). Associations are required to investigate and either resolve the complaint or engage the assistance of locally appointed representatives who may advise or mediate in such matters. Any recommendation by the Association arising from the investigation should be submitted to representatives for reference to the BDAC.

**If the complaint is against a Committee Member, they should be informed but not take part in the investigation.**

Advice can be sought from locally appointed representatives or the BDAC at any stage in the procedure. It is vital that any investigation is conducted fairly and thoroughly to avoid any inference of bias.

**Associations should refer to the Allotment Management Handbook for guidance**

#### **Assessment of the complaint**

Most formal complaints typically relate to tenant conduct – unwelcome or abusive comments, offensive language, threatening behaviour etc. These incidents constitute harassment under Allotment Rules 15.1 – 15.3.

Once a formal written complaint has been received by the Association it needs to be acknowledged and assessed for completeness. **Ensuring that** the complainant's statement specify sufficient detail about the alleged incident(s) **including** dates and times. Named written witness statements should be requested.

#### **Evidence**

Any complaint alleging harassment must be corroborated by two independent witness statements. The complainant should either provide these or give the names of those witnessing the incident so that the Association can approach those individuals for written statements. It is inadvisable to proceed with an investigation where there is inadequate corroboration of the allegation; in such cases the complaint should be refused.

#### **Investigation**

Provided that the complaint and evidence support action by the Association, it is preferable for Committee Officers to agree an approach towards resolving the matter. The options are to write to the person accused of any misconduct or to invite a verbal response before a panel of nominated Committee members ideally chaired by the Association Chairman or Secretary.

Where a letter is sent, it should detail the complaint and mention any evidence that has been provided. It is not necessary to include copies of statements but where this is requested personal details such as

addresses, phone numbers etc must be made unreadable. A time limit of no more than 14 days should be allowed for a response.

Where it is decided to deal with the matter verbally, the accused person should still be given a written outline of the complaint and asked to provide their account at a meeting with the Committee panel. The meeting needs to be recorded (i.e. minuted) to capture any representation made. It should not be necessary for the complainant to be present during this and any conflict in evidence can be resolved separately.

### **Outcome**

Once both accounts have been received and considered, the Association may be able to reconcile both sides – in some cases an apology may be acceptable to the complainant. If this is achievable then the Association can arrange for a suitable conclusion and advise both sides of the agreed outcome to close the complaint.

The Association should consider the evidence and ask for advice from their Local Advisor, if needed. If after this process they feel that a formal penalty should be issued by the Council, it should submit all of the evidence (including the record of any formal 'hearing') together with its recommendation to BCC. The Allotments Officer will consider what is appropriate. This may include asking the BDAC to review the evidence or issuing a warning or, if circumstances justify, a Notice of Re-entry terminating the tenancy. Where the Council does not uphold the Association's recommendation an explanation will be provided.

### **Locally Appointed Advisers**

Local Advisers cover a number of sites in a defined area and can be asked to provide assistance towards the resolution of disputes.

### **Birmingham & District Allotments Confederation**

Under its Management Agreement with the Council, the BDAC has a mediation role. Officers can provide advice and, if necessary, mediate in disputes, complaints or evictions.

In some circumstances the BCC will ask the BDAC to review the facts and gather more evidence.

The BDAC will collect all information and witness statements and ask for further information to enable a final judgement. Where appropriate the BDAC will make a recommendation to BCC.